

Investment Managers Insurance

DUAL

Wordings.



DUAL Australia

Investment Managers Insurance Policy Wording

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Important Notices

You should read the entire **policy** carefully, including all definitions and, in particular, the exclusions to ensure that it meets your requirements. **We** recommend that you consult an insurance agent or broker to ensure that you have a clear understanding of your rights and obligations under the **policy** and that the **policy** meets your needs and circumstances.

About DUAL Australia

DUAL Australia Pty Limited ABN 16 107 553 257 AFSL 280193 (**We/Us/Our**) is a Coverholder for certain Underwriters at Lloyd's of London (Underwriters) and an Insurer Berkshire Hathaway Specialty Insurance Company (BHSI). DUAL has the authority to bind this **policy** on behalf of these Underwriters and BHSI.

Claims Made and Notified Policy

This is a claims made and notified **policy**. **We** shall only cover you for **claims** made against you during the **insurance period** and notified to **us** as soon as practicable during the **insurance period**.

If your **policy** does not have a continuity of cover provision or provide retrospective cover then your **policy** may not provide insurance cover in relation to events that occurred before the **policy** was entered into.

Your Duty of Disclosure

Before you enter into an insurance contract, you have a duty to tell **us** anything that you know, or could reasonably be expected to know, that may affect **our** decision to insure you and on what terms.

You have this duty until **we** agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk **we** insure you for;
- is common knowledge;
- we** know or should know as an insurance company; or
- we** waive your duty to tell **us** about.

If you do not tell us something

If you do not tell **us** something you are required to, **we** may cancel your **policy** or reduce the amount **we** shall indemnify you if you make a **claim**, or both.

If your failure to tell **us** is fraudulent, **we** may refuse to pay a **claim** and treat the **policy** as if it never existed.

Notification of Facts that may give rise to a Claim

Section 40(3) of the *Insurance Contracts Act 1984* (Cth) provides that if you give notice in writing to **us** of facts that may give rise to a **claim** against you as soon as reasonably practicable after you became aware of such facts but before the **policy** expires, then **we** will continue to be liable under the **policy** for that **claim**, if made.

Privacy Statement

We are committed to compliance with the *Privacy Act 1988* (Cth) (the Privacy Act). **We** use your personal information to assess the risk of and provide insurance, assess and manage claims, to perform administrative functions and to comply with regulatory requirements. **We** may also use your contact details to send you information and offers about products and services that **we** believe will be of interest to you.

If you do not consent to provide **us** with the information which **we** request, **we** may not be able to provide insurance or assess a **claim**. If you provide **us** with information about someone else, you must obtain their consent to do so.

We provide your information to the insurer **we** represent when **we** issue and administer your insurance. When providing a quotation or insurance terms, **we** will tell you if the insurer is overseas and if so, where they are. **We** are part of the Howden Group and may provide your information to UK Based Group entities who provide **us** with business support services. **We** may also provide your information to your broker and **our** contracted third party service providers (e.g. claims management companies) but will take all reasonable steps to ensure that they comply with the Privacy Act.

We understand that this information is often sensitive, and **we** shall treat it with the utmost care. **Our** Privacy Policy contains information about how you can access the information **we** hold about you, ask **us** to correct, or make a privacy related complaint. You can obtain a copy from **our** Privacy Officer by:

telephone (+61 (0) 2 9248 6300)

email (privacy@dualaustralia.com.au)

or by visiting our website (www.dualaustralia.com.au).

By providing **us** with your personal information, you consent to its collection and use as outlined above and in **our** Privacy Policy.

General Insurance Code of Practice

We are compliant with the Insurance Council of Australia General Insurance Code of Practice.

The Insurance Council of Australia has developed the General Insurance Code of Practice (the Code), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry.

Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code please visit www.codeofpractice.com.au

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to www.insurancecode.org.au

Complaints and Disputes

If you have any concerns or wish to make a complaint in relation to this **policy**, **our** services or your insurance **claim**, please let **us** know and **we** will attempt to resolve your concerns in accordance with **our** Internal Dispute Resolution procedure.

Please contact **us** in the first instance:

[General Counsel Team](#)

DUAL Australia Pty Limited

Email: complaints@dualaustralia.com.au

Telephone: 02 9248 6300

Level 29, Angel Place, 123 Pitt Street,

Sydney NSW 2000

Australia

We will acknowledge receipt of your complaint and do **our** utmost to resolve the complaint to your satisfaction within 10 business days.

If **we** cannot resolve your complaint to your satisfaction, **we** will escalate your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. A final decision will be provided to you within 30 calendar days of the date on which you first made the complaint unless certain exceptions apply.

You may refer your complaint to the Australian Financial Complaints Authority (AFCA), if your complaint is not resolved to your satisfaction within 30 calendar days of the date on which you first made the complaint or at any time. AFCA can be contacted as follows:

[Australian Financial Complaints Authority Limited](#)

GPO Box 3

Melbourne VIC 3001

Australia

Telephone Number: 1800 931 678

Facsimile Number: (03) 9613 6399

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

Service of Suit and Legal Notices

The Underwriters and BHSI accepting this Insurance agree that:

- i. if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters and BHSI will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- ii. any summons notice or process is to be served upon the Underwriters and BHSI as follows:

[Lloyd's Underwriters' General Representative in Australia](#)

Suite 1603

Level 16

1 Macquarie Place

Sydney NSW 2000

who has authority to accept service on the Underwriters' behalf; and

[Berkshire Hathaway Specialty Insurance](#)

Level 25, 8 Chifley Square

Sydney NSW 2000

- iii. if a suit is instituted against any of the Underwriters or BHSI, all Underwriters and BHSI participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

Notification of Claims

In the event of a **claim** arising under this insurance, immediate notice should be given to:

[The National Claims Manager](#)

DUAL Australia Pty Limited

Level 29, Angel Place, 123 Pitt Street,

Sydney NSW 2000

Australia

Or by email to: claims@dualaustralia.com.au

Please refer to the Claims Conditions section of this policy for further details regarding the notification of **claims** or **loss** subject to this Insurance.

DUAL Australia Investment Managers Insurance

Policy Wording

Section 1: Preamble

In consideration of payment of the premium and subject to all the terms and conditions of the **policy**, and, in reliance upon the disclosures made in the proposal, **we** agree to provide insurance on the terms set out in this **policy**.

Subject to the terms and conditions of the **policy**, the total amount payable by **us** under the **policy** shall not exceed the **indemnity limit** displayed in the **schedule**.

Words and phrases appearing in bold text have the meaning provided in Section 5 - Definitions.

Section 2: Insuring Clauses

Coverage under each Insuring Clause is only available if the corresponding **section** has been purchased as stated in the **schedule**. A sub-limit of indemnity may apply to an Insuring Clause. All applicable sub-limits are specified in the **schedule**.

The sub-limit is the maximum amount payable by **us** under an Insuring Clause. A sub-limit is part of and not in addition to the **indemnity limit**.

A **deductible** may apply to an Insuring Clause. All applicable **deductibles** are specified in the **schedule**. The **deductible** is inclusive of costs, unless otherwise specified in the **schedule**.

The **policy** shall only provide cover arising from **wrongful acts, employment practices breaches**, fraudulent or dishonest acts, and any other conduct occurring after the **retroactive date**.

Section A: Professional Indemnity

2.1 Cover for Claims

We agree to pay to or on behalf of the **insured** all **loss** arising from a **claim** for **civil liability** first made against an **insured** during the **insurance period** in respect of the **insured's** provision of **investment services**.

2.2 Cover for Investigations

We agree to pay to or on behalf of the **insured** their **investigation costs** as **loss** arising from an **investigation** commenced by an **official body** during the **insurance period** in respect of the **insured's** provision of **investment services**.

Section B: Directors & Officers Liability

2.3 Insured Person Liability Cover

We agree to pay to or on behalf of each **insured person**, their **loss** arising from a **claim** alleging a **wrongful act**, first made against an **insured person** during the **insurance period**, for which the **policyholder** has not indemnified the **insured person**.

2.4 Insured Person Investigation Cover

We agree to pay to or on behalf of each **insured person**, their **investigation costs** as **loss** arising from an **investigation** commenced during the **insurance period**, for which the **policyholder** has not indemnified the **insured person**.

2.5 Company Reimbursement - Insured Person Liability

We agree to pay to or on behalf of the **policyholder** an **insured person's loss** arising from a **claim** against an **insured person** alleging a **wrongful act**, first made against an **insured person** during the **insurance period**, for which the **policyholder** has indemnified the **insured person**.

2.6 Company Reimbursement - Investigations

We agree to pay to or on behalf of the **policyholder** an **insured person's loss**, arising from an **investigation** commenced during the **insurance period**, for which the **policyholder** has indemnified the **insured person**.

2.7 Securities Entity Cover

We agree to pay to or on behalf of the **policyholder** its **loss** arising from a **securities claim** first made against the **policyholder** during the **insurance period**.

Section C: Employment Practices Liability

2.8 Employment Practices Liability Cover

We agree to pay to or on behalf of the **policyholder** its **loss**, arising from a **claim** first made against the **policyholder** during the **insurance period** by an **employee** arising from an actual or alleged **employment practices breach**.

2.9 Employment Practices Investigation Cover

We agree to pay to or on behalf of the **policyholder** its **investigation costs**, arising from an **investigation** commenced during the **insurance period** arising from an actual or alleged **employment practices breach**.

Section D: Crime Protection

2.10 Internal Crime Cover

We agree to pay to the **policyholder** **direct financial loss** arising from an **internal crime** which is first **discovered** and reported to **us** during the **insurance period**.

2.11 External Crime Cover

We agree to pay to the **policyholder** **direct financial loss** arising from an **external crime** which is first **discovered** and reported to **us** during the **insurance period**.

Section E: Statutory Liability & Supplementary Legal Costs

2.12 Cover for Claims

We agree to pay to or on behalf of the **insured**, their **loss** arising from any **claim** brought by an **official body** alleging a **wrongful act**, first made against the **insured** during the **insurance period**.

