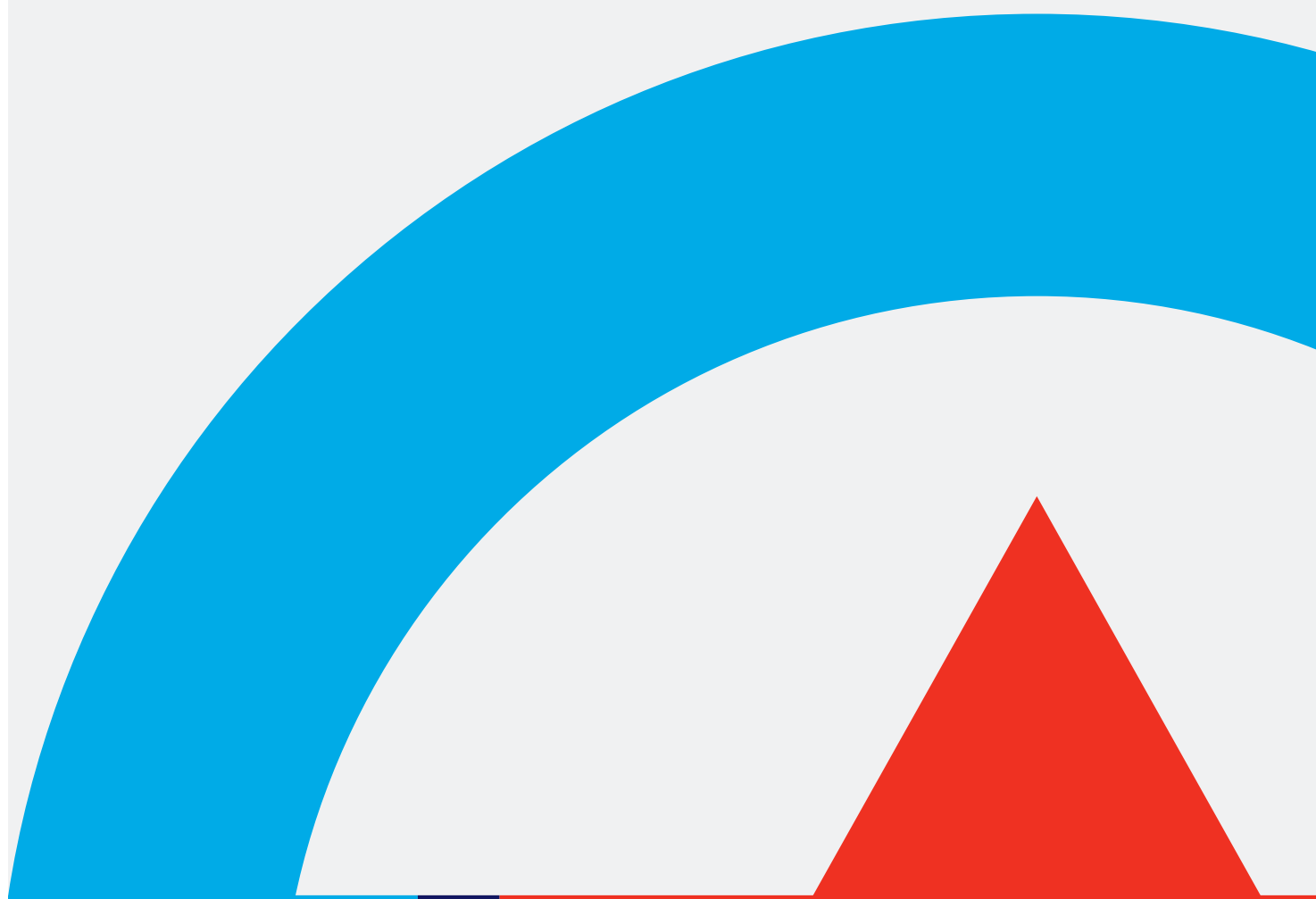


Australian Professional Indemnity Insurance policies for accountants

A comparison guide – December 2019



Disclaimer

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1. Background

Professional Indemnity (“PI”) insurance is a critical risk management product for professionals. You provide advice and services to your clients, and may be liable where that advice or service is deficient. Your exposure to claims made includes losses suffered as well as legal costs in defending such claims.

Professional Standards Legislation is in place in all mainland Australian jurisdictions, which limits the amount of a PI claim which can be made against our members, to the extent that they hold a Certificate of Public Practice, Practice Entity Membership or Affiliate Membership, and hold complying PI insurance. These compliance requirements are set out in Regulation CR2A and on our [website](#).

It is important to the public’s perception of our profession that there should be recourse for poor advice or services. For that reason, you need to ensure that you can satisfy such claims if they arise. Equally, it is important to be able to defend yourself against claims which may be unsubstantiated. PI insurance exists to cover the business risk relating to the costs of claims and related defence costs.

A variety of insurances are required for practitioners to manage their various business risks. This document deals solely with PI insurance and PI policies available to accountants in the Australian insurance market.

We publish this Guide for the benefit of members in public practice in Australia annually. Whereas many concepts apply equally well to New Zealand, the Australian legal and regulatory environment is different and only Australian insurers have been approached with respect to the PI insurance Australian market.

This is a Guide to the cover offered under standard policies and is prepared for the convenience of Australian members, not as a recommendation. Since any policy reviewed could be updated or replaced by an insurer at any time, you should always contact your PI insurance broker to discuss details of your existing policy and before changing your cover.

Members are free to select other insurers where they comply with Regulation CR2A.

2. Insurer and Policy details included in this year's Guide

2.1 Insurers

The insurers below have provided information with respect to their PI policies for this year's Guide.

Insurer (trading as)	Information current at	APRA regulated
Abacus Australia Ltd (CGU)	Nov-19	Yes, CGU
AIG Australia Limited (per Arthur J. Gallagher)	Nov-17	Yes
Allianz	Nov-19	Yes
AXA XL	Nov-19	Yes
CGU	Sep-17	Yes
DUAL Australia Pty Ltd	Jan-20	Yes
London Australia Underwriting (100% Lloyd's)	Nov-19	Yes, Lloyd's
Marsh (Dual) Low Fee Income Earners	Nov-19	Yes, Lloyd's
Marsh (Vero)	Nov-17	Yes, Vero
Tasman Underwriting (Lloyd's)	Nov-19	Yes, Lloyd's
Vero Insurance	Nov-19	Yes
Zurich	Nov-19	Yes

2.2 Services covered by the various insurers

Services generally covered in the normal course of accountant's business. Insurers will consider the provision of services on a case-by-case basis.

	Accounting services	Audit (incl SMSF)	Limited Financial Services *	Consulting	Financial Planning	Corporate Financial Services	Insolvency	Taxation Services	Services provided under an Australian Credit Licence	Other services
Abacus Australia Ltd (CGU)	✓	✓	✓	✓(2)	⊕	⊕	×	✓	⊕	⊕
AIG Australia Limited (per Arthur J. Gallagher)	✓	✓	✓	✓	×	×	✓	✓	×	⊕
Allianz	✓	✓(3)	✓	✓	⊕	⊕	✓	✓	✓(1)	✓(3)
AXA XL	✓	✓	✓	✓	✓(1)	✓	✓	✓	✓(1)	✓
CGU	✓	✓	✓(1)	✓	✓(1)	✓(1)	✓	✓	✓(1)	⊕
DUAL Australia Pty Ltd	✓	✓	✓(1)	✓(4)	×	×	×	✓	×	⊕
London Australia Underwriting (100% Lloyd's)	✓	✓	✓	✓	×	×	i	✓	×	⊕
Marsh (Dual) Low Fee Income Earners	✓	✓	×	✓(4)	×	×	×	✓	×	⊕
Marsh (Vero)	✓	✓	✓	✓	×	×	✓	✓	×	⊕
Tasman Underwriting (Lloyd's)	✓	✓	✓(2)	✓	✓(2)	✓	✓	✓	✓(2)	✓(3)
Vero Insurance – standard wordings	✓	✓	✓(1)	✓	×	✓	✓	✓	✓	✓
Zurich	✓	✓	✓(5)	✓	×	×	✓	✓	×	×

* As defined in Regulation 7.6.04 of the Corporations Regulations

- ✓ (1) Available via endorsement
- ✓ (2) Covered as long as ancillary to accountancy services
- ✓ (3) Covered if declared by Chartered Accountants Australia and New Zealand to be appropriate to be undertaken as part of an Accountant's practice
- ✓ (4) Yes, Business and management
- ✓ (5) Cover is limited to advice and services relating to the establishment and administration of superannuation funds
- ⊕ Considered on an insured by insured basis and potentially subject to additional underwriting criteria
- i incidental

2.3 General policy information

The following are key information pertaining to the PI policies offered by each Insurer, their Insuring clause and covered defence costs.

