

FINANCIAL INSTITUTIONS // INVESTMENT MANAGERS INSURANCE //  
TECHNICAL SPECIFICATIONS // AUSTRALIA

## Technical Specifications: Investment Managers Insurance

### Protecting Investment Managers

With pressure on fee structures and the rise in technology-driven competition, fund managers need to be focused on meeting the changing needs of their investors, managing increasing compliance costs, while navigating the volatility of the global economy.

In this environment and faced with increased regulatory scrutiny and intervention, fund managers need an insurance solution that is both strong and flexible to protect them from legal liability and other emerging exposures such as cyber-attacks and social engineering fraud.

Liberty's **Investment Managers Insurance (IMI) Policy** provides the protection and financial security your clients' investment teams need. The policy can also be structured to meet the requirements for adequate PI cover under ASIC's Regulatory Guides 126 and 210.

### An Easy to Follow Policy Structure

Liberty's new combined policy has been designed for simplicity and clarity, making insurance protection easier to understand and manage. The policy structure is as follows:

- ▶ Part A Professional Liability
- ▶ Part B Directors & Officers Liability
- ▶ Part C Crime
- ▶ Claims Conditions applicable to all Parts
- ▶ General Conditions applicable to all Parts
- ▶ Definitions applicable to all Parts

### What is covered under Part A Professional Liability?

- ▶ **Professional Services** - includes advisory, marketing and fund raising, investment and fund management services, services provided in the capacity of a trustee or responsible entity and administration, custodial or registry services, relating to investments in connection with an insured fund.
- ▶ **Real Civil Liability Insuring Clause** - indemnifies insured organisations and insured persons and does not tie to negligence or breach of professional duty.

- ▶ **Self-Report, Internal Inquiry and Professional Inquiry Costs & Expenses** - costs and expenses of preparing a self-report, participating in an internal inquiry or appearing at an industry-wide inquiry with no requirement for the findings to lead to a claim.
- ▶ **ASIC Administrative Action** - Appeal Costs & Expenses - costs and expenses of the appeal, to a tribunal, of administrative action brought by ASIC suspending or cancelling an AFS licence, or issuing a banning order prohibiting an insured person from providing financial services.
- ▶ **External Dispute Resolution** - for claims brought under an ASIC Approved External Dispute Resolution Scheme such as the Credit Ombudsman Service Limited, Financial Ombudsman Service Scheme or the Australian Financial Complaints Authority. Cover is not sub-limited but the excess will apply to each claim determined or settled under such Scheme.
- ▶ **Contractual Liability** - for liability the insured incurs under an indemnity or hold harmless term of a contract to the extent that such liability results from the insured's performance of professional services.
- ▶ **Limitation of Liability Contracts** - the insured's right to claim under Liberty's IMI policy will not be prejudiced by contracts entered into by the insured which limit the other party's liability.
- ▶ **New Disclosure Documents** - automatic cover for any claim arising out of the issuing of any prospectus or similar document issued during the policy period which does not exceed certain threshold requirements. For those that do, there is a 90 day window to provide additional information and to agree to any specific terms and conditions Liberty may impose (including additional premium).
- ▶ **New Funds** - to give your clients the flexibility to grow their product offering, the definition of insured fund is automatically extended to new funds which do not exceed certain threshold requirements. For funds outside our guidelines there is a 90 day window to provide information about the new fund and to agree to any specific terms and conditions Liberty may impose (including additional premium).
- ▶ **Cyber (optional)** - this optional extension covers cyber liability arising from the performance of professional services, fines & penalties, extortion and privacy breach notification costs.
- ▶ **Statutory Liability (optional)** - this optional extension covers pecuniary penalties and fines an insured is required to pay under statutory civil penalty provisions, provided they are not uninsurable at law or under the relevant statute.