2.13 Cover for Investigations

We agree to pay to or on behalf of the **insured**, **investigation costs** as **loss** arising from an **investigation** commenced by an **official body** during the **insurance period**.

Section 3: Automatic Extensions

Unless otherwise stated in the **schedule** and subject to all the terms and conditions of the **policy we** further agree to extend cover through the following Automatic Extensions. Coverage under each Automatic Extension is only available if the corresponding **section** has been purchased.

A sub-limit of indemnity may apply to an Automatic Extension. All applicable sub-limits are specified in the **schedule**. The sub-limit is the maximum amount payable by **us** under an Automatic Extension. A sub-limit is part of and not in addition to the **indemnity limit**.

A **deductible** may apply to an Automatic Extension. All applicable **deductibles** are specified in the **schedule**. The **deductible** is inclusive of costs, unless otherwise specified in the **schedule**.

Automatic Extensions (All Sections)

Subject to all the terms and conditions of the **policy, we** further agree to extend cover under all **Sections** as follows.

3.1 Allocation of Defence Costs

Where **we** assume the conduct of a **claim** or **investigation** which gives rise to **defence costs** or **investigation costs** for matters and/or parties covered by this **policy** and also to costs in the conduct of uncovered matters and/or parties, then **we** will pay as **defence costs** and **investigation costs** those costs which are jointly incurred for the covered and uncovered matters and/or parties.

For the purpose of this Automatic Extension only, Claims Condition 6.3 (Allocation) will not be enforced by **us**, however, **we** will rely on Claims Condition 6.3 (Allocation) to calculate the allocation between covered and uncovered parties and matters.

This Automatic Extension will not apply if **we** have not assumed the conduct of the **claim** or **investigation**.

This Automatic Extension only applies to the uninsured component of the **claim** as allocated by **us**, or as determined by final adjudication. Once this sub-limit has been exhausted, Claims Condition 6.3 (Allocation) will have full force and effect.

3.2 Crisis Containment

We will pay the **crisis loss** that the **insured** incurs in respect of a **claim, internal crime, external crime** or **investigation** covered by this **policy**, with **our** prior written consent, caused by a **crisis** which first occurs and is notified to **us** during the **insurance period**.

3.3 Discovery Period (Run Off)

In the event of non-renewal of this **policy** or in the event that a **transaction** occurs, the **policyholder** may request a **discovery period** of:

- a. 90 days, granted with no additional premium payable for all **Sections**; or
- b. at **our** discretion, 12 months, for an additional premium of 100% of the expiring premium; or
- c. at **our** discretion, up to 84 months, if a **transaction** takes place, on such terms and conditions, if any, and for such additional premium as **we** may reasonably decide.

During the **discovery period**, the **insured** may:

- a. give notice of any **claim** or **investigation**, arising from any actual or alleged **wrongful act**, or other acts, errors or omissions, or conduct, which occurred during the **insurance period** or prior to the date of a **transaction**, with respect to Section A, B, C and E;
- b. give written notice to **us** of any **direct financial loss** arising from an **internal crime** or **external crime** which was **discovered** during the **insurance period** or the **discovery period**, with respect to Section D.

The **discovery period** will commence immediately after the **insurance period** or date of **transaction** (whichever is the earliest).

Cover is only available under this Extension if a request is made within 30 days of the expiration of the **insurance period** or the **transaction**, whichever is the earliest.

This Extension is not available if this **policy** is:

- i. renewed or replaced with any other similar insurance policy; or
- ii. cancelled or avoided; or
- iii. if the premium for this **policy** is unpaid.

Any **discovery period** purchased under this Extension is non-cancellable by the **policyholder**, and the premium paid for the **discovery period** is fully earned by **us** and is non-refundable.

3.4 New Funds

We agree to pay:

- a. to or on behalf of the **policyholder** all **loss** arising from a **claim** or **investigation** first made during the **insurance period** involving a **new fund**; and
- b. to or on behalf of the **policyholder** for **direct financial loss** of a **new fund** resulting from an **internal crime** or **external crime** which is **discovered** within the **insurance period**.

No cover is provided before the date at which they become a **new fund**.

3.5 New Subsidiaries

We agree to pay:

- a. to or on behalf of the **policyholder** all **loss** arising from a **claim** or **investigation** first made during the **insurance period** involving a **new subsidiary**; and
- b. to or on behalf of the **policyholder** for **direct financial loss** of a **new subsidiary** resulting from an **internal crime** or **external crime** which is **discovered** within the **insurance period**.

No cover is provided before the date at which they become a **new subsidiary**.

3.6 Panel Counsel

The **policyholder** is entitled to one (1) hour of free advice per enquiry from any one firm listed on **our** panel of solicitors for each matter relevant to the risks insured by this **policy** during the **insurance period**. **We** consent to that firm listed on **our** panel of solicitors being retained to act for an **insured** in respect of any **claim** or **investigation** covered by this **policy**.

Automatic Extensions (Sections A, B, C, & E)

Subject to all the terms and conditions of the **policy**, **we** further agree to extend cover under Sections A, B, C and E only as follows.

3.7 Advancement of Defence Costs or Investigation Costs

We agree to advance **defence costs** or **investigation costs** reasonably incurred with **our** prior written consent before final disposition of a **claim** or **investigation**.

If it is not possible for the **insured** to obtain **our** written consent prior to incurring **defence costs** or **investigation costs**, **we** agree to waive prior consent so long as **our** written consent is sought within 30 days of the first of such **defence costs** or **investigation costs** being incurred.

If cover under the **policy** is subsequently determined not to exist, the **insured** must reimburse **us** for any **defence costs** or **investigation costs** that **we** have paid in advance.

3.8 Automatic Run-off Cover for Retired Insured Persons

If an **insured person** retires from all employment or office with the **policyholder** prior to the expiry of the **insurance period**

and the **policyholder** does not renew this **policy** and no **discovery period** is operable, then that **insured person** will automatically be entitled to an 84 month **discovery period** at no additional premium commencing at 4.00pm local time on the date which they retire from office with the **policyholder**.

3.9 Continuous Cover

We will not rely on Exclusion 4.6 (a) and (b) (Prior Known Facts), in respect of any **claim** or **investigation** where the **insured**:

- a. first became aware, prior to the **insurance period** and after the **continuity date**, that a **claim** or **investigation** might or could arise from facts or circumstances known to the **insured**; and
- b. through error or oversight failed to notify the previous insurer or insurers on risk of such facts or circumstances, under any like policy existing prior to the **insurance period**.

If **we** do not rely upon Exclusion 4.6 (a) and (b) by reason of this Extension, **we** have the absolute discretion to apply the terms of this **policy** or the terms of the policy in place when the **insured** first became aware of the relevant facts and circumstances, in providing indemnity under this **policy**. For the avoidance of doubt, **policy** terms include (but are not limited to) any deductible and the indemnity limit in any prior policy

3.10 Court Attendance Costs

We will pay as **loss** the **court attendance costs** of an **insured person** to or on behalf of the **policyholder** who is legally compelled to attend court as a witness in connection with a **claim** or **investigation** notified under and covered by this **policy** to an amount not exceeding \$1,000 per day for all **insured persons**.

3.11 Estates, Heirs, Legal Representatives and Spousal Cover

We will pay the **loss** of:

- a. the estate, heirs, legal representatives or assigns of any deceased or mentally incompetent or bankrupt **insured person**; or
- b. a legal, domestic partner or de facto spouse of an **insured person**;
but only in respect of:
 - i. a **wrongful act** committed or allegedly committed by an **insured person**; or
 - ii. a **claim** for a **civil liability** in relation to acts committed or allegedly committed by an **insured person** while acting in their insured capacity.

Automatic Extensions (Section A: Professional Indemnity)

Subject to all the terms and conditions of the **policy**, **we** further agree to extend cover under Section A as follows.

3.12 Authorised Representatives and Agents (Vicarious Liability for)

We will pay to or on behalf of the **insured**, **loss** resulting from any **claim** for **civil liability** arising from the conduct of any authorised representatives or agents of the **policyholder** in the conduct of the **investment services** and for whose acts, errors or omissions the **policyholder** is liable.

Cover under this Extension is not available to authorised representatives or agents in respect of their own liability.

3.13 Breach of Privacy

We will pay to or on behalf of the **insured**, **loss** resulting from a **claim** for **civil liability** in relation to the provision of **investment services**, which alleges the loss or misuse of confidential or personal information, material or **data**, or invasion or breach of privacy of any client of the **policyholder** anywhere in the World or the breach of any law or regulation regulating the collection, management, confidentiality or disclosure of personal or confidential information of any client of the **policyholder** or **fund** anywhere in the World.

3.14 Consumer Protection Legislation

We will pay to or on behalf of the **insured, loss** resulting from any **claim** for **civil liability** in relation to the provision of **investment services** made against the **insured** for unintentional contraventions of the *Competition and Consumer Act 2010* (Cth), the Australian Consumer Law, or similar or equivalent legislation enacted by the other States or Territories of the Commonwealth of Australia or by New Zealand.

3.15 Defamation

We will pay to or on behalf of the **insured, loss** resulting from any **claim** for **civil liability** for defamation committed in the conduct of the **investment services** first made against the **insured** in the **insurance period**, provided that the **insured** did not intend to defame.

3.16 Former Subsidiaries and Funds

We will pay to or on behalf of the **policyholder, loss** resulting from any **claim** for **civil liability** in relation to the conduct of the **investment services** by a **subsidiary** or **fund** that ceased or ceases to be a **subsidiary** either before or during the **insurance period**.

3.17 Key Man Loss

We will pay to or on behalf of the **policyholder** or **fund, key man loss** sustained during the **insurance period**.

3.18 Intellectual Property

We will pay to or on behalf of the **insured, loss** resulting from any **claim** for **civil liability** made against the **insured** in the **insurance period** arising from infringement or alleged infringement of any intellectual property right in the conduct of the **investment services**.