Insurer	Wording/version	Insuring clause	Covered defence costs
Abacus Australia Ltd (CGU)	Accountants PI Policy (03/15)	Civil Liability	Costs in addition
AIG Australia Limited (per Arthur J. Gallagher)	Aust Accountant PII Facility	Civil Liability	Costs in addition
Allianz	POL785BA 03/15	Civil Liability	Costs in addition
AXA XL	AXA XL AUS ACCPI 06/19	Civil Liability	Costs in addition – standard version
CGU	CGU PI 03-17	Civil Liability	Costs in addition
DUAL Australia Pty Ltd	DUAL Australia Accountants Professional Indemnity Wording 08.14	Civil liability	Costs in addition
London Australia Underwriting (100% Lloyd's)	LAU_PIACC_20181101 (Unlimited Reinstatements)	Civil Liability	Costs in addition
Marsh (Dual) Low Fee Income Earners	Marsh Low Fee Income Earners PI Accountants Wording 1014	Civil Liability	Costs in addition
Marsh (Vero)	Vero/Marsh Accountants Wording 2017	Civil Liability	Costs in addition
Tasman Underwriting (Lloyd's)	2018 Accountants PI Wording November 2018	Civil Liability	Costs in addition
Vero Insurance – standard wording	Vero Civil Liability Professional Indemnity Insurance Policy V9902 10/15	Civil liability	Costs in addition or costs inclusive
Zurich	Zurich Professional Indemnity insurance Policy PCUS-014140-2019	Civil Liability	Costs in addition or costs inclusive

2.4 Examples of “covered organisations”

Underwriter	Previous Business	Sub-Underwriter Contractors	Former Principals
Abacus	Yes. An automatic extension.	Yes. Insured’s liability only.	Yes. An automatic extension.
AIG Australia Limited (per Arthur J. Gallagher)	Standard Extension: Past Partner Liability – subject to previous business not having more than four partners or principals, or ten qualified accounting staff.	Yes. Any temporary contract labour, self-employed persons, labour-only subcontractors, solely under contract with, and under the direct supervision of the Policyholder.	Yes, automatically included within Definition of Insured.
Allianz	Yes.	Yes. Vicarious liability provided automatically. Also, covers contractors if under the insurer’s direct control and supervision.	Yes.
AXA XL	Yes, optional extension.	Yes, automatic extensions. Contract staff (engaged by the Insured under written contract & Vicarious Liability).	Yes, included in the Definition of Insured.
CGU	Prior corporate entities that are still owned and controlled by the Policyholder. Incoming principals are covered automatically for 30 days. This period can be extended upon receipt & acceptance of additional information.	Vicarious liability provided automatically. Direct supervision and control test for contract employees.	Covered as an Insured person.
DUAL Australia Pty Ltd	Yes, automatic extension	Yes, automatic extension	Yes, covered as an Insured Person
London Australia Underwriting	Optional extension provided on request.	Yes, covered automatically.	Yes, within definition of ‘Insured’.
Marsh (Vero)	Yes, optional extension.	Yes, automatic extension.	Yes, within definition of Insured.
Tasman Underwriting	Yes, usually available as an extension on receipt of prior practice information.	Yes, vicarious liability automatically covered. Consultants and associates automatically included as Insured Persons.	Yes, automatically covered.
Vero Insurance – standard wording	Yes, optional extension.	Yes, automatic extension.	Yes, within definition of Insured.
Zurich	Yes. Covered under the definition of Insured.	Yes. Covered under extension 3.4 (Consultants, Sub-contractors and Agents) – Insured’s liability only.	Costs in addition or costs inclusive.

2.5 Policy Extensions

Insurer	Policy extensions	Optional extensions
Abacus Australia Ltd (CGU)	Loss of third party documents Defamation Infringement of Intellectual Property Advancement of claims investigation costs (i.e. defence costs & expenses) Enquires Cover (\$250,000 sub limit) Continuous Cover Court Attendance Costs (\$500 per day) Compensatory Civil Penalties (\$250,000 any one claim, \$500,000 in the aggregate) Run off Cover for the policy holder Public relations cover (\$50,000 any one publicity campaign, \$100,000 in the aggregate) Extended notification period (30 days) Vicarious Liability for agents or consultants Principals previous business (30 days) Outgoing principals Prior corporate entities Merged and/or newly acquired subsidiaries (30 days) Former subsidiaries run off cover Cover to spouse, estates and legal representatives Joint Venture (Subject to Notification) Loss Mitigation (\$100,000 any one matter, \$200,000 in the aggregate) Fraud & Dishonesty (Vicarious Liability Only) Misleading or deceptive conduct Breach of warranty of authority Interested party Auditing Standards (no cover for Audits for Financial Institutes & Publicly Listed Companies) Finance Broking Limited Financial Services Mortgage broking Statutory Liability (\$50,000 sub limit) 1 reinstatement applies to sub limited cover (does not apply to optional extensions)	Cyber Cover Employment Practices Liability Fidelity Public and Products Liability

Insurer	Policy extensions	Optional extensions
AIG Australia Limited (per Arthur J. Gallagher)	Civil Liability Misleading or Deceptive Conduct Intellectual Property Defamation Business Guard Advisory panel Court Attendance Extended Reporting Period External Dispute Resolution Bodies Compensatory Civil Penalties (\$1,000,000) Fraud/Dishonesty Joint Ventures Past Partner Liability (no more than 4 partners or 10 staff) Previous Business Name Property Cover for Lost Documents (\$250,000) Public Relations Expense (\$50,000) Quasi-Judicial Costs (\$250,000) Vicarious Liability Fidelity (\$500,000)	Employment Practice Liability (\$300,000)
Allianz	Fraud & Dishonesty (exc. Currency) Former Principals etc Loss of Documents Consultants, Sub-Contractors & Agents Newly Acquired or Created Subsidiary Former Subsidiary External Appointments Estates & Legal Representatives Run off cover until expiry of period of cover Competition and Consumer Act 2010 (Cth) Defamation Breach of copyright Joint Ventures (own liability) Continuous Cover	Subsidiaries – Pre-Acquisition Liability Breach of Privacy Response Costs & Fines/Penalties Joint Ventures (joint liability) Run-Off after Merger, Takeover or Sale (up to 7 years) Incoming Continuous Cover Employment Practices Liability Previous Business
AXA XL	Inquiry Costs Loss of Documents Dishonesty & Deliberate Conduct Reputation Protection Civil Fines & Penalties Cyber Disruption Claims or Inquiries Preparation Costs Vicarious Liability Contract Staff Extended Reporting Period Joint Venture Liability Continuous Cover New Subsidiaries Estates & Legal Representatives External Engagements Breach of Auditing Standards	Automatic Reinstatement Unlimited Automatic Reinstatement Fidelity External Complaints Resolution Scheme Limited Australian Financial Services Licence ("full" AFSL available by endorsement) Principal's Previous Business

Insurer	Policy extensions	Optional extensions
CGU	Advancement of claim investigation costs Enquiries cover Continuous cover Court attendance costs (sub-limited) Lost documents (\$250,000 sub-limit) Compensatory civil penalties (\$250,000 sub-limit) Run-off cover for the policyholder Public relations cover (\$50,000 sub-limit) Extended notification period (30 days) Vicarious liability for agents or consultants Principal's previous business (30 day interim cover – can be extended upon application) Prior corporate entities Merged and/or newly acquired subsidiaries Former subsidiaries run-off cover Cover to spouse, estates and legal representatives Joint ventures Loss mitigation (\$100,000 sub-limit) Fraud & dishonesty of insureds (vicarious liability cover) Misleading or deceptive conduct (including Competition and Consumer Act 2010 (Cth), Australian Securities and Investments Commission Act 2001 (Cth) and Fair Trading Legislation) Breach of warranty of authority Interested party Reinstatement of the policy limit Reinstatement applies to sub-limited cover (does not apply to optional extensions) Cover to employees Cover for vicarious liability for acts of agents & consultants Breach of duty (including a fiduciary duty) Breach of privacy or confidentiality Defamation Loss of Documents Claim Investigation Costs (i.e. defence costs) in addition to the policy limit	Employment Practices Liability Fidelity Cover

Insurer	Policy extensions	Optional extensions
DUAL Australia Pty Ltd	Attendance at Investigations Consumer Protection Legislation Consultants, Subcontractors and Agents Continuous Cover Court Attendance Costs Crime Defamation Discovery Period Emergency Defence Costs Former Subsidiary Fraud and dishonesty for innocent parties Heirs, Estates and Legal Representatives Intellectual Property Joint Venture Liability Lost Data Newly Created or Acquired Entity or Subsidiary Panel Counsel Previous Business Public Relations Reinstatement of Indemnity Limit Statutory Liability	Employment Practices Liability USA and Canada Cover Whistleblower Hotline Access
London Australia Underwriting (100% Lloyd's)	Australian Auditing Standards Continuity of Cover – renewal basis Costs of Coronial Inquests/Disciplinary Hearings Occupational Health and Safety proceedings Dishonesty and Fraud (Third Party Liability) Fidelity Loss of Documents Newly Created or Acquired Subsidiaries Prior Corporate Entity Run-Off Cover Severability and Non-imputation Trade practices Waver of Subrogation Against Named Consultants Joint Venture Liability	