#### Other Extensions Include:

- |                                     |                                |  |
|-------------------------------------|--------------------------------|--|
| ▶ Advancement of Costs & Expenses   | ▶ Emergency Expenses           | ▶ Spouses, Estates & Representatives         |
| ▶ Change in Control - Run Off Cover | ▶ Fraud & Dishonesty           | ▶ Vicarious Liability                        |
| ▶ Continuous Cover                  | ▶ Intellectual Property Rights | ▶ Loss Mitigation & Rectification (optional) |
| ▶ Costs of Living Expenses          | ▶ Joint Ventures               | ▶ Proportionate Liability (optional)         |
| ▶ Court Attendance Costs            | ▶ Loss of Documents            | ▶ Reinstatement (optional)                   |
| ▶ Deemed Employees                  | ▶ New Subsidiaries             |  |
| ▶ Defamation                        | ▶ Public Relations Expenses    |  |

## What is covered under Part B Directors' & Officers' Liability?

- ▶ **Defence Costs Paid in Advance** - prior to final resolution of a valid claim.
- ▶ **Self-Report, Internal Inquiry and Management Inquiry Costs & Expenses** - costs and expenses of preparing a self-report, participating in an internal inquiry or appearing at an industry-wide inquiry which does not require an allegation of a wrongful act against the insured.
- ▶ **Public Relations Expenses** - costs and expenses in seeking advice from a public relations consultant to protect an insured person's reputation following negative publicity arising from a wrongful act which has or could reasonably lead to a claim.
- ▶ **Lifetime Run Off Cover for Former Insured Persons** - in the event of a change in control, an unlimited reporting period is provided to former insured persons who have resigned or retired during the policy period, provided that the insured person's tenure was not involuntarily terminated or terminated due to the change in control and provided no other insurance applies.
- ▶ **Outside Directorship** - this extension, subject to certain limitations, covers the insured person acting in the capacity of a director or officer of an outside entity at the request of the insured organisation.
- ▶ **Fines & Penalties** - worldwide cover (excluding USA) is provided for the fines and pecuniary penalties which an insured person is required to pay provided that the fines and pecuniary penalties are not derived from a reckless act or omission and are not uninsurable at law or under the relevant statute. Under certain conditions, defence costs are also available to challenge the imposition of the pecuniary penalty.
- ▶ **Additional Side A Limit (optional)** - if the limit of liability under Part B is exhausted, this extension provides an additional limit of liability for each director, up to the Additional Side A Limit specified in the Schedule for all Directors.

### Other Extensions Include:

- |                                     |                            |  |
|-------------------------------------|----------------------------|--|
| ▶ Asset & Liberty Expenses          | ▶ Court Attendance Costs   | ▶ Occupational Health & Safety Defence Costs |
| ▶ Bail Bond & Civil Bond Expenses   | ▶ Emergency Expenses       | ▶ Personal Tax Liability                     |
| ▶ Change in Control - Run Off Cover | ▶ Extradition Costs        | ▶ Company Securities Liability (optional)    |
| ▶ Continuous Cover                  | ▶ New Disclosure Documents | ▶ Employment Practices Liability (optional)  |
| ▶ Cost of Living Expenses           | ▶ New Funds                |  |
|                                     | ▶ New Subsidiaries         |  |

## What is covered under Part C Crime?

- ▶ **Simple & Broad Insuring Clauses** - rather than listing defined perils with sub-limits of liability, Liberty provides two simple insuring clauses: the first covering theft by an employee and/or third party including, but not limited to, physical taking, fraud, forgery, counterfeiting, credit fraud, the unauthorised use of a computer system and failing to return erroneously transferred funds. The second insuring clause covers the malicious acts or omissions of an employee and does not require the intent of personal financial gain.
- ▶ **Care, Custody & Control** - the policy covers loss of money, securities or tangible property belonging to an insured organisation or to a client which is in the care, custody and control of the insured organisation.

- ▶ **Interest Receivable or Payable** - a sub-limited cover for interest not realised as a result of a covered direct financial loss.
- ▶ **Kidnap Expenses** - provides an automatic sub-limit of liability for defined kidnap expenses sustained as a result of a kidnapping (other than in excluded countries).
- ▶ **Loss Establishment Costs** - Liberty will pay the reasonable costs and expenses of an investigator to investigate the facts and circumstances giving rise to a direct financial loss and provide recommendations which may assist in preventing future similar losses. This extension has no excess or sub-limit of liability.
- ▶ **Software Reconstitution Costs** - sub-limited cover to rewrite or amend the insured's software programs, systems and security codes where they have been altered or damaged due to a covered direct financial loss.

**Other Extensions Include:**

- ▶ Continuous Cover
- ▶ Court Attendance Costs
- ▶ New Funds
- ▶ New Subsidiaries
- ▶ Public Relations Expenses

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