3.19 Lost Data

We will pay to or on behalf of the **insured, loss** resulting from any **claim** for **civil liability** for the unintentional destruction, misplacement, damage, deletion, corruption or loss of **data** while in the physical custody or control of the **insured**, provided that the discovery of the loss of **data** occurred during the **insurance period**.

3.20 Lost Documents

We will pay to or on behalf of the **insured, loss** arising from a **claim** for **civil liability** resulting from the loss of **documents**, which are in the care, custody or control of the **insured** and for which the **insured** is legally liable, which after diligent search cannot be found and provided that the loss of **documents** occurred during the **insurance period**.

3.21 Mitigation Costs

We agree to pay to or on behalf of the **insured** the **mitigation costs** incurred by the **insured** in taking appropriate and necessary action to rectify, or to mitigate the effects of any conduct by the **insured**, or any person or entity for whom the **insured** is legally liable, arising from the performance of the **policyholder's investment services**, which would otherwise result in a **claim** covered by Section A of the **policy**, provided that:

- a. the conduct is discovered by the **insured** and notified to **us** as soon as practicable during the **insurance period**; and
- b. the **insured** notifies **us** of their intention to take such action and receives **our** written consent which will not be unreasonably withheld before incurring those costs and expenses; and
- c. the proposed **mitigation costs** are less than the likely costs of such **claim**; and
- d. such costs are reasonable in all of the circumstances.

Notwithstanding anything to the contrary in this Extension, in the event of an emergency which poses an immediate threat to life or property the **insured** shall take all reasonable steps to mitigate the potential loss and shall thereafter comply with the provisions of this Extension as soon as reasonably practicable.

3.22 Public Relations Expenses

We will pay the **public relations expenses** of an **insured** during the **insurance period** up to the conclusion of a covered **claim** for **civil liability** or **investigation** under Section A of this **policy**.

3.23 Reinstatement of Indemnity Limit for Claims by Retail Clients

If a **claim** or **claims** covered under Insuring Clause 2.1 exhausts the **indemnity limit** of this **policy** and all excess layer policies which have been purchased in excess of this **policy** combined, the **indemnity limit** of this **policy** will be reinstated once only in respect to any unrelated and subsequent **claim** or **claims** which are brought by **retail clients** against an **insured**.

The total amount of the reinstatement will not exceed a total amount equal to the **indemnity limit** inclusive of **defence costs** and such reinstatement is only available where the subsequent **claim** or **claims** are based upon, or arise from facts and matters which are not related to or in any way connected with any earlier **claim** or **claims**, which gave rise to the earlier exhaustion of the **indemnity limit**.

This Extension does not apply unless and until the **insured** has exhausted the limits of any policy which is in excess of the original **indemnity limit** for Insuring Clause 2.1 under this **policy**.

Automatic Extensions (Section B: Directors & Officers Liability)

Subject to all the terms and conditions of the **policy**, **we** further agree to extend cover under Sections B as follows.

3.24 Additional Limit for Non-Executive Directors

If the **indemnity limit** is exhausted by the payment of **loss**, **we** agree to pay an amount not exceeding 50% of the **indemnity limit**, in addition to the **indemnity limit**, provided that:

- a. this Extension is only available to **non-executive directors** of the **policyholder**; and
- b. the **indemnity limit** and any other available insurance or source of indemnity available to the **non-executive director** has first been exhausted; and
- c. the maximum amount of **loss** paid by **us** under this Extension in respect of all **claims** and **investigations** for all **non-executive directors** will not exceed 50% of the **indemnity limit** in the aggregate.

3.25 Bail Bond Expenses

We will pay as **loss** the **bail bond expenses** of an **insured person** incurred during the **insurance period** in connection with a **claim** alleging a **wrongful act** covered under Section B of this **policy**.

3.26 Deprivation of Asset Expenses

We will pay the **deprivation of asset expenses** of an **insured person** in the event that an interim or interlocutory court order is made against an **insured person**, which seeks to confiscate, control, suspend or freeze rights of ownership of real property or personal assets of an **insured person** or creates a charge or security interest over real property or personal assets of an **insured person**, during the **insurance period** in connection with a **claim** alleging a **wrongful act** covered under Section B of this **policy**.

We will only pay such expenses after a personal allowance which has been directed by the Court to meet such expenses has been exhausted. Expenses will be payable after 30 days from the date of the interim or interlocutory order for a period of up to 12 months.

3.27 Extradition Costs

We will pay the **extradition costs** of an **insured person**.

3.28 Insured Person Tax Liability

We will pay as **loss** an **insured person's** personal liability for penalty proceedings commenced during the **insurance period** for the unpaid taxes of the **policyholder** in the event that the **policyholder** becomes insolvent and an **insured person** is ordered to pay the unpaid taxes of the **policyholder**, except to the extent that such liability arises from the wilful intent of the **insured person** to breach any duty governing the payment of taxes.

3.29 Outside Entity Executive Cover

We will pay the **loss** of an **outside entity executive** in the event that a **claim** is made against such **outside entity executive** or an **outside entity executive** is required to attend an **investigation** during the **insurance period** or any **discovery period**, in relation to the performance of their duties for an **outside entity**, in their capacity as an **outside entity executive**.

3.30 Pollution Loss

We will pay the **loss** of an **insured person** in relation to the actual, alleged or threatened discharge of **pollution** in connection with a **claim** alleging a **wrongful act** covered by Section B of this **policy**, notwithstanding Exclusion 4.1 (Bodily Injury and Property Damage) or Exclusion 4.5(c) (Pollution and Radioactive Contamination) provided always that Exclusions 4.5 (a) and (b) (Pollution and Radioactive Contamination) will always apply.

3.31 Prosecution Costs

We will pay the **prosecution costs** of an **insured person** in connection with a **claim** alleging a **wrongful act** or an **investigation** covered under Section B of this **policy**.

3.32 Public Relations Expenses

We will pay the **public relations expenses** of an **insured person** during the **insurance period** up to the conclusion of the **claim** alleging a **wrongful act** or **investigation** covered under Section B of this **policy**.

3.33 Shareholder Costs

We will pay as **loss** any adverse costs orders awarded against the **insured** in favour of a shareholder or group of shareholders of the **policyholder** in connection with a **claim** covered under Section B of this **policy** alleging a **wrongful act** made against the **insured** during the **insurance period**.

3.34 Unincorporated Joint Venture Cover

We will pay the **loss** of an **insured person** in connection with a **claim** alleging a **wrongful act** covered under Section B of this **policy**, where the **insured person** was performing duties for or on behalf of an unincorporated joint venture of the **policyholder** and at the direction of the **policyholder**.

3.35 Work Health & Safety Costs

We will pay the **loss** of an **insured person** resulting from any **claim** alleging a **wrongful act** or **investigation** in relation to an occupational health and safety or work health and safety allegation which is first discovered and reported during the **insurance period**, notwithstanding Exclusion 4.1 (Bodily Injury / Property Damage) and except where **we** are prohibited by law to do so.

Automatic Extensions (Section C: Employment Practices Liability)

Subject to all the terms and conditions of the **policy**, **we** further agree to extend cover under Section C as follows.

3.36 Public Relations Expenses

We will pay the **public relations expenses** of the **policyholder** during the **insurance period** up to the conclusion of a **claim** or **investigation** covered under this **policy** in relation to an **employment practices breach**.

Automatic Extensions (Section D: Crime Protection)

Subject to all the terms and conditions of the **policy**, we further agree to extend cover under Section D as follows.

3.37 Care, Custody & Control

We will pay the **direct financial loss** of a client or customer of the **policyholder** in circumstances where the **policyholder** or the **policyholder's** authorised representatives and agents, had the care, custody or control of the **money, securities** or **property**, which is the subject of an **internal crime** or **external crime** covered by this **policy** and is first **discovered** and reported during the **insurance period**.

3.38 Computer Crime Costs

We will pay the **computer crime costs** of the **policyholder** as a result of **internal crime** or **external crime** which is covered under this **policy**.

For the purpose of this Extension only, Exclusion 4.18 (Confidential Information) does not apply.

3.39 Contractual Penalties

We will pay to or on behalf of the **policyholder** for any contractual penalty assumed by and enforced against the **policyholder** under a written contract between the **policyholder** and a **third party**, which is payable as a result of **internal crime** or **external crime** covered under this **policy**.

3.40 Credit Card Fraud

We will pay the **direct financial loss** of the **policyholder** caused by **credit card fraud** committed by a **third party** which is first **discovered** and reported during the **insurance period** provided that all conditions of use or other terms under which the card was issued have been complied with and the **policyholder** is legally liable for the loss.

3.41 Destruction or Disappearance of Money or Securities

We will pay the **direct financial loss** of the **policyholder** caused by the destruction or disappearance of **money** or **securities** in the course of an **internal crime** or **external crime**, which is **discovered** and reported during the **insurance period**.

3.42 Erroneous Transfer of Money or Securities Cover

We will pay the **direct financial loss** of the **policyholder** caused by the wrongful retention by a **third party** of **money** or **securities** erroneously transferred to that **third party** which is **discovered** during the **insurance period**. Our liability under this Extension is only payable once the **policyholder** has taken all reasonable steps to recover the erroneously transferred **money** or **securities** from the **third party**.

3.43 Extortion

We will pay the **extortion costs** of the **policyholder** caused by **extortion** committed by a **third party** during the **insurance period** provided that any payment for **extortion** is made with **our** prior written consent (which will not be unreasonably withheld or delayed).

3.44 Future Loss Prevention Costs

We will pay the **future loss prevention costs** of the **policyholder**.

3.45 Identity Theft Expenses

We will pay the **identity theft expenses** of the **policyholder** caused by an **identity theft** which is first **discovered** and reported during the **insurance period**.

3.46 Interest

We will pay to the **policyholder** or **fund** any **interest** which otherwise would have been payable on **money** which has been misappropriated as a result of an **internal crime** or **external crime** covered by this **policy**.