Insurer	Policy extensions	Optional extensions
Marsh (Dual) Low Fee Income Earners	Fraud and Dishonesty Former Principals Consultants, Subcontractors and Agents Loss of Documents \$500,000 Run-Off Cover Insured Entity or Subsidiary (Former Subsidiary) Joint Venture Liability Defamation Fidelity \$250,000 Intellectual Property Reinstatement of INDEMNITY LIMIT – 2 Reinstatements Attendance at Inquiries \$250,000 Court Attendance Costs Public Relations Expenses Heirs, Estates, Legal Representatives and Spouses Continuous Cover Defence Costs in Addition Emergency Defence Costs Statutory Liability Previous Business Extended Reporting Period Claim Mitigation and Fee Recovery Referral Service	
Marsh (Vero)	Advancement of costs Compensation for court attendance Continuous cover Data protection and privacy liability costs Dishonesty Emergency insured costs Excess reduction Extended reporting period External appointments Fidelity Forgery Indemnity to contractors Inquiry costs Joint venture liability Legal consultation Lost documents Merger or acquisition run off cover Mitigation of loss Public relations expenses Sixty day reporting period Spousal liability Statutory liability Twelve month automatic run-off	

Insurer	Policy extensions	Optional extensions
Tasman Underwriting (Lloyd's)	<ul style="list-style-type: none"> Acquisitions & Mergers Incoming & Outgoing Principals Dishonesty of Partners or Employees Affiliated Firms Consultants & Contractors Loss of Documents Defamation Competition and Consumer Act 2010 (Cth) Intellectual Property Breach of Fiduciary Duty Estates & Legal representatives External appointments Continuous Cover 	<ul style="list-style-type: none"> Two reinstatements of the indemnity limit Fidelity Previous Partners' Practice Financial Planning Official Inquiry Costs
Vero Insurance – standard wording	<ul style="list-style-type: none"> Insurance Clarifications Consumer Protection Legislation Contractual Liability Intellectual Property Liability for Acts, Errors or Omissions of Contractors and Consultants Libel or Slander Liquidated damages Privacy and confidentiality Automatic Extensions Compensation for Court Attendance Continuous Cover Dishonesty of Employees Excess reduction Extended Reporting Period Indemnity to Contractors Inquiry Costs Joint Venture Liability Legal Consultation Lost Documents Mitigation of loss Newly Acquired Subsidiary Privacy breach costs Public Relations Expenses Run Off Cover Spousal Liability Thirty Day Reporting Period 	<ul style="list-style-type: none"> Principal's Previous Business Available by endorsement: External Appointments Fidelity Accountants unlimited aggregate limit Strict liability for failure to conduct an audit or review in accordance with auditing standard Liquidators/Auditors cancellation clause (alternative title: Cancellation Amendment for Auditors or Liquidators) Run Off – Registered Liquidators Run Off – Accountants – Limited AFSL Services Run Off – Accountants – Credit Services Run Off – Accountants – Insolvency Practitioners

Insurer	Policy extensions	Optional extensions
Zurich	Audit Standards Strict Liability Coverage Auditors/Liquidators Cancellation Clause Civil liability insuring clause Claims preparation costs Compensatory penalties Competition and Consumer Act and other Legislation Consultants, subcontractors & agents Continuous cover Contractual liability Court attendance costs Deemed employees Dishonesty Estates & Legal Representatives Extended notification period Fidelity First Party Copyright infringement Inquiries Intellectual Property including Breach of Confidentiality Joint Venture Libel, Slander & Defamation	

2.6. Policy Exclusions

Note: This Guide does not include exclusions that are not specifically applicable to accountants' activities. For example, claims arising from asbestos, pollution, war and terrorism, bodily injury, property damage etc.

This Guide does not include the following exclusions common to all policies listed:

- fines, penalties, punitive damages
- insolvency / bankruptcy of assured
- computer viruses & unauthorised use (except Allianz)
- employers liability, obligations to employees
- geographical, Australia (except Pen Underwriting Pty Ltd & Allianz) (USA Jurisdiction Exclusion Allianz)
- retroactive date
- trading loss, trading debts, sale and supply of goods
- nuclear, radioactive contamination or explosive nuclear assemblies
- market fluctuation (except Pen Underwriting Pty Ltd & Allianz for selected risks)
- other insurances (except Pen Underwriting Pty Ltd & Allianz)
- sanctions (except Allianz)

Insurer	Exclusions
Abacus Australia Ltd (CGU)	<ul style="list-style-type: none"> Activities as Agent Assumed Liability Controlling Interests/Associated Companies Financial returns Intentional Libel and Slander Known facts and circumstances Outside Directorship Duties Real Property Valuations Tax Schemes (unless subject to prior favourable ruling) Financial Planning Audit Publicly listed Companies & Financial Institutions Investment Advice Sworn Business Valuations
AIG Australia Limited (per Arthur J. Gallagher)	<ul style="list-style-type: none"> Anti-Competitive Conduct Audit Publicly listed Companies & Financial Institutions Contractual Liability/Performance Guarantees (assumed Liability) Cost Assessment Infrastructure Insolvency Intentional Acts Misdeeds Patent/Trade Secret Prior Claims/circumstances Trade Debts
Allianz	<ul style="list-style-type: none"> Prior Claims/Circumstances Fraud & Dishonesty (write back via automatic extensions) Contractual Liability/Guarantee or Warranty Associated Persons or Entities Fines and Penalties Tax Schemes (unless reasonable steps taken to establish it was within rulings or determinations) Financial Planning (unless in accordance with a valid Limited AFSL) War & Terrorism

Insurer	Exclusions
AXA XL	Dishonesty or Deliberate Conduct (see Dishonesty or Deliberate Conduct Automatic Extension) Fidelity (see Fidelity Optional Extension) Contractual or Commercial Liabilities Financial Planning Services ('full' AFSL – can be removed by Endorsement) Market Manipulation Authorisation Beneficial Interest Finance Approved Products Corporate Advisory Services (unless performed for private companies or NFP organisations) Professional Organisations Known Circumstances Product-Related Liabilities Directors' & Officers' Liability Occupier's Liability Motor Vehicle/ Aircraft/ Watercraft Asbestos Licensing Intellectual Property Rights (intentional infringement, marketing) Anti-Competitive Conduct Known Claims & Inquiries Related Parties Jurisdictional Limits (WW except USA & Canada) Waived or Limited Rights
CGU	Known claims & circumstances Assumed duty or obligation Tax avoidance schemes Investment advice information or opinion Auditing for Financial Institutions & Public Companies Director & officer liability Intentional Damage & Deregistration

Insurer**Exclusions**

DUAL Australia Pty Ltd

Amounts Paid or Restitution
Associates
Assumed Liability
Deliberate Acts
Directors and Officers
Disclosure of Commissions / Conflict of Interest
Excluded Activities
Financial Conduct, Advice and Performance
Fraud and Dishonesty (write-back via automatic extension)
Investment Performance
Intellectual Property
Liability as Occupier
Prior Known Facts

Does not include
Asbestos and Toxic Mould
Bodily Injury
Employment Practices Liability
Financial (insolvency, insurance)
Insolvency
Liability to Employees
Pollution and Radioactive Contamination
Product Liability
Property Damage
Sanctions Limitation
Terrorism
Trading Debts
War and Civil War

Insurer	Exclusions
London Australia Underwriting (100% Lloyd's)	Bodily Injury & Property Damage Care Custody and Control Confidentiality, Copyright, Libel and Slander (Intentional) Deliberate Acts Director & Officer Dishonesty Employer Liability/Worker's compensation Fines and Penalties Goods & Services Gradual Wear & Tear Information Technology Insolvency or Bankruptcy Exclusion Investment Related Jurisdiction & Territorial Limits Known Facts Land & Vehicles & Property Minimum Cheques Signing Nuclear War & Terrorism Other Insurance Pollution Contamination & Asbestos Radioactive Contamination & Explosive Nuclear Assemble Refund of Professional Fees Exclusive Related Companies Retroactive Date Sanctions Limitation and Exclusion Clause Sexual Molestation Trading Losses Warranties and Guarantees
Marsh (Dual) Low Fee Income Earners	Prior Knowledge Fines and Penalties and Non-Compensatory Assumed Liability Property Damage Liability as Occupier Product Liability Intellectual Property Trading Debts Fraud and Dishonesty Associates Directors & Officers Excluded Activities Financial Conduct, Advice and Performance Disclosure of Commissions/Conflict of Interest