3.47 Loss Investigation Costs

We agree to reimburse the **policyholder** for their **loss investigation costs** which they incur in order to provide a **proof of loss** to us, following the **discovery** of an **internal crime** or an **external crime** during the **insurance period**.

We must provide **our** prior written consent to the appointment of the **loss investigator** (which shall not be unreasonably withheld or delayed).

If the **policyholder** elects not to use their own **loss investigator**, we agree to pay **loss investigation costs** directly to a **loss investigator** selected by us, in order to assist the **policyholder** to provide us with their **proof of loss**.

3.48 Public Relations Expenses

We will pay the **public relations expenses** of the **policyholder** following an **internal crime** or **external crime** covered under this **policy**.

3.49 Unincorporated Joint Venture Cover

We will pay the **direct financial loss** of the **policyholder** sustained as a result of an **internal crime** or **external crime** perpetrated against an unincorporated joint venture, in which the **policyholder** owns at least a 50% proprietary share, which is **discovered** and reported within the **insurance period**.

3.50 Whistleblower Hotline Access

The **policyholder** and their internal and external stakeholders are entitled to access the **DUAL Whistleblower Hotline** throughout the **insurance period**.

Automatic Extensions (Section E: Statutory Liability & Supplementary Legal Costs)

Subject to all the terms and conditions of the **policy**, we further agree to extend cover under Section E as follows.

3.51 Pollution Loss

We will pay the **loss** of an **insured** caused by the actual, alleged or threatened discharge of **pollution**, notwithstanding Exclusion 4.1 (Bodily Injury and Property Damage) or Exclusion 4.5(c) (Pollution and Radioactive Contamination) provided always, that Exclusions 4.5 (a) and (b) (Pollution and Radioactive Contamination) will always apply.

3.52 Prosecution Costs

We will pay the **prosecution costs** of an **insured person** in respect of a **claim** or **investigation** covered by Section E of this **policy**.

3.53 Public Relations Expenses

We will pay the **public relations expenses** of an **insured** during the **insurance period** up to the conclusion of the **claim** or **investigation** covered by Section E of this **policy**.

3.54 Transport to and from Work Costs

We will pay the reasonable transport costs up to a maximum of \$100 (one hundred dollars) per day for a maximum of twelve (12) weeks for an **insured person** who requires transportation assistance in order to get to and from their usual place of employment due to their disablement as a result of a work place accident which is also the subject of a covered **claim** under Section E of this **policy**.

3.55 Unincorporated Joint Venture Cover

We will pay the **loss** of an **insured**, where the **insured person** was performing duties for or on behalf of an unincorporated joint venture of the **policyholder** and at the direction of the **policyholder**, which is subject to a covered **claim** or

investigation under Section E of this **policy**.

3.56 Work Health & Safety Costs

We will pay the **loss** of an **insured** in relation to a **claim** or **investigation** covered under Section E of this **policy** first made or commenced against the **insured** during the **insurance period** in relation to an occupational health and safety or work health and safety allegation, notwithstanding Exclusion 4.1 (Bodily Injury / Property Damage), except where **we** are prohibited by law to do so.

Section 4: Exclusions

It is agreed that the following Exclusions will apply to all **sections**, which have been purchased.

We shall not be liable to make any payment under the **policy** for or in connection with:

4.1 Bodily Injury / Property Damage

bodily injury, psychiatric injury, sickness, emotional hurt, mental anguish, distress, disturbance, disease or death of any person howsoever caused or damage to or destruction of any tangible property, including loss of use thereof.

However, this Exclusion will not apply to:

- a. a **claim** or **investigation** regarding an emotional distress occasioned by an **employment practice breach**; or
- b. a **claim** or **investigation** covered under Automatic Extensions 3.30 (Pollution Loss), 3.35 (Work Health & Safety Costs), 3.51 (Pollution Loss) or 3.56 (Work Health & Safety Costs).

4.2 Crypto

any **Cryptoasset** or allegation relating to any **Cryptoasset**, notwithstanding any provision to the contrary in this **policy** (including any endorsement).

4.3 Fraudulent, Dishonest & Wilful Conduct

any **claim** or **investigation** directly or indirectly or in any way connected with:

- a. gaining any personal profit or advantage to which the **insured** was not legally entitled;
- b. having improperly benefited from any **securities** transaction as a result of information that is/was not available to other sellers or purchasers of such **securities**;
- c. committing any dishonest, fraudulent, criminal or malicious act; or
- d. committing any wilful violation or wilful breach of any duty, statute, law or regulation.

This Exclusion will only apply if it is established through a judgment or any other final adjudication adverse to the **insured**, or any admission by an **insured** that the relevant conduct did in fact occur.

The Exclusion shall not apply to an **insured** who was not aware of or did not commit or condone the relevant conduct.

This Exclusion does not apply to Section D (Crime Protection).

This exclusion will not apply to any **claims** brought by a **retail client**, but only in respect to awards of damages made in favour of the **retail client**.

4.4 Jurisdictional

any **claim**, **investigation**, **loss** or any other amount:

- a. in respect of any **claim**, **investigation**, court order, judgment, award, payment, costs and expenses or settlement delivered, made or incurred or arising from or in connection with:
 - i. a court of law (or equivalent) within any of the **Territories**; or

- ii. any Arbitration, Mediation or Adjudication (or any other dispute resolution process) within any of the **Territories**; or
- iii. any court of law or dispute resolution process operating under the laws of any of the **Territories**; or
- b. in respect of any order made anywhere in the world to enforce any court order, judgment sums, award, payment, costs and expenses or settlement either in whole or in part arising out of (a) above; or
- c. incurred by or resulting from activities that involve or benefit either directly or indirectly the Government or State of any of the **Territories**, or where the payment of such indemnity by the Insurer will benefit either directly or indirectly the Government or State of any of the **Territories**; or
- d. agreed or incurred prior to, during or subsequent to any matters referred to in (a) and/or (b) above being brought by, or to the benefit of persons and/or **Entities** that are resident in any of the **Territories**.

4.5 Pollution and Radioactive Contamination

any:

- a. ionizing radiation or contamination by radioactivity from a nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly; or
- c. the actual, alleged or threatened discharge of **pollution**.

4.6 Prior Known Facts

any:

- a. actual or alleged facts which were known to the **insured** prior to the commencement of the **insurance period** and which the **insured** knew or ought reasonably to have known might give rise to a **claim** or **investigation** notwithstanding that such facts are disputed by the **insured**;
- b. actual or alleged facts which could have been, or which can be notified under any previous like policy existing prior to the commencement of the **insurance period**;
- c. pending or prior **litigation**, or **litigation** derived from the same or essentially the same facts as are or might be alleged in such pending or prior **litigation**, as at the commencement of the **insurance period**;
- d. any fact or matter referred to in the **proposal**, or notified under any previous like policy existing prior to the commencement of the **insurance period**; or
- e. any **director** or **officer** (who is not in collusion with such **employee**) having actual knowledge of any actual or alleged **internal crime** or **external crime** prior to the **continuity date**.

4.7 Retroactive Date

any:

- a. **claim** or **investigation** based upon, arising from or in connection with any act, error or omission which occurred whole or in part prior to the **retroactive date**; or
- b. **internal crime** or **external crime** which occurred in whole or in part prior to the **retroactive date**.

4.8 Sanctions

any matters where to do so would expose **us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America and **we** shall have no liability to the **insured** to the extent that to do so would be in breach of the foregoing.

4.9 SEC Exclusion

any filing of, or omission to file, a registration statement with the United States Securities and Exchange Commission.

4.10 Territorial and Jurisdictional Limits

unless otherwise stated in the **schedule**, any form of **loss, direct financial loss, claim** or **investigation**:

- a. resulting from or arising out of any **wrongful act, employment practice breach**, fraudulent or dishonest acts, or conduct committed or alleged to have been committed outside the **territorial limits**;
- b. brought or judgment entered in a court of law, arbitration, tribunal, forum or other body entitled to impose enforceable orders against the **insured** pursuant to the laws of the United States of America or the Dominion of Canada or their territories or protectorates; or
- c. arising out of the enforcement of any judgement, order or award obtained within or determined pursuant to the laws of the United States of America or the Dominion of Canada or their territories or protectorates.

4.11 War, Terrorism and Civil War

We will not cover the **insured** for any form of **loss** or **direct financial loss** directly or indirectly caused by or contributed to, or arising from:

- a. war, invasion, acts of foreign enemies, military hostilities (whether war be declared or not), civil war, rebellion, revolution, or insurrection; or
- b. an act of **terrorism**; or
- c. any action taken in controlling, preventing, suppressing or in any way relating to a) and/or b) above.

Exclusions (Section A: Professional Indemnity)

It is agreed that the following Exclusions will apply to Section A only if purchased.

We shall not be liable to make any payment under Section A of the **policy** for or in connection with:

4.12 Assumed Liability

any **claim** made or **investigation** brought against an **insured** for any breach of guarantee, warranty, agreement, contract or assumed liability which would not have otherwise attached to the **insured** in the absence of such guarantee, warranty, agreement, contract or assumed liability.

4.13 Insured versus Insured

any **loss** in respect of any **claim** brought by or on behalf of any **insured**, or successors or assigns of any **insured**, unless such **claim** is brought by or on behalf of:

- a. an **employee** as a customer or client of the **policyholder** or **fund** and is not solicited by or brought with the voluntary (instead of legally required) intervention, assistance or participation of any **insured** or **fund** against whom it is brought; or
- b. a **fund**, on advice from independent legal counsel selected by and at the expense of the **fund** (selection of such counsel being subject to the prior written approval of **us**) that, on the balance of probabilities, the failure to make such **claim** would be a breach of duty owed by the **directors** or **officers** of such **fund**.

4.14 Proprietary Trading Loss

any **loss** resulting from any **claim** or **investigation**:

- a. where the **policyholder** or **fund** is acting on its own behalf or as principal, including any loss arising out of, based upon or attributable to a proprietary trading loss; or
- b. which arises from any underwriting agreement for the offer, **trading**, or sale of any **securities**.

Exclusions (Section B: Directors & Officers Liability)

It is agreed that the following Exclusions will apply to Section B only if purchased.

We shall not be liable to make any payment under Section B of the **policy** for or in connection with:

4.15 Investment Services

any form of **loss** resulting from a **claim** or **investigation** arising out of or in any way connected with the **insured** or any **fund** in respect of the provision of **investment services**.

Exclusions (Section C: Employment Practices Liability)

It is agreed that the following Exclusions will apply to Section C only if purchased.

We shall not be liable to make any payment under Section C of the **policy** for or in connection with:

4.16 Employee-Related Benefits

any **claim** or **investigation** directly or indirectly or in any way connected with any:

- a. obligation, or actual or alleged breach of an obligation, under any law, regulation or **industrial instrument** providing for paid or unpaid leave of any kind;
- b. obligation, pursuant to any law, regulation, or industrial instrument providing for the payment of workers' compensation entitlements, disability benefits, unemployment benefits, unemployment insurance, retirement benefits, social security benefits;
- c. **employment related benefits** or amounts calculated by reference to any **employment related benefits**;
- d. costs incurred by the **policyholder** to modify any building or property, or to provide any service, in order to make such building or property, more accessible for accommodating a disabled person;
- e. costs incurred by the **policyholder** in connection with any educational or corrective measures undertaken under order of a Court or Tribunal of competent jurisdiction, arising from an **employment practices breach**;
- f. specified sums payable by the **policyholder** to an **employee** pursuant to a contract of employment or **industrial instrument**; or
- g. **benefits**.

4.17 Reinstatement of Employees

any costs directly or indirectly caused by or contributed to, or arising from an order to reinstate an **employee**.

Exclusions (Section D: Crime Protection)

It is agreed that the following Exclusions will apply to Section D only if purchased.

We shall not be liable to make any payment under Section D of the **policy** for or in connection with:

4.18 Confidential Information

the accessing, use or dissemination of any confidential information including, but not limited to, trade secrets, computer programs, customer information, intellectual property or processing methods.

4.19 Consequential Loss

indirect or consequential loss of any nature except where expressly provided for in the **policy**.

This Exclusion does not apply to losses arising from business disruption, system failures, failure of transaction processing

or process management with respect to an **AIF** (Alternative Investment Fund) only, in accordance with Article 12(2) in Section 3 of the Commission Delegated Regulation (EU) No 231/2013 dated 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council dated 8 June 2011 (including any amendments).

4.20 Fraudulent Computer Program Features

any fraudulent features contained in computer programs developed for sale to, or were sold to, multiple customers at the time of their acquisition from a vendor or consultant, unless:

- a. the features were inserted after the date of acquisition; or
- b. at the time of **discovery** the fraudulent features were contained solely on the computer programs of the **policyholder** and not on those sold to any other customer.

4.21 Plastic Cards

any fraudulent alteration of any written instrument required in connection with a debit, credit, bank, VISA, MasterCard, American Express or other like credit card, except for a **direct financial loss** which is covered under Extension 3.40 (Credit Card Fraud).

4.22 Profit Loss and Inventory Computation

any profit and loss computation or comparison of inventory records, which is the sole means of proving that a **direct financial loss** has been sustained.

4.23 Voluntary Surrender

any voluntary giving or surrendering of **money, securities** or other tangible property in any exchange or purchase except where Extension 3.42 (Erroneous Transfer of Funds or Securities Cover) applies.

Exclusions (Section E: Statutory Liability & Supplementary Legal Costs)

It is agreed that the following Exclusions will apply to Section E only if purchased.

We shall not be liable to make any payment under Section A of the **policy** for or in connection with:

4.24 Certain Acts

any form of **loss** resulting from any **claim** or **investigation** arising out of or in any way connected with any actual or alleged breach or contravention of the responsibilities, obligations or duties imposed by:

- a. Sections 182, 183, 184, 588G, 601FD, 601FE, 601JD of the *Corporations Act 2001* (Cth) or any similar law, and any amendments, consolidations or enactments to same; or
- b. the *Competition and Consumer Act 2010* (Cth), Australian Consumer Law or similar or equivalent legislation enacted by the other States or Territories of the Commonwealth of Australia or by New Zealand.

4.25 Insured Conduct

any **claim** or **investigation** arising out of or in any way connected with any actual or alleged activities outside the **policyholder's investment services**.

Section 5: Definitions

In this **policy**, the following words have the meanings ascribed to them:

- 5.1 Accountant** means a person or entity that is not an **insured** and is recognised by the Institute of Chartered Accountants or the Australian Society of Accountants, or any other person registered by the Australian Taxation Office as a tax agent.

5.2 Act means any Statute of any parliament or legislative assembly of the Commonwealth of Australia, and/or of New Zealand, and/or of any State or Territory of Australia, including any:

- a. subordinate or delegated legislation or code, rules, regulations, or bylaws made under those Acts; and
- b. any amendment, enactments, or consolidation of any of the above Acts or legislation;

other than those excluded under Exclusion 4.24 (Certain Acts) and subject to the definition of **loss**.

5.3 AIF means an alternative investment fund to which the Directive 2011/61/EU of the European Parliament and of the Council (dated 8 June 2011) and Commission Delegated Regulation (EU) No 231/2013 (dated 19 December 2012) apply.

5.4 Bail bond expenses means the reasonable premium (but not collateral) for a bond or other financial instrument to guarantee an **insured person's** contingent obligation for bail required by a court hearing a **claim** in relation to a **wrongful act** committed or allegedly committed by such **insured person**.

5.5 Benefits means any amount payable to a beneficiary of a superannuation fund, pension fund or endowment fund.

5.6 Bill of exchange means an unconditional order in writing, addressed by one person to another, signed by the addresser, requiring the addressee to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person, or to bearer.

5.7 Certificate of deposit means a written acknowledgement by a financial institution of a deposit with a promise to pay such deposit to any person or to their order.

5.8 Civil liability means a legally enforceable obligation to a **third party**.

With respect to an **AIF**, **civil liability** includes any damages, compensation or penalties payable or allegedly payable as a result of any actual or alleged misstatement, misleading statement, act, error, omission, neglect, breach of trust, breach of fiduciary duty or breach of regulations committed or attempted or allegedly committed or attempted as defined in Article 12(1) and 12(2) in Section 3 of the Commission Delegated Regulation (EU) No 231/2013 dated 19 December 2012 supplementing Directive 2011/61/EU of the European parliament and of the Council dated 8 June 2011 (including any amendments), whether by conduct or omission described in Article 12(2) or otherwise.

5.9 Claim means:

- a. a written demand for monetary damages or non-pecuniary relief;
- b. a civil proceeding or counter-claim commenced by the service of a writ, complaint, summons, statement of claim, or similar originating process;
- c. an alternative dispute resolution proceeding, a formal administrative or regulatory proceeding including any arbitration, mediation, conciliation or other alternative dispute resolution proceeding commenced in writing; or
- d. a criminal proceeding commenced in writing.

For the avoidance of doubt, **claim** includes, but is not limited to, **claims** brought by **retail clients**.

5.10 Computer systems means a computer and all networks, input, output, processing, storage or communication facilities, which are connected, directly or indirectly to such a device.

5.11 Computer crime costs means reasonable fees, costs and expenses incurred by the **policyholder** with **our** prior written consent to retain a suitably qualified consultant to assist the **policyholder** with:

- a. the identification, verification and removal of fraudulent, maliciously introduced or altered computer programs which erase, corrupt, destroy or modify **data** or deny access to the **policyholder's** computer network; and
- b. the reproduction or duplication of damaged or destroyed electronic computer programs;

as a result of an **internal crime** or **external crime** covered under this **policy**.

- 5.12 Continuity date** means the date specified in the **schedule**.
- 5.13 Counterfeiting** means any act, which causes the **policyholder** to act upon or give value for a negotiable instrument that is an imitation of an authentic negotiable instrument and which deceives the **policyholder** into believing that the imitation is an authentic negotiable instrument.
- 5.14 Court attendance costs** means the travel costs to and from a witness' usual place of residence to the location of a Court or Tribunal to give evidence and while the **insured person** is legally obliged to attend such Court or Tribunal.
- 5.15 Coverage Sections or Section** means the sections contained in Insuring Clauses 2.1 to 2.13 of this **policy** and any Extension or Endorsement applying to same.
- 5.16 Credit card fraud** means the fraudulent alteration of any written instrument required in connection with a credit card or debit card issued to any **employee** or **director** or **officer** or the **policyholder**.
- 5.17 Crisis** means any of the following unforeseen specific events where, in the reasonable opinion of the chief executive officer (or equivalent) of the **policyholder**, the event has the potential to cause an impending decrease in excess of 25% of the combined annual revenue of the **policyholder** if left unmanaged, specifically the:
- a. sudden, unexpected death or disability of a **director** or **officer**;
 - b. discharge or enforced resignation (other than in accordance with planned retirement) of a key investment manager;
 - c. loss of a major customer, investment mandate or credit facility;
 - d. **employee** workplace violence;
 - e. the first apparent unauthorised intrusion into any **policyholder's** computer system or network;
 - f. a man made disaster;
 - g. any criminal investigation in respect of an **insured person**.
- Crisis** is specific and does not include an event which affects the **policyholder's** industry in general.
- 5.18 Crisis loss** means the reasonable and necessary fees, costs and expenses for external crisis management services provided in response to a **crisis** within the first thirty (30) days after the **crisis**.
- 5.19 Cryptoasset** means a **Digital Asset** and a public or private key or any component thereof solely when used for a **Digital Asset**.
- 5.20 Data** means:
- a. information such as text, numbers, sounds and images that can be processed by any form of electronic device; or
 - b. deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method but will not include **money** or **securities**.
- 5.21 Deductible** means the amounts specified in the **schedule** in respect of each Insuring Clause and Extension.
- 5.22 Defence costs** means that part of **loss** consisting of the reasonable costs, charges, fees (including but not limited to legal fees) and expenses reasonably incurred by an **insured**, with **our** prior written consent in investigating or defending a **claim** but does not include regular or overtime wages, salaries or fees of the **directors, officers** or **employees** of the **policyholder** incurred in attending, defending, investigating or monitoring **claims**.
- 5.23 Deprivation of assets expenses** means the payment of the following services directly to the provider of such services:
- a. schooling;
 - b. housing;
 - c. utilities; or

- d. personal Insurance.