Insurer	Exclusions
Marsh (Vero)	<ul style="list-style-type: none"> Prior claims or known circumstances Asbestos Assumption of liability Directors and officers liability Dishonest, fraudulent or criminal acts Employer's liability Fines, penalties, punitive or aggravated damages Investment depreciation Radioactivity Related parties Sanctions Specified activities Tax schemes Terrorism Trading debts
Tasman Underwriting (Lloyd's)	<ul style="list-style-type: none"> Tax Avoidance Scheme Contractual liability Financial or related interest >10% Public company Directorships Internet & electronic trading
Vero Insurance – standard wording	<p>Exclusions in wording:</p> <ul style="list-style-type: none"> Directors and Officers Liability Dishonest, Fraudulent or Criminal Acts Prior Claims or Known Circumstances Subrogation Waiver Assumption of Liability Related Parties Professional Fees <p>Exclusions by standard endorsement:</p> <ul style="list-style-type: none"> Any valuation of real property; Conveyancing activities; Business broking activities; The audit of listed public companies; The audit of banks or financial institutions; Credit services, including but not limited to mortgage and finance broking, except that this shall not apply to referral services; [this exclusion is amended if cover is provided for credit services] Investment advice or investment management; Any financial, wealth management or investment advice or services under an Australian Financial Services Licence (whether in the capacity of a license holder or Authorised Representative) or for which an Australian Financial Services Licence, which for the avoidance of doubt includes but is not limited to a Limited AFSL, would be required; [this exclusion is amended if cover is provided for Limited AFSL services] Any administration or trustee services for a superannuation fund where the Insured is also the investment advisor for such superannuation fund. Investment depreciation Tax schemes

Insurer**Exclusions**

Zurich

Contractual Liability
Directors and Officers
Employer's Liability
Fraud and Dishonesty
Insolvency
Licensing Inquiries
Managed Investment Schemes
Manufacturing / Efficacy / Faulty Workmanship
Money and Negotiable Instruments
Owners and Occupiers Liability
Personal Injury / Property Damage
Prior and Pending
Radioactivity / Pollution / Asbestos
Related Entities
Retroactive Date
Superannuation Trustee
USA / Canada Exposure
War, Act of Terrorism

2.7 Specific terms: Tax scheme provisions

Insurers	Wording used has been supplied by the underwriters	Comment
Abacus Australia Ltd (CGU)	<p>Notwithstanding anything else to the contrary, it is declared and agreed that We do not provide Cover for any Claims or Covered Claims based upon, directly or indirectly arising from or attributable to any Tax Exploitation Scheme, of which the Insured was a Promoter.</p> <p>For the purposes of this Exclusion:</p> <p>a) A 'Tax Exploitation Scheme' has the same meaning as in Section 290 – 65 of the Tax Laws Amendment 2006 Measures No. 1) Act 2006 (No. 32, 2006) ("the Act") being a tax exploitation scheme in respect of which:</p> <ul style="list-style-type: none"> i. a civil penalty has been imposed upon any person, under Section 290 – 50 of the Act; ii. an injunction has been granted against any person, under Section 290 – 125 of the Act; or iii. a voluntary undertaking has been given by any person, under Section 290 – 200 of the Act. <p>b) 'Promoter' shall have the same meaning as in Section 290 – 60 of the Act.</p>	Cover is otherwise subject to the terms and conditions of the policy wording
AIG Australia Limited (per Arthur J. Gallagher)	No specific exclusion.	N/A
Allianz	<p>We shall have no liability under this policy, including in respect of any claim or cost or expense or indemnity or payment or loss, arising out of, based upon, attributable to or in consequence of any tax product, tax scheme or tax arrangement, including but not limiting the generality thereof any advice given by you to any client on how to minimise their taxation obligations by investing in any such tax product, tax scheme or tax arrangement:</p> <p>a) alleged to be designed to avoid taxation; or</p> <p>b) to which Part IVA of the Income Tax Assessment Act 1936 (Cth) (or its equivalent or replacement) applies; unless you took reasonable steps to establish that any professional services provided in relation to any such tax product, tax scheme or tax arrangement was consistent with the intent of any relevant determinations, rulings or notices issued by the Australian Tax Office and any applicable case law at the time those professional services were provided.</p>	N/A

Insurers	Wording used has been supplied by the underwriters	Comment
AXA XL	<p>Clause D5 (Financial Planning Services Exclusion) can be removed by the Financial Services Endorsement. The Endorsement contains the following additional Exclusions: The following Exclusions are included and form part of this <i>policy</i>.</p> <p>The <i>insurer</i> will not be liable to indemnify the <i>insured</i> for any <i>loss</i>, settlement or other payment, or pay any <i>defence costs</i> or <i>inquiry costs</i>, directly or indirectly arising out of, based upon, attributable to or in consequence of:</p> <p>D31 Managed Investment Schemes</p> <p>a) any advice provided or services performed, actual or alleged, by or on behalf of any insured or agent in connection with any managed investment scheme (whether appropriately registered or otherwise) for any primary industry or agricultural investments of any kind or structure, subordinated, mezzanine, any unlisted or unrated securities, any unsecured debt or any debt for the development of real property, or any other financial product for which there is no secondary market regulated by the Australian Prudential Regulation Authority;</p> <p>b) the actual or alleged promotion, management or operation of any such managed investment scheme (whether appropriately registered or otherwise) by or on behalf of any insured or any agent.</p> <p>D32 Tax Exploitation Scheme</p> <p>a) any advice provided or services performed, actual or alleged, by or on behalf of any insured or any agent in connection with any product, scheme or arrangement that:</p> <ol style="list-style-type: none"> i. is designed, purports or offers to avoid or minimise any tax liability that may be incurred by investors; or ii. to which Part IVA of the Income Tax Assessment Act 1936 (Cth) applies. <p>b) However, this Exclusion will not apply where the insured is able to demonstrate to the satisfaction of the insurer that the insured took all reasonable measures to ensure that prior to providing any such advice or performing such, services in respect of any such product, scheme or arrangement was consistent with any relevant determinations or rulings as released by the Australian Tax Office.</p>	<p>Cover is otherwise subject to the terms and conditions of the policy wording</p> <p>Managed Investment Scheme has the same meaning as Section 9 of the Corporations Act 2001</p> <p>The tax Exploitation Scheme Exclusion does not apply where the Insured can demonstrate they took all reasonable measures to ensure the scheme was compliant with the rules or determinations of the ATO</p> <p>The Margin Lending Exclusion will not apply where LVR's are less than 50% when the facility was established and following any subsequent borrowings and the Insured's client have signed an acknowledgment that they understand the nature of a margin loan and the implications of a margin call.</p>

Insurers	Wording used has been supplied by the underwriters	Comment
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AXA XL continued

D33 Margin Lending Facilities

Clause D10(b) (Finance) will not apply in respect of any **margin lending facility** arranged by the **insured** or any **agent**, on behalf of any client, but only on the basis that;

- a) such **margin lending facility** has, a loan to value ratio of no greater than 50% at the time the such facility was established and no subsequent borrowings have the effect of increasing the loan to value ratio by virtue of the increased loan amount alone; and
- b) any person provided advice or performing and services in respect of such margin lending facility is compliant with licensing, conduct and disclosure requirements specified in the Corporations Legislation Amendment (Financial Modernisation) Act 2009 (Cth) at the time such advice was provided or services performed; and
- c) *the provision of any professional advice or services by the **insured** or any **agent** in respect of **margin loans** has been disclosed to the **insurer** in the **proposal form**; and*
- d) *the presence on such a client's file, that is maintained by the **insured** or any **agent**, of an appropriate declaration signed by the client, specifically as an acknowledgment that the insured or agent has adequately explained the nature of a **margin lending facility**, including the repercussions of a 'margin call'.*

A. For the purposes of this Endorsement:

"managed investment scheme" will have the same meaning as specified in Section 9 of the Corporations Act 2001 (Cth); and

"margin lending facility" will have the same meaning as specified in Section 761EA of the Corporations Act 2001 (Cth).

CGU

This Policy does not provide cover for or in respect of a Claim directly or indirectly related to, based upon, attributable to or in consequence of a Tax Exploitation Scheme, of which the Insured was a promoter.

For the purposes of this Exclusion:

A Tax Exploitation Scheme shall have the same meaning as in Section 290-65 of the Tax Laws Amendment (2006 Measures No. 1) Act 2006 (No. 32, 2006) ("the Act") being a tax exploitation scheme of which:

A civil penalty has been imposed upon any person, under Section 290-50 of the Act; or

An injunction has been granted against any person, under Section 290-125 of the Act; or

A voluntary undertaking has been given by any person, under Section 290-200 of the Act.

Promoter shall have the same meaning as in Section 290-60 of the Act.