Such expenses will only be payable after the exhaustion of any personal allowance which has been directed by a Court to meet such payments. Expenses will be payable 30 days after the triggering of Extension 3.26 (Deprivation of Assets Expenses) and for a period of up to 12 months.

5.24 Digital Asset means any actual, counterfeit or fictitious:

- a. digital coin;
- b. digital token;
- c. cryptocurrency;
- d. cryptosecurity; or
- e. any other digital representation of value or contractual rights that uses a type of distributed ledger of technology and that:
 - i. functions, or purports to function, as a medium of exchange, a unit of account or a store of value; or
 - ii. is or becomes regulated as a security.

5.25 Director means any natural person who was, now is or during the **insurance period**, becomes:

- a. any director or **non-executive director**, alternate director, shadow director or de-facto director of the **policyholder**;
- b. any member of a compliance committee, investment committee or investment advisory committee member of the **policyholder** or **fund**;
- c. a trustee of a **fund**;
- d. a general partner of a **fund** established as a limited partnership;
- e. an **employee** of the **policyholder** but only whilst acting in the capacity as a member of a committee convened by the **policyholder** and at the **policyholder's** specific request, but only in relation to **wrongful acts** committed in the course of the **employee's** performance of their duties on behalf of the committee, where the committee has the specific purpose of advising the board of directors of the **policyholder**;
- f. an **employee** of the **policyholder** who is concerned in or takes part in the management of the **policyholder**.

5.26 Direct financial loss means the direct financial loss of the **policyholder** resulting directly from an **internal crime** or **external crime**. **Direct financial loss** also includes:

- a. contractual penalties;
- b. **computer crime costs**;
- c. **future loss prevention costs**;
- d. **interest**;
- e. **loss investigation costs**;
- f. **public relations expenses**; or
- g. **extortion costs**;

as covered under the applicable Extension and subject to any sub-limits that may be applicable.

Direct financial loss does not include:

- i. salaries, commissions, fees, bonuses, promotions, awards, profit sharing, superannuation or other employment benefits paid or payable by the **policyholder** or earned in the normal course of employment;
- ii. fines or penalties (whether civil or criminal) imposed by law, punitive, aggravated, exemplary or multiple damages, or matters uninsurable under the laws governing this **policy**;

- iii. any loss of income (such as interest and dividends) or profit, other than that covered under Extension 3.46 (Interest);
- iv. any costs, fees or other expenses incurred by the **policyholder** in establishing a right under this **policy** (except where provided for under Extension 3.47 (Loss Investigation Costs)).

5.27 Discovered or discovery means when any **director** or **officer** (who is not in collusion with an **employee** or **third party** who has committed or is attempting to commit an **internal crime** or **external crime**) becomes aware of any facts, which would cause a reasonable person to believe that a **direct financial loss** which may be covered by this **policy** has been or may be incurred, even though the exact amount or details of the loss are not known at that time. Such awareness constitutes **discovery** by the **policyholder**.

5.28 Discovery period means the period of time purchased under Extension 3.3 (Discovery Period). The **discovery period** will be applied to the **policy** by way of Endorsement to the **policy**.

5.29 Document means any cheque, **bill of exchange**, **draft**, **certificate of deposit**, **letter of credit**, **promissory note**, withdrawal order, or receipt for the withdrawal of funds or **property**, money order, orders upon public treasuries, bonds, or any similar instruments of value serving the same purpose.

5.30 DUAL Whistleblower Hotline means the use of a dedicated toll-free number to report suspected incidents and misconduct. Further information is available for download from **our** website.

5.31 Draft means a **bill of exchange** payable on demand drawn by or on behalf of a financial institution upon itself.

5.32 Employee means any:

- a. natural person under contract of employment with or under the direct control and supervision of the **policyholder**;
- b. **director** or **officer** when performing acts within the scope of the usual duties of an employee as described in (a) above;
- c. natural person assigned to perform duties within the scope of the usual duties of an employee as described above, within the **premises** for the **policyholder** by any agency supplying temporary personnel on a contingent or part time basis;
- d. guest student pursuing studies or duties with the **policyholder** at their **premises**;
- e. employee of a parent or related company of **policyholder** solely whilst performing duties on behalf of the **policyholder**;
- f. in respect of Section D (Crime Protection) only, **employee** is extended to also include:
 - i. a solicitor retained by the **policyholder** whilst they are performing legal services for the **policyholder** pursuant to a written contract;
 - ii. consultant retained by the **policyholder** whilst they are performing consulting services for the **policyholder** pursuant to a written contract.

Employee does not include any independent broker, independent financial adviser or similar agent or representative, remunerated on sales or commission basis unless specifically agreed by **us** and endorsed to the **policy**.

5.33 Employment practices breach means any of the following employment-related matters:

- a. actual or alleged unfair or wrongful dismissal;
- b. termination or discharge of employment (either actual or constructive, including breach of an implied contract);
- c. wrongful failure to employ or promote;
- d. wrongful deprivation of career opportunity or demotion;
- e. negligent employee evaluation (including the provision of negative or defamatory statements in connection with an employee reference);

- f. failure to grant tenure; or
- g. misrepresentation, discrimination, harassment, retaliation (including lockouts), humiliation, defamation or invasion of privacy;

which relate solely to the **policyholder** and its past, present or prospective **employees** or an **insured**.

5.34 Employment related benefits includes but is not limited to:

- a. non-monetary benefits including but not limited to the allocation of a company car, travel allowance, mobile or landline telephone, medical or life insurance expenses, education and training allowances, and equipment allowances;
- b. shares, share options or any entitlement or right under any employee plan of any description;
- c. participation in any share option or share option plan, or participation in any employee plan of any description;
- d. severance or redundancy payments or entitlements;
- e. any benefit, payment or entitlement of any kind in respect of paid or unpaid leave;
- f. bonus or incentive payments, or any entitlement or right under a bonus or incentive plan (which, for the avoidance of doubt, does not include any payments, entitlement or right under any commission scheme);
- g. payments or contributions in respect of any provident, benefit, superannuation, pension or retirement fund, or any other account, fund, scheme or plan intended to provide benefits, in whole or in part, at retirement or a particular age, or on the happening of a particular event;
- h. any paid or unpaid entitlements in relation to a notice period; or
- i. remuneration for services rendered.

5.35 Entities means any company, direct or indirect holding company owned or controlled (either in whole or in part) either directly or indirectly by the Government or State of any of the **Territories**.

5.36 External crime means:

- a. **counterfeiting**;
- b. **forgery**; or
- c. **theft**;

by a **third party**.

5.37 Extortion means a written or verbal threat made during the **insurance period** by a **third party** to physically injure **employees** or **insured persons**, or to damage or destroy tangible property owned by the **policyholder** or for which the **policyholder** is legally liable.

Extortion does not include any actual or suspected ransomware payment demands following the threat to physically damage, destroy, corrupt (including by malicious electronic communication) or take control of any **insured's** computer system, electronic data or website, or reveal trade secrets and any other proprietary information of the **insured** contained within their computer system or electronic database.

5.38 Extortion costs mean the reasonable:

- a. fees and expenses of an independent negotiator or crisis consultant;
- b. travel and accommodation expenses incurred by an **insured**,

in dealing with a case of **extortion**.

5.39 Extradition costs means:

- a. the reasonable fees, costs and expenses (except remuneration of any **insured**, costs of their time or overheads of

any **policyholder**) incurred by or on behalf of an **insured person** in challenging, resisting and/or defending a **claim** seeking the extradition of such **insured person**, including any appeal from such **claim**; and

- b. the reasonable fees, costs and expenses of any accredited:
 - i. counsellor; or
 - ii. **accountant**;

retained by an **insured person** in connection with an extradition proceeding, during the **insurance period**, with **our** prior written consent (which will not be unreasonably withheld or delayed).

5.40 Forgery means the signing or endorsing or copying of the signature in the name of another genuine person without authority and with the intent to deceive, which causes the **policyholder** a **direct financial loss**. It does not include signing or endorsing in whole or in part of one's own name, with or without authority, in any capacity, for any purpose.

5.41 Fund means any trust, investment trust, investment management company, managed investment scheme, mandate, partnership, fund (including any sub-fund or subsidiary), **AIF** or other similar entity specifically listed in the **proposal** or listed by Endorsement to the **policy**, provided any such **fund** is managed by the **policyholder** at the time that:

- a. for the purposes of Section A (Professional Indemnity), the facts leading to the **civil liability** occurred;
- b. for the purposes of Section B (Directors & Officers Liability) and Section E (Statutory Liability), the **wrongful act** on which a **claim** is based occurs;
- c. for the purposes of Section D (Crime Protection) an **internal crime** or **external crime** is **discovered**.

5.42 Future loss prevention costs means the reasonable costs of the **policyholder** engaging an external consultant to investigate the cause of a **direct financial loss** covered under this **policy**, and to provide a report detailing to the **policyholder** ways in which the **policyholder** can prevent future potential **internal crime** or **external crime** from occurring. **Future loss prevention costs** are only payable once indemnity has been granted under this **policy** and any **direct financial loss** has been paid by **us**.

5.43 Indemnity limit means the amounts specified in the **schedule**.

5.44 Identity theft means the theft, duplication of or fraudulent use of **data**, which belongs to an **insured person**, in order to create a false identity.

5.45 Identity theft expenses means the reasonable legal fees, costs and expenses incurred and paid by the **policyholder**, with **our** prior written consent (which will not be unreasonably withheld or delayed):

- a. when applying for civil or criminal proceedings to be dismissed or withdrawn on the basis that the alleged liability resides with a third party perpetrator of an **identity theft** fraud and not the **fund**, **insured**, or **insured persons**;
- b. to correct or reinstate public records after an **identity theft** has occurred.