Insurers	Wording used has been supplied by the underwriters	Comment
DUAL Australia Pty Ltd	Any Claim or Investigation arising from or directly or indirectly attributable to or in consequence of any... advice in connection with any investment which has not received confirmation from the Commissioner of Taxation and/ or under the Australian Taxation Office of any allowable taxation concessions or deductions	N/A
London Australia Underwriting (100% Lloyd's)	Underwriters shall not have any liability any investments, schemes or arrangements which are held to be in breach of Part IVA of the Income Tax Assessment Act 1936 (Cth), unless the Australian Tax office has issued a compliancy determination or product ruling prior to any promotion of, or investment in, the scheme or arrangement.	Cover provided where the ATO has previously issued a compliancy determination or ruling.
Marsh (Vero)	<p>Arising directly or indirectly from or in respect of the promotion of, advice in favour of or in any way facilitating the investment in schemes, arrangements or products designed to avoid taxation.</p> <p>This exclusion does not apply if the promotion occurred, the advice was given or the investment was facilitated after:</p> <ul style="list-style-type: none"> i. the Australian Taxation Office had issued a compliancy determination or product ruling in favour of the scheme, arrangement or product and such scheme, arrangement or product has been implemented in accordance with such compliancy determination or product ruling; and/or ii. the Insured made all reasonable inquiries necessary of a prudent professional in the Insured's position to establish that the scheme, arrangement or product satisfied the relevant Australian tax laws, complied with the intention of these laws and was not defeated by any anti-avoidance tax; and/or <p>There had been a court ruling in favour of the scheme that is binding on the Australian Taxation Office.</p>	N/A
Tasman Underwriting (Lloyd's)	The underwriters shall not indemnify an assured against any claim made against them arising directly or indirectly from any scheme, arrangement or transaction which the Australian Taxation Office declares to be in breach of Part IVA of the Income Tax Assessment Act 1936 (as amended).	<p>No cover if the ATO declare the scheme to be in breach of the ITAA.</p> <p>On application, Tasman will consider amending or deleting the exclusion.</p>

Insurers	Wording used has been supplied by the underwriters	Comment
Vero Insurance – standard wording	<p>The Insurer shall not be liable in respect of any Professional Services, Claim, liability, compensation, Inquiry Costs, claimant’s costs and expenses, Insured Costs or compensation for court attendance arising directly or indirectly from or in respect of the promotion of, advice in favour of or in any way facilitating the investment in schemes, arrangements or products designed to minimize or avoid taxation.</p> <p>This exclusion does not apply if the promotion occurred, the advice was given or the investment was facilitated after:</p> <p>a)</p> <ul style="list-style-type: none"> i. the Australian Taxation Office had issued a compliancy determination or product ruling in favour of the scheme, arrangement or product and such scheme, arrangement or product has been implemented in accordance with such compliancy determination or product ruling; and ii. the Insured made all reasonable inquiries necessary of a prudent professional in the Insured’s position to establish that the scheme, arrangement or product satisfied the relevant Australian tax laws, complied with the intention of these laws and was not defeated by any anti-avoidance tax; <p>or</p> <p>b) there has been a court ruling in favour of the scheme that is binding on the Australian Taxation Office.</p>	<p>Cover is otherwise subject to the terms and conditions of the policy wording</p> <p>The exclusion does not apply if prior to the advice being given:</p> <ul style="list-style-type: none"> a) The ATO ruled in favour of the scheme and Insured was satisfied scheme complied; or b) a court had ruled in favour of the scheme.
Zurich	<p>Tax Implications Advice Exclusion</p> <p>We will not pay anything in respect of any claim directly or indirectly arising from or in connection with any representation or advice relating to any tax minimisation scheme not approved and/or sanctioned by the Australian Tax office and/or the Australian Securities and Investment Commission.</p>	<p>Intent: No cover if scheme not approved by the ATO &/or ASIC</p>

2.8 Specific terms: Criminal proceedings and auditing standards provisions

Insurers	Wording used has been supplied by the underwriters
Abacus Australia Ltd (CGU)	Breaches of the Auditing Standards automatically covered within the insuring clause, subject to the Intentional Damage Exclusion (Section 711) However, the policy excludes Audits on Financial Institutes and Public Listed Companies
AIG Australia Limited (per Arthur J. Gallagher)	Misdeeds Exclusion This policy shall not cover Loss in connection with any Claim arising out of, based upon or attributable to any act which a court, official tribunal or arbitrator 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: i. the "Fraud/Dishonesty" Cover; or ii. the "Fidelity" Extension; or iii. to a breach of the Australian Auditing and Assurance Standards enforceable under the Corporations Act 2001 (Cth) except in the case of dishonesty or fraud.
Allianz	Automatic Extension 26. Liability for Breach of Auditing Standards or the Tax Agent Services Act We agree to indemnify you in respect of your strict liability penalties incurred by you or compensation orders incurred by you as a result of any actual or alleged breach of: a) Australian Auditing Standards in relation to audits that are the subject of the provisions of the Corporations Act 2001 (Cth); or b) the Tax Agent Services Act 2009 (Cth) (TASA). Fraud & Dishonesty Exclusion (cl.38) We shall have no liability under this policy, including in respect of any claim or cost or expense or indemnity or payment or loss, arising out of, based upon, attributable to or in consequence of: a) the gaining of or intentional attempt to gain profit, remuneration or advantage to which you were not legally entitled; or b) dishonest, fraudulent, malicious, wilful or criminal act or omission by you or your consultants, subcontractors or agents; in the event that any of the above is established by final adjudication of a judicial or arbitral tribunal or by your written admission.
AXA XL	Automatic Extension – Breach of Auditing Standards a) Notwithstanding Clause D1 (Dishonesty & Deliberate Conduct Exclusion) and F26 (Definition of Loss), the insurer will indemnify the insured for legal liability for any strict liability penalties or compensation orders incurred by the insured directly as a result of any actual or alleged breach of: i. Australian Auditing Standards in relation to audits which are subject to the provisions of the Corporations Act 2001 (Cth); or ii. Tax Agents Services Act 2009 (Cth); or iii. Superannuation Industry (Supervision) Act 1993 (Cth) and Superannuation Industry (Supervision) Regulations 1994 (Cth). b) In the event that the insurer makes any payment on behalf of any insured under this Extension to which it is ultimately determined such insured is not entitled under this policy , each such insured must repay the insurer the amount of such payment immediately on demand. This Opening language applies to each of the following Exclusions: The insurer will not be liable to indemnify the insured for any loss, settlement or other payment, or pay any defence costs or inquiry costs, directly or indirectly arising out of, based upon, attributable to or in consequence of:

AXA XL continued

Dishonesty Or Deliberate Conduct Exclusion

- a) any actual or alleged dishonest, fraudulent, criminal or malicious conduct of any insured, or any agent; or
- b) any conduct of any insured or any agent committed or allegedly committed with a reckless disregard for the consequences thereof; or
- c) any conduct of any insured or any agent committed or allegedly committed with criminal intent or purpose, or with knowledge that such conduct was in breach of any statute, contract, right or duty; or
- d) any actual or alleged wilful or deliberate conduct on the part of any insured or any agent, for the actual or alleged purpose of which was to:
 - i. profit from information not generally available to market participants; or
 - ii. create a false or misleading impression as to the value of any investments; or
 - iii. distort any market in investments.

Licensing Exclusion

any activity, actual or alleged, by or on behalf of any insured or any agent for which such insured or agent did not hold at the time such activity was conducted:

- a) an appropriate Australian Financial Services Licence, limited or otherwise; or
- b) proper and valid authority from another Australian Financial Services Licensee; or
- c) is not otherwise properly licensed, registered or authorised in accordance with any relevant legislation or regulation.

Definition of Loss

"loss" means compensatory damages and / or claimant's costs (whether awarded or by settlement with the prior written consent of the insurer), but will not include;

- a) civil or criminal fines or penalties imposed by law; or
- b) punitive, exemplary, multiple or aggravated damages; or
- c) any amount uninsurable at law; or
- d) any amount for which the insured is not legally liable or for which there is no legal recourse to any insured.

CGU

Breaches of Auditing Standards automatically covered within the insuring clause (section 3.1) subject to Intentional Damage Exclusion (section 7.11)

DUAL Australia Pty Ltd

3.11 Fraud and dishonesty for innocent parties

Notwithstanding exclusion 5.13 (Fraud and Dishonesty), but subject to all other terms and conditions of this Policy, We agree to pay to or on behalf of the Insured all Loss resulting from any Claim for Civil Liability made against the Insured, provided that We will not provide cover to any Insured committing or condoning any act, omission or breach.

Claims arising out of audit work are covered under the Civil Liability Insuring Clause but note that auditing for publicly listed companies is not included in the definition of Professional Business.

Insurers**Wording used has been supplied by the underwriters**

London Australia
Underwriting (100% Lloyd's)

3.13 Australian Auditing Standards

Underwriters shall indemnify the Insured against any Claim first made and Notified during the Policy Period for any civil liability arising out of any failure by the Insured to conduct an audit in accordance with the auditing standards prescribed by the Corporations Act 2001 (or as amended from time to time), provided that:

- a) the Claim has not arisen due to any fraudulent, dishonest, reckless or wilful act of an Insured, Subsidiary, sub-contractor, agent or Named Consultant.

3.3 Dishonesty and Fraud (Third Party Liability)

Notwithstanding Exclusions 4.4 (Dishonesty) and 4.18 (Deliberate Acts), Underwriters shall indemnify the Insured against any Claim first made and Notified during the Policy Period and which arises out of the conduct of the Insured's Business by reason of Dishonesty on the part of any Employee (other than any director).

3.4 Fidelity (Own Losses)

Notwithstanding Exclusions 4.4 (Dishonesty) or 4.18 (Deliberate Acts), Underwriters shall indemnify the Insured for any Loss of Money where such Loss of Money is sustained as a result of any Dishonesty by an employee committed in the conduct of the Insured's Business.

4.18 Deliberate Acts

Apart from cover afforded under extension 3.3 (Dishonesty & Fraud) and 3.4 (Fidelity), any Dishonesty or any criminal, malicious or wilful act, criminal, malicious or wilful error or criminal, malicious or wilful omission by the Insured or by any other person, firm or company directly appointed by and acting for or on behalf of the Insured.

Marsh (Dual) Low Fee
Income Earners

3.1 Fraud and Dishonesty

Notwithstanding Exclusion 6.14 of the Policy, We agree to provide cover:

- a) in respect of any Claim against the Insured for civil liability incurred in the conduct of the Professional Business resulting from a dishonest, fraudulent, malicious or criminal act or omission of any Insured; and
- b) to the extent permitted by law, in respect of any civil liability arising from any failure of the Insured to conduct an audit or review in accordance with the auditing standards made for the purposes of the Corporations Act 2001 as required by section 307A of the Corporations Act 2001, or any amendments thereto,

but We will not provide cover in respect of any:

- a) person committing or condoning any act, omission or breach excluded by Exclusion 7.14 of the Policy; or
- b) loss of Money.

Marsh (Vero)

7.5 Dishonesty

The Insurer will, notwithstanding exclusion 9.2.4 'Dishonest, Fraudulent or Criminal Acts', indemnify the Insured against civil liability and claimant's costs and expenses in respect of any Claim first made against the Insured and notified to the Insurer during the Policy Period resulting from:

- a) any dishonest, fraudulent, criminal or malicious act or omission by any Insured who is a natural person occurring or committed in connection with the Professional Services; **and**
- b) any failure by an Insured to conduct an audit or review in accordance with auditing standards.

The Insurer will pay Insured Costs on the basis already set out in this Policy.

Provided that nothing in this extension shall require the Insurer to indemnify:

- i. any Insured who has perpetrated any such dishonest, fraudulent, criminal or malicious act or omission **or breach** or who by act or omission has condoned, aided or abetted any such act or omission **or breach**.
- ii. any Insured whose failure to conduct an audit or review in accordance with auditing standards was committed with dishonest, fraudulent, malicious or criminal failure.

Insurers**Wording used has been supplied by the underwriters**

Vero Insurance – standard wording

Endorsement:

Strict liability for failure to conduct an audit or review in accordance with auditing standard

The Dishonest, Fraudulent or Criminal Acts Exclusion is hereby deleted in its entirety and is replaced by the following:

arising directly or indirectly from or in respect of any:

- a) dishonest, fraudulent, criminal or malicious act or omission by the Insured; or
- b) criminal act or omission or breach of any statute committed by the Insured with reckless or wilful intent,

provided that this Exclusion shall not apply to a failure by an Insured to conduct an audit or review in accordance with auditing standards, unless such failure was committed by that Insured with wilful, reckless, dishonest, fraudulent, malicious or criminal intent.

Zurich

Accountant Auditing Standards

Notwithstanding Extension 3.8 in respect of 'Dishonesty' and to the extent permitted by law, we agree that Exclusion 6.5 in respect of 'Fraud and dishonesty' will not apply to any claim for compensation in respect of any civil liability arising from any failure of the insured to conduct an audit or review in accordance with the auditing standards made for the purposes of the Corporations Act 2001 as required by section 307A of the Corporations Act 2001, or any amendments thereto but only where such failure was not reckless, fraudulent, dishonest, malicious or wilful.

2.9 Specific terms: Financial advisory services provisions

Insurers	Wording used has been supplied by the underwriters
Abacus Australia Ltd (CGU)	No cover for any amounts insured under the policy for or arising out of any financial planning or services where such advice or services requires the provision of a full AFS Licence.
AIG Australia Limited (per Arthur J. Gallagher)	Definition of Professional Services is extended to include "advice the insured is licensed to provide under a limited Australian Financial Services Licence".
Allianz	<p>Policy is subject to a specific exclusion: "Financial Planning" clause 48:</p> <p>No coverage for Investment Advice or any advice for which an Australian Financial Services Licence is required, other than where such advice was provided under and in accordance with a valid "Limited Australian Financial Services Licence" (see cl.48).</p>
AXA XL	<p>Clause D5 (Financial Planning Services Exclusion) can removed by the Financial Services Endorsement. The Endorsement contains the following additional Exclusions:</p> <p>The following Exclusions are included and form part of this <i>policy</i>:</p> <p>The insurer will not be liable to indemnify the <i>insured</i> for any <i>loss</i>, settlement or other payment, or pay any <i>defence costs</i> or <i>inquiry costs</i>, directly or indirectly arising out of, based upon, attributable to or in consequence of:</p> <p>D31 Managed Investment Schemes</p> <p>a) any advice provided or services performed, actual or alleged, by or on behalf of any insured or agent in connection with any managed investment scheme (whether appropriately registered or otherwise) for any primary industry or agricultural investments of any kind or structure, subordinated, mezzanine, any unlisted or unrated securities, any unsecured debt or any debt for the development of real property, or any other financial product for which there is no secondary market regulated by the Australian Prudential Regulation Authority;</p> <p>b) the actual or alleged promotion, management or operation of any such managed investment scheme (whether appropriately registered or otherwise) by or on behalf of any insured or any agent.</p> <p>D32 Tax Exploitation Scheme</p> <p>a) any advice provided or services performed, actual or alleged, by or on behalf of any insured or any agent in connection with any product, scheme or arrangement that:</p> <ol style="list-style-type: none"> i. is designed, purports or offers to avoid or minimise any tax liability that may be incurred by investors; or ii. to which Part IVA of the Income Tax Assessment Act 1936 (Cth) applies. <p>b) However, this Exclusion will not apply where the insured is able to demonstrate to the satisfaction of the insurer that the insured took all reasonable measures to ensure that prior to providing any such advice or performing such, services in respect of any such product, scheme or arrangement was consistent with any relevant determinations or rulings as released by the Australian Tax Office.</p> <p>D33 Margin Lending Facilities</p> <p>Clause D10(b) (Finance) will not apply in respect of any margin lending facility arranged by the insured or any agent, on behalf of any client, but only on the basis that;</p> <ol style="list-style-type: none"> a) such margin lending facility has, a loan to value ratio of no greater than 50% at the time the such facility was established and no subsequent borrowings have the effect of increasing the loan to value ratio by virtue of the increased loan amount alone; and b) any person provided advice or performing and services in respect of such margin lending facility is compliant with licensing, conduct and disclosure requirements specified in the Corporations Legislation Amendment (Financial Modernisation) Act 2009 (Cth) at the time such advice was provided or services performed; and c) the provision of any professional advice or services by the insured or any agent in respect of margin loans has been disclosed to the insurer in the proposal form; and d) the presence on such a client's file, that is maintained by the insured or any agent, of an appropriate declaration signed by the client, specifically as an acknowledgment that the insured or agent has adequately explained the nature of a margin lending facility, including the repercussions of a 'margin call'.

AXA XL continued

B. For the purposes of this Endorsement:

“**managed investment scheme**” will have the same meaning as specified in Section 9 of the Corporations Act 2001 (Cth); and

“**margin lending facility**” will have the same meaning as specified in Section 761EA of the Corporations Act 2001 (Cth).

This opening language applies to each of the following Exclusions:

The *insurer* will not be liable to indemnify the *insured* for any *loss*, settlement or other payment, or pay any *defence costs* or *inquiry costs*, directly or indirectly arising out of, based upon, attributable to or in consequence of:

External Complaints Resolution Scheme Optional Extension

- a) Clause F7 (Definition of Claim) of this *policy* is amended to include a written complaint made against the *insured* to an *external complaints resolution scheme* pursuant to the applicable *terms of reference*.
- b) The *insured* will at the written request of the *insurer* exercise any rights the insured may have pursuant to the applicable *terms of reference* to withdraw any *claim* which may be the subject of indemnity under this *policy* from the jurisdiction of the *external complaints resolution scheme*.
- c) In the event of such a request, any third party costs and expenses for which the insured becomes liable pursuant to the applicable *terms of reference* in respect of the *claim* will be deemed to be included in the definition of *loss* in respect of such *claim*.
- d) In no event will the operation of this Extension increase the *limit of indemnity* specified in the *schedule*.

Limited Australian Financial Services Licence Optional Extension

Notwithstanding Clause D5 (Financial Planning Services Exclusion), Clause F32 (Definition of Professional Services) is extended to include financial services performed by the *insured* or any *agent* directly in connection with a *Limited Australian Financial Services Licence*, held by the *insured* or by a third party for whom the *insured* performs such services under a written agreement or contract.

Market Manipulation Exclusion

any actual or alleged dealings of any nature by which it was sought, or allegedly sought, to affect the price of, or market in, any *investments* or of any negotiable instrument, other than dealings carried out in complete accordance with the laws, rules and regulations applicable to such dealings.

Market Fluctuation Exclusion

any market fluctuation including, but not limited to, the depreciation in value, the failure to appreciate in value or loss of value in any *investments*.