5.46 Industrial Instrument means:

- a. an award, modern award, enterprise agreement, collective or individual agreement, minimum wage order or any other industrial instrument;
- b. any other collective agreement;
- c. a verbal or written contract of employment;

which regulates the terms and conditions of employment.

5.47 Insurance period means the period of insurance specified in the **schedule**.

5.48 Insured means the **policyholder**, a **fund** or any **insured persons**.

5.49 Insured person means:

- a. any past, present or future **director** or **officer** of the **policyholder** or **fund**;

- b. an **outside entity executive**;
- c. with respect to an **employment practices breach** only, an **employee**;
- d. a co-defendant with a **director** or **officer** of the **policyholder** or **fund** in a **claim**, but only to the extent that the co-defendant was acting for or on behalf of an **policyholder**; or
- e. an **employee** of the **policyholder**.

Insured person does not include:

- i. a receiver, receiver and manager, official manager, liquidator, administrator, trustee or other person administering a compromise or scheme of arrangement made for **policyholder**; or
- ii. a company or other body corporate.

5.50 Interest means the actual bank interest rate which would have been paid on **money** which has been lost as a result of an **internal crime** or **external crime**. Interest is calculated from the date of the **internal crime** or **external crime** and will run until indemnity is granted under this **policy**. The bank interest rate which is to be used, is the interest rate of the **policyholder's** bank account, which the **money** would have been held in, but for the **internal crime** or **external crime** at the time of **discovery**.

5.51 Internal crime means any fraudulent or dishonest act committed by an **employee** (acting alone or in collusion with others), which results in:

- a. the **employee** making an improper financial gain for themselves or for a **third party**; or
- b. the **policyholder** suffering a **direct financial loss**.

5.52 Investigation means any official investigation, inquiry or examination by an **official body** concerning either:

- a. the affairs of an **insured** or a **fund** or possible misconduct by any **insured person** in the performance of or failure to perform **investment services**, which is commenced in writing; or
- b. the affairs of the **policyholder** or conduct of an **insured person**, which is commenced in writing; or
- c. an onsite attendance regarding a work health and safety matter; or
- d. a raid or onsite visit to the **premises** or an **insured person's** place of residence that involves the production, review, copying or confiscation of **property** or **data**, or interviews of any **insured person** or **employees**.

An **investigation** does not include:

- i. a routine regulatory supervision, inspection, compliance review; or
- ii. investigation examination or inquiry which focuses on an industry rather than the **policyholder**.

5.53 Investigation costs means reasonable fees costs and expenses (except remuneration of any **insured**, cost of their time or costs or overheads of the **insured**) incurred with **our** prior written consent (which will not be unreasonably withheld or delayed) by or on behalf of an **insured** in preparing for, attending or producing documents or responding to an **investigation**.

5.54 Investment services means:

- a. services rendered in the capacity of a responsible entity;
- b. services rendered in the capacity as a trustee;
- c. asset management services;
- d. fund management services;
- e. financial, economic or investment advisory services; or
- f. those services declared to **us** in the **proposal** or specified in the **schedule**;

for or on behalf of the **policyholder** or a **fund**. For the avoidance of doubt, **investment services** does not include any financial planning advice or financial planning services.

5.55 Key man loss means reasonable costs and expenses incurred by the **policyholder** or a **fund** with **our** prior written consent (and which will not be delayed or unreasonably withheld) in order to procure public relations services and/or executive search services and in order to manage the public communication of, and limit the disruption to the **investment services** that is directly caused by the permanent disability or death of any principal, partner or director of the **policyholder** or **fund**, which takes place during the **insurance period**.

5.56 Letter of credit means an agreement in writing by a financial institution made at the request of a customer that the issuer will honour **drafts** or other demands for payment upon compliance with the conditions specified in the Letter of Credit.

5.57 Litigation includes, but is not limited to, any civil, criminal, administrative or regulatory proceeding as well as any official investigation, examination, enquiry, arbitration or adjudication.

5.58 Loan means:

- a. any loan or transaction in the nature of, or amounting to, a loan or extension of credit, including a lease, made by or obtained by or from a **policyholder** or **fund**;
- b. any note, account, invoice, agreement or other evidence of debt, assigned or sold by or to, or discounted or otherwise acquired by a **policyholder** or **fund**;
- c. any payments made or withdrawals from a **policyholder** or **fund** customer's account involving an uncollected item and any other similar transaction.

5.59 Loss means the total amount which an **insured** becomes legally obligated to pay on account of a **claim** or **investigation**. **Loss** includes, but is not limited to:

- a. damages, judgments, settlements and adverse costs orders;
- b. **defence costs**;
- c. **extortion costs**
- d. **extradition costs**;
- e. **public relations expenses**;
- f. **bail bond expenses**;
- g. **deprivation of assets expenses**;
- h. **prosecution costs**;
- i. **investigation costs**;
- j. **court attendance costs**;
- k. pecuniary penalties awarded against an **insured person** in and under the laws of the jurisdictions of Australia and New Zealand, provided that **we** are not legally prohibited from paying such pecuniary penalties;
- l. awards of damages made pursuant to any external dispute resolution scheme approved by ASIC, including but not limited to the Financial Ombudsman Service or any successor entity.

However, **loss** does not include:

- i. fines or penalties (whether civil or criminal) which are uninsurable at law in the jurisdiction in which the **claim** was brought or the laws which govern this **policy**;
- ii. any amount which **we** are legally prohibited from paying;
- iii. taxes, except those payable under Extension 3.28 (Insured Person Tax Liability);
- iv. the past and future economic loss of an **employee**;

- v. any costs of reinstating an **employee**;
- vi. any **employee related benefits** or **benefits**;
- vii. the remuneration of any **insured**, the cost of their time or costs or overheads of any **policyholder**;
- viii. any costs any costs and expenses of any kind associated with i.-vii. above.

5.60 Loss investigation costs means the reasonable fees, costs and charges of an **accountant** or **loss investigator** retained to assist the **policyholder** in providing **us** with a **proof of loss** under this **policy**. **Loss investigation costs** do not include any internal overheads, time costs, profit margins, internal staff costs, wages or salaries or the **policyholder** incurred in order to provide a **proof of loss**.

5.61 Loss investigator means a suitably qualified external consultant, who is not an **insured**, who is retained to assist the **policyholder** in providing **us** with a **proof of loss**.

5.62 Mitigation costs means the reasonable and necessary costs and expenses incurred by the **policyholder** in taking such action to mitigate an **insured's** exposure to any actual covered **claim** or potential **claim** which would otherwise be covered under Section A (Professional Indemnity). **Mitigation costs** do not include:

- a. internal, management of time and overhead expenses of the **policyholder** or a **fund**, including wages, bonus, profits, loss of opportunity and time costs;
- b. **employment related benefits**;
- c. an increase in liability against an **insured**, which is caused as a direct result of an **insured** attempting to mitigate a **claim** or potential **claim**;
- d. any costs not authorised by **us**;
- e. damages, compensation or other payments made, or consideration given to customers, clients or potential clients;
- f. any act that the **insured, fund** or **policyholder** is required to perform pursuant to its contractual obligations irrespective of whether failing to undertake that action would result in a covered **claim**; or
- g. **deductible**.

5.63 Money means either local or foreign currency, coins, bank notes, cheques, traveller's cheques, registered cheques, postal orders, money orders, or bullion.

5.64 New fund means any **fund** (including sub-funds and subsidiaries of sub-funds) sponsored or established by the **policyholder** during the **insurance period**, provided that:

- a. the **new fund** is not regulated by the United States of America's Securities and Exchange Commission or a **fund** offered for the benefit of residents of the United States of America, or a partnership or corporation organised under the laws of the United States of America; and
- b. the **new fund's** investment strategies are not materially different in nature to those of the existing **fund's** investment strategies as provided in the **proposal**; and
- c. the **new fund's** total gross assets are less than 25% of the total funds under management of the **policyholder**.

5.65 New subsidiary means a subsidiary (including subsidiaries of subsidiaries), which becomes a subsidiary during the **insurance period**, provided that such entity, at the date of acquisition or creation:

- a. has total gross assets of less than 25% of the consolidated total gross assets of the **policyholder** at the inception date of this **policy**; or
- b. has total gross assets under management of less than 25% of the consolidated total gross assets under management of the **policyholder** at the inception date of this **policy**; and
- c. is not incorporated, domiciled in or providing **investment services** in the United States of America or Canada, and is not registered as an investment advisor with the United States Securities and Exchange Commission; and

- d. the **new subsidiary's** business activities are not materially different in their nature to those of the **policyholder** as provided in the **proposal**.

The cover provided in this **policy** will only apply in respect of a **wrongful act** occurring after the date of creation or acquisition, or a **direct financial loss** which is **discovered** after the date of creation or acquisition of such **new subsidiary**.