Authorisation Exclusion

any *investment* advice provided or services performed, actual or alleged, by the *insured* or any *agent* which have not been authorised where such authorisation is required under any statutory regulation by an appropriate statutory authority.

Beneficial Interest Exclusion

any transaction in which any *insured* or any *agent* had a direct or indirect beneficial interest or ownership as a buyer or seller of *securities*, however this Exclusion does not apply to a direct or indirect beneficial interest or shareholding of less than 5% in any entity.

Finance Exclusion

- a) any failure to account for any trust account; or
- b) any advice provided or services performed, actual or alleged, in respect of any finance or credit, including the actual provision of, by or to:
 - i. any *insured* or any *agent*; or
 - ii. any party related to or associated with any *insured* or any *agent*.

AXA XL continued

Approved Products Exclusion

- a) any advice provided or services performed, actual or alleged, by the insured or any agent in connection with any product, scheme or arrangement that is not included:
- i. under the *insured's approved product list*; or
 - ii. the *approved products list* of any other party for whom the *insured* or *agent* is an authorised representative.
- b) However, this Exclusion will not apply where such advice or services are provided or performed by the *insured* or any *agent* in respect of switching from a non-approved product, scheme or arrangement to a product, scheme or arrangement that is approved, but only where such *loss* arises directly in connection with the subsequent approved product or directly in connection with the switching advice provided by the *insured* or the *agent*.

Corporate Advisory Services Exclusion

- a) any advice provided or services performed, actual or alleged, by the *insured* or any *agent* in connection with any merger, acquisition, restructure, tender offer, divestiture, sale, valuation or any activity of similar nature.
- b) However, this Exclusion will not apply where such advice or services are provided or performed for a privately owned company or a not for profit organisation.

Professional Organisations Exclusion

any advice provided or services performed, actual or alleged, by on behalf of, the *insured* or any *agent*, by any person who, at the time such advice was provided or services performed:

- (a) was not a member of the Institute of Public Accountants, CPA Australia or Chartered Accountants Australia and New Zealand (or any successor professional organisation); or
- (b) was not a member of the Financial Planning Association of Australia; or
- (c) was prohibited from undertaking such advice or services by reason of their membership status (pursuant to any codes of conduct, professional standards or rules of the applicable professional organisation).

CGU

Consideration can be given on a risk by risk basis

DUAL Australia Pty Ltd

5.10 Excluded Activities

Any Claim or Investigation arising from or directly or indirectly attributable to or in consequence of:

- (a) Finance and/or mortgage broking; or
- (b) Advice in connection with any investment which has not received confirmation from the Commissioner of Taxation and/or the Australian Taxation Office of any allowable taxation concessions or deductions; or
- (c) Corporate advisory services; including but not limited to advice or consulting in connection with mergers and acquisitions or entities or businesses or parts thereof; or
- (d) Stockbroking; financial planning, investment or financial advice or insurance-related or funds management activities, whether or not it requires an Australian Financial Services Licence or an authority under such a Licence; or
- (e) Any act, error or omission in the conduct of any activity not part of the Policyholder's Professional Business.

London Australia
Underwriting (100% Lloyd's)

Write-back available upon request

Insurers**Wording used has been supplied by the underwriters**

Marsh (Dual) Low Fee
Income Earners

6.18 Excluded Activities

Any Claim arising from or directly or indirectly attributable to or in consequence of:

- a) Mortgage Broking;
- b) Advice in connection with any investment which has not received confirmation from the Commissioner of Taxation and/or the Australian Taxation Office of any allowable taxation concessions or deductions;
- c) Financial Planning, Investment or Financial advice or funds management, whether or not it requires an Australian Financial Services Licence or an authority under such a License;
- d) Advice or consulting in connection with mergers and acquisitions of entities or businesses or parts thereof, except where the entity, business or part thereof being acquired by a client of the Insured is for less than \$20 million turnover.

6.19 Financial Conduct, Advice and Performance

Any Claim arising from or directly or indirectly attributable to or in consequence of:

- a) any actual or alleged dealings of any nature by which it is sought to affect the price of, or market in, any shares or debentures of any company or commodity or currency, or of any negotiable instrument, other than dealings carried out in accordance with the laws, rules and regulations applicable to such dealings;
- b) any advice, recommendation, guarantee or representation by the Insured as to the performance of any investment or product;
- c) a failure by the Insured to warn of the risks of market fluctuation of any investment.

Marsh (Vero)

Exclusion – Specified Activities

- f) investment advice or investment management
- g) any financial, wealth Management or investment advice or services under an Australian Financial Services Licence (whether in the capacity of a licence holder or Authorised Representative) or for which an Australian Financial Services Licence would be required;

However (f) and (g) shall not apply to advice and services provided by the Insured in their capacity as a Limited AFSL licensee or Authorised Representative under a Limited AFSL

Tasman Underwriting
(Lloyd's)

The Underwriters shall not provide indemnity in respect of any Claim arising out of any Financial Planning/Investment Advice activities.

Tasman Underwriting will consider removing this exclusion and provide cover for Financial Planning/Investment Advice activities upon receipt of full information regarding such activities including whether they are conducted as an AFS Licensee or as an Authorised Representative of an AFS Licensee.

Insurers**Wording used has been supplied by the underwriters**

Vero Insurance – standard wording

Exclusion by endorsement:

The Insurer shall not be liable in respect of any Professional Services, Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses, Insured Costs or compensation for court attendance arising directly or indirectly from or in respect of:

- a) the depreciation of, or any loss in respect of, an investment or the value of an investment, or the failure of an investment or the value of an investment to appreciate, including but not limited to any:
 - i. securities, commodities, currencies, options and futures transactions;
 - ii. real estate investment, including but not limited to any related return on investment, capital appreciation or tax benefits; or
 - iii. leased equipment or any other goods; or
- b) any actual or alleged representation, advice, forecast or guarantee, whether express or inferred, provided by or on behalf of the Insured as to the performance of any investment.

Provided that this Exclusion shall not apply in respect of any Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses, Insured Costs or compensation for court attendance arising from the Insured's failure to arrange a financial product in accordance with the client's instructions.

For the purposes of this Exclusion, the terms "arrange" and "financial product" have the meanings prescribed in Chapter 7 of the Corporations Act 2001 (Cth).

Exclusion by endorsement (only certain relevant points have been noted here):

The Insurer shall not be liable in respect of any Professional Services, Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses, Insured Costs or compensation for court attendance arising directly or indirectly from or in respect of:

Any valuation of real property;

...

Credit services, including but not limited to mortgage and finance broking, except that this shall not apply to referral services; [this exclusion is amended if cover is provided for credit services]

Investment advice or investment management;

Any financial, wealth management or investment advice or services under an Australian Financial Services Licence (whether in the capacity of a license holder or Authorised Representative) or for which an Australian Financial Services Licence, which for the avoidance of doubt includes but is not limited to a Limited AFSL, would be required; [this exclusion is amended if cover is provided for Limited AFSL services]

Zurich

Financial planning / Finance broking exclusion

We will not pay anything in respect of any claim directly or indirectly arising from or in connection with:

- a) any financial advice, investment advice, information or opinion regarding investment, financial planning activities/advice provided by the insured;
- b) any finance broking activities/advice provided by the insured; and/or
- c) an agreement to provide, introduce or arrange finance by the insured

2.10 Specific terms: SMSF audit services

Regulatory Guide 243 Registration of self-managed superannuation fund auditors (RG 243) explains the types of registers of SMSF auditors maintained by ASIC and the continuing legal obligations of approved SMSF auditors.

Information used here has been supplied by the underwriters:

Insurer	Compliance with the PI insurance requirements of RG 243	Additional comments by the underwriters
Abacus Australia Ltd (CGU)	Yes.	Civil Liability.
AIG Australia Limited (per Arthur J. Gallagher)	Yes.	Recent changes have been made to the cancellation provisions and fraud/dishonesty provisions in line with ASICs requirements.
Allianz	Yes.	
AXA XL	Yes.	
CGU	Yes.	
DUAL Australia Pty Ltd	Yes, via an endorsement.	
London Australia Underwriting (100% Lloyd's)	Yes, via an endorsement.	Civil Liability.
Marsh (Vero)	Yes.	
Tasman Underwriting (Lloyd's)	Yes.	
Vero Insurance	<p>Response to RG 243.34 (Appropriateness of the terms and conditions of insurance):</p> <p>The Vero policy is a civil liability policy, with no exclusion for claims made in respect of SIS Act audits;</p> <p>Insured costs are covered;</p> <p>a) Cover for claims arising from the dishonest or fraudulent acts of Principals, Employees and contractors can be provided via endorsement (although cover will not extend to the dishonest or fraudulent party);</p> <p>b) The policy can be endorsed so that the Insurer cannot cancel for innocent non-disclosure or misrepresentation;</p> <p>c) One reinstatement is normally provided;</p> <p>d) A standard wording with a standard suite of endorsements is usually used, however this may vary on a case-by-case basis.</p>	Insureds should discuss with their broker to review how their specific policy terms and conditions interact with RG 243 requirements.
Zurich	Yes.	The policy complies with RG243, however, the insured should discuss the appropriateness of cover with their insurance broker.

2.11 Specific terms: ASIC PI insurance requirements for AFS Licensees

Regulatory Guide 126 Compensation and insurance arrangements for AFS licensees (RG 126) explains compensation requirements for providers of financial services and ASIC's related PI insurance requirements.

Information used here has been supplied by the underwriters:

Insurer	Compliance with the PI insurance requirements of RG 126	Additional comments by the underwriters
Abacus Australia Ltd (CGU)	Yes.	
AIG Australia Limited (per Arthur J. Gallagher)	Yes, via an endorsement.	Endorsement clarifies policy coverage in accordance with ASIC's requirements. Considered on a case by case basis.
Allianz	Yes.	Cover is automatically provided for services under a Limited AFSL, and also for External Dispute Resolution schemes. Otherwise, compliance with RG126 is not automatic and is considered on an Insured by Insured basis.
AXA XL	Yes (see comments).	Financial Service Endorsement (see above) clarifies the extent of additional cover provided over and above the standard policy. Amendments can be made on a case-by-case basis.
CGU	Yes.	Compliance with RG126 is not automatic and is considered on an Insured by Insured basis.
DUAL Australia Pty Ltd	Yes, via an endorsement.	
London Australia Underwriting (100% Lloyd's)	Yes, via an endorsement.	
Marsh (Dual) Low Fee Income Earners	Yes, via an endorsement.	Endorsement clarifies policy coverage in accordance with ASIC's requirements. Considered on a case by case basis.
Marsh (Vero)	Yes.	
Tasman Underwriting (Lloyd's)	Yes.	
Vero Insurance	Yes.	Insureds should discuss with their broker to review how their specific policy terms and conditions interact with ASIC's requirements.
Zurich	No, as Zurich does not provide PI cover for financial planning exposures.	

3. Glossary of terms

The following draws from a glossary of terms commonly used in the professional indemnity insurance context issued by Vero. This is provided for an explanation of the terms used in this document and is not intended to and does not provide any form of advice or contain legal definitions. You should always look to the definitions contained in your insurance policy or other legal document as these will always prevail.

Automatic reinstatement (also known as increased aggregate limit of indemnity)

Unless otherwise specified in the policy the *Limit of Indemnity* (see *definition*) represents the maximum amount that can be paid in any one policy period.

Some policies, however, include a clause known as an Automatic Reinstatement Clause which allows the *Limit of Indemnity* to be 'reinstated' for new, unrelated claims, should the original sum be depleted by a claim or series of claims that equals the *Limit of Indemnity*.

Depending on the number of reinstatements provided by the policy this clause can provide indemnity for multiple claims during the year where the total of these claims exceeds the policy *Limit of Indemnity*. However, no one claim payment by the insurer will exceed the policy *Limit of Indemnity*.

For example, if the Insured purchases a policy with a \$1,000,000 limit of indemnity, and the policy contains one automatic reinstatement the policy provides cover for claims aggregating up to \$2,000,000 during the period of insurance, subject to any one claim being no greater than \$1,000,000.

Note: Some professional indemnity policies only provide this on an optional basis. Please check the quote or policy wording to ascertain whether the policy contains an Automatic reinstatement clause and the number of reinstatement provided. Please ensure your policy carries at least one reinstatement.

Civil liability

Some professional indemnity policies provide cover for an insured's 'civil liability' to a third party arising out of the insured's conduct of their professional business or the provision of professional services.

Civil liability is liability of one party to another arising out of civil law, as opposed to criminal law.

There are four branches of civil law:

- 1 Tort law (the common law of torts of negligence, nuisance, and defamation);
- 2 Contract law (breach of contract);
- 3 Statutory law (e.g. the *Competition and Consumer Act 2010* (Cth))
- 4 Equity – (a system of law based on the principle of 'fairness' designed to furnish remedies for wrongs which were not legally recognised or for which no adequate remedy was provided by the common law).

A civil liability ordinarily covers all four branches of civil law. However, the policy only responds to civil liability for claims arising from the conduct by the insured in relation to the nominated professional services stated in the policy schedule.

Claim

A 'claim' means any demand or notice (verbal or written) made by a third party against the insured for payment under the terms of the professional indemnity insurance policy to compensate them for a loss. A claim may be made by, a writ, statement of claim, application or other originating legal process or by other written or verbal notice.

Note: All professional indemnity policies have a different definition of 'claim'. Please check the policy wording carefully.

Claims made

A reference to a 'claims made' policy refers to a policy which provides access to indemnity for claims made against the insured and reported to the insurer during the period of the policy. If during the period of insurance the insured notifies a circumstance that may give rise to a claim then, because of the requirements of the *Insurance Contracts Act 1984* (Cth) that also triggers coverage under the policy.

Claims made cover does not require the incident that gives rise to the claim against the insured to have taken place during the period of the policy.

Costs exclusive limit of indemnity

The *Limit of Indemnity* is the maximum amount the insurer will pay in respect of any one claim first made against the insured and notified to the insurer during the period of insurance. A costs exclusive limit of indemnity does not include *Insured costs* within this limit. These costs are in addition to the *Limit of Indemnity* (subject to any Averaging provision). See *Insured costs*.

Costs inclusive limit of indemnity

The *Limit of Indemnity* is the maximum amount the insurer will pay in respect of any one claim first made against the insured and notified to the insurer during the period of insurance. A costs inclusive limit of indemnity includes within this limit *Insured costs*. This means that *Insured costs* incurred in defending a claim reduce the *Limit of Indemnity* available to satisfy the 'indemnity' or compensation amount of the claim. See *Insured costs*.

Excess (also known as deductible)

The excess is a policy condition requiring the insured to pay a portion of the loss. Usually this amount represents the first amount which is payable by the insured in respect of any one claim with the insurer paying the balance over that amount up to the Limit of Indemnity.

Fraud and dishonesty

Professional indemnity policies will generally exclude cover for claims arising from a fraudulent, dishonest or criminal act.

Note: Many professional indemnity policies however will provide a 'writeback' covering claims made against innocent insureds against civil liability for compensation resulting from fraudulent, dishonest or criminal acts, BUT cover will not extend to the perpetrator

of such fraudulent, dishonesty or criminal act. This cover varies significantly across different insurers' wordings.

Limit of indemnity

The limit of indemnity is the maximum amount the insurer will pay for compensation and claimant's costs and expenses arising from any one claim and all claims in the aggregate made by the insured under a policy during the period of insurance. Also see Automatic reinstatement, Costs inclusive and Costs exclusive limit of indemnity.

Prior claims or known circumstances

Claims made policies generally exclude claims arising from facts and circumstances known to the insured before the period of insurance. Just like any other form of insurance, a professional indemnity policy is intended to cover unforeseen circumstances/events only.

The Prior claims or Known circumstances exclusion is a clarification that any prior claims or known circumstances to the insured are not covered by the policy.

Professional services

Professional services are the insured's business activities which are covered under the professional indemnity policy. The Professional services description is usually defined manually by the insurer in the quotation supplied. Professional services can be defined within the policy wording and generally occurs when the policy wording is tailored for a specific profession.

Note: it is important that the Professional services description in a professional indemnity policy matches the activities performed by the insured.

Retroactive date

The Retroactive date of a policy is the date after which acts, errors or omissions of the insured are covered; any act, error or omission occurring before that date will not be covered. That is, any act, error or omission arising from professional services provided after the Retroactive date will be covered under the policy. Retroactive cover extends cover under the policy to acts, errors or omissions that occurred prior to the inception date of the current policy period.

Policies can be underwritten with two types of retroactive dates.

- a Unlimited retroactivity – where the policy will cover a claim made and reported during the policy period relating to an act, error or omission, regardless of when the act, error or omission occurred; Or
- b A "dated" retroactivity clause – where the policy will cover a claim made and reported during the policy period relating to an act, error or omission that occurred after the retroactive date.

Note: If a Retroactive date is imposed, insureds should be aware of this limitation of cover.

Run-off cover

Professional indemnity policies are usually claims made and notified policies. This means that in order to trigger the policy the claim must be made against the insured and reported to the insurer during the policy period. Companies or individuals ceasing business still have exposure to claims being made after their business ceases from their previous business activities.

Run-off cover provides cover for unknown claims made and reported following expiration of the professional indemnity policy, arising out of acts, errors or omissions made during the period when the business was active.

Note: Some Professional indemnity policies will provide automatic run-off cover up until the end of the policy period of insurance should the policy be cancelled during the policy period. Further run-off cover can then be purchased by the client for multiple years thereafter. Some insurers may only consider run-off on a year by year basis, whereas some insurers can offer multiple years of run-off in a single policy.

Vero Insurance's full glossary of terms commonly used in the professional indemnity insurance context is available on their website.

4. Other resources

Our website holds a wealth of information on PI insurance.
In particular:

- General information on PI insurance
- A calculator to calculate the amount of PI insurance you need
- PI Broker details
- Small practice PI insurance policies (for members with a small practice and a limited range of services)
- Regulation CR2A