- 5.66 Non-executive director** means a **director** who serves on behalf of the **policyholder, fund** or **outside entity** in a non-executive capacity and is not engaged in the day to day affairs of the **policyholder, fund** or **outside entity**.
- 5.67 Not for profit** means any entity which has a written constitution which prohibits the distribution of profits or assets amongst its members during the lifetime of the entity or upon its winding up.
- 5.68 Officer** means any company secretary, chief financial officer, chief executive officer, chief operations officer, general counsel, responsible officer or an **employee** who is concerned in, or takes part in, the management of the **policyholder** regardless of the name that is given to their position.
- 5.69 Official body** means any regulator, government or administrative body or agency, official trade body, professional body or self regulatory body legally empowered to investigate the affairs of the **policyholder, fund, outside entity**, unincorporated joint venture or the conduct of an **insured person** in their insured capacity.
- 5.70 Official detention** means the confinement of an **insured person** in secure custodial premises, operated by or on behalf of a government or judicial agency in connection with a **claim** against such **insured person** where final adjudication of the **claim** has not yet been determined.
- 5.71 Other insurance** means the other insurance policy or policies specified as such in the **schedule**.
- 5.72 Outside entity** means:
- any **not for profit** organisation;
 - any entity named in the **proposal** in which the **principal organisation** or **fund** owns on, before or after the inception of the **insurance period**, up to 50% of issued and outstanding voting shares;
 - any entity specified as such which has been listed by endorsement to this **policy**.
- 5.73 Outside entity executive** means a natural person who is an **employee, director** or **officer** of the **policyholder**, who serves at the specific request of the **policyholder** as a **director, officer**, trustee, governor or equivalent of an **outside entity**.
- 5.74 Policy** means this policy wording, the **schedule**, the **proposal** and any endorsement attaching to and forming part of the **policy** either at commencement or during the **insurance period**.
- 5.75 Policyholder** means the entity or entities specified in the **schedule** and any **subsidiaries**.
- 5.76 Pollution** means any substance, solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance or contaminant including, but not limited to asbestos, lead, smoke, vapours, dust, vapour, fibre, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste materials. Waste materials include, but are not limited to, recycled, reconditioned or reclaimed materials.
- 5.77 Premises** means the interior of any building or buildings occupied by the **policyholder** in conducting its **investment services**.
- 5.78 Principal organisation** means the entity or entities specified as such in the **schedule**. **Principal organisation** does not include any **subsidiaries** or **outside entities**.
- 5.79 Proof of loss** means documented evidence that the **policyholder** has sustained a **direct financial loss**. A **proof of loss** can include the following, however these items should not be seen as limiting the information which could form part of the **proof of loss**:
- the name of the entity claiming under the **policy**, and details of their relationship to the **policyholder**;
 - the policy number of the **policy**;

- c. the name of the alleged **employee** or **third party** (if known);
- d. a description of the events which led to the **discovery** of the **direct financial loss**;
- e. a chronology of all relevant facts known;
- f. a description of the alleged **employee** or **third party's** modus operandi;
- g. Statutory Declarations from witnesses to the **internal crime** or **external crime**;
- h. documentary evidence to support that the **policyholder** has sustained a **direct financial loss**, including but not limited to: receipts, bank statements, requisitions, invoices, cash receipts, cheques or cheque butts;
- i. photographs, video or closed circuit television footage of the **internal crime** or **external crime** occurring;
- j. any internal investigation reports;
- k. police report/s and/or any statement/s made to the police;
- l. a signed confession; and/or
- m. any other document or other form of evidence which may be relevant to the proof of a **direct financial loss** or quantification of a **direct financial loss**.

5.80 Promissory note means an unconditional promise in writing by one person to another signed by the maker agreeing to pay, on demand or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person or to the bearer.

5.81 Property means:

- a. **money**;
- b. any **document**;
- c. any **securities**;
- d. all other negotiable and non negotiable instruments or contracts representing money or other property (real or personal);
- e. physical media upon which electronic **data** are stored and recorded.

5.82 Proposal means each and every signed proposal form; including the declarations, statements and representations therein, its attachments and all other information which is either submitted to **us** in hard copy or electronic format or incorporated in the proposal form by reference.

5.83 Prosecution costs means any reasonable fees, costs and expenses incurred by an **insured person** with **our** prior written consent (which will not be unreasonably withheld or delayed), to bring legal proceedings:

- a. in respect of a **claim**, to obtain the discharge or revocation of:
 - i. a temporary or permanent disqualification of such **insured person** from managing a corporation (including as a senior manager or responsible officer) during the **insurance period**; or
 - ii. a judicial order entered during the **insurance period** imposing:
 - 1. confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of such **insured person**;
 - 2. a charge or security interest over real property or personal assets of such **insured person**;
 - 3. restriction of such **insured person's** liberty to a specified domestic residence or **official detention**; or
 - 4. deportation of an **insured person** following revocation of otherwise current and valid immigration status for any reason other than such **insured person's** conviction of a crime.
- b. in respect of an **investigation**, to obtain injunctive relief where an **insured person** alleges an **official body** is acting or proposes to act beyond power or in breach of the rules of natural justice during the course of an **investigation**.

5.84 Public relations expenses means the reasonable fees, costs and expenses of a public relations firm or consultant, or crisis management firm, or law firm retained by an **insured** with **our** prior written consent (which will not be unreasonably withheld or delayed) to prevent or limit adverse effects or negative publicity in respect of:

- a. a **claim**; or
- b. an **investigation**; or
- c. a **crisis**; or
- d. an **internal crime**; or
- e. an **external crime**; or
- f. **identity theft**,

covered by this **policy**.

5.85 Retail client/s has the definition prescribed to it in section 761G of the *Corporations Act 2001* (Cth) and Division 2 of Part 7.1 of the *Corporations Regulation* as may be amended from time to time.

5.86 Retired insured person means any **director** or **officer** who ceases to hold such office prior to the expiry of the **insurance period**, other than by reason of a **transaction** or the insolvency, liquidation, receivership or administration of the **policyholder**.

5.87 Retroactive date means the date specified in the **schedule**.

5.88 Schedule means the schedule attached to this **policy** or any **schedule** subsequently substituted for it during the **insurance period** and duly signed, stamped and dated by **our** authorised representative.

5.89 Securities means a bond, debenture, note, share, preference share, warrant, option, promissory note or other equity, debt or hybrid security.

5.90 Securities claim means a:

- a. a written demand for monetary damages or non-pecuniary relief;
- b. a civil proceeding or counter-claim commenced by the service of a writ, complaint, summons, statement of claim, or similar originating process;
- c. an alternative dispute resolution proceeding, a formal administrative or regulatory proceeding including any arbitration, mediation, conciliation or other alternative dispute resolution proceeding commenced in writing; or
- d. a criminal proceeding commenced in writing;

alleging a **wrongful act** in connection with the purchase or sale of, or offer to purchase or sell, **securities** of the **principal organisation**.

5.91 Single employer fund means any single employer superannuation fund established for the benefit of **employees**. **Single employer fund** does not include any self-managed, industry or master superannuation funds.

5.92 Subsidiary means:

- a. any legal entity in which the **principal organisation** owns or controls, directly or indirectly, more than 50% of the outstanding **securities** or voting rights of the **principal organisation** representing the present right to vote for election of directors; or any entity which is deemed to be the **principal organisation's** subsidiary under any applicable legislation, law or International Accounting Standard.
- b. any legal entity that ceases to be a **subsidiary** of the **principal organisation** during the **insurance period** or prior to commencement of the **insurance period**, provided that the cover provided will only apply in respect of a **wrongful act** that occurred whilst the entity was a **subsidiary** of the **principal organisation**, or a **direct financial loss** which is **discovered** whilst the entity was a **subsidiary** of the **principal organisation**.

c. **new subsidiary** as defined under clause 5.65.

The cover provided in this **policy** will only apply in respect of a **wrongful act** occurring after the date of creation or acquisition, or a **direct financial loss** which is **discovered** after the date of creation or acquisition of such **subsidiary**.

5.93 Territorial limits means worldwide except for Section E which is limited to Australia and New Zealand only unless otherwise specified in the **schedule**.

5.94 Territories means Belarus, Russia, any disputed Russian territories, including but not limited to, Donetsk Region, Luhansk Region, Crimea Region.

5.95 Terrorism means an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s), whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

5.96 Theft means the unlawful taking by a person of the **policyholder's property, money or securities**.

5.97 Third party means any legal or natural person other than:

- a. an **insured person** or **employee**; or
- b. a person acting in collusion with an **employee**; or
- c. a person who has a proprietary interest in the **policyholder**.

5.98 Trading means trading or other dealings in **securities**, contracts for difference, commodities, futures, options, swaps, foreign or federal funds, currencies, foreign exchange and the like.

5.99 Transaction means any one of the following events:

- a. the **policyholder** consolidates with or merges into or sells all or substantially all of its assets to any other person or entity or group of persons and/or entities acting in concert other than another **policyholder** or **fund**; or
- b. any person or entity, whether individually or together with any other person or persons, entity or entities becomes entitled to exercise more than 50% of the rights to vote at general meetings of the **policyholder** or control the appointment of directors who are able to exercise a majority of votes at Board meetings of the **policyholder**; or
- c. the merger, consolidation or other combination of any **fund** with any other unrelated fund not currently covered under this **policy** but only in relation to such **fund**; or
- d. the investment advisor and/or the **policyholder** ceasing to provide **investment services** to a **fund** but only in relation to such **fund** and only to the extent that such **investment services** relate to such fund; or
- e. the appointment of an administrator, receiver, receiver and manager or liquidator to the **policyholder**.

5.100 Trustee means an **insured** if validly appointed to act, and while acting in the capacity, as a trustee of a **single employer fund**.

5.101 Trustee breach means a **wrongful act** committed or allegedly committed:

- a. by an **insured person** in their capacity as a **trustee**, or as a **director** or **officer** of the **policyholder** acting as corporate **trustee**; or
- b. by any other person for which an **insured person** referred to in (a) above is legally liable;

but only in respect of the administration of a **single employer fund**.

5.102 We/us/our means DUAL Australia Pty Limited, ACN 107 553 257 as agent of the Underwriters/Insurers specified in the **schedule**.

5.103 Wrongful act means any actual or alleged breach of an **Act**, duty, breach of trust, breach of fiduciary duty, neglect, error, omission, misstatement, misleading statement, or other act, error or omission, committed or attempted by:

- a. for the purposes of Insuring Clauses 2.3 to 2.6 an **insured person**, individually or otherwise, in their insured capacity as an **insured person** and includes an **employment practices breach** or a **trustee breach**; or
- b. for the purposes of Insuring Clause 2.7 only, a **policyholder**, in connection with the purchase or sale of, or offer to purchase or sell, **securities** of the **policyholder**; or
- c. for the purposes of Insuring Clauses 2.8 and 2.9 only, a **policyholder** in connection with an **employment practices breach**; or
- d. for the purposes of Insuring Clauses 2.12 and 2.13 only, an **insured** in their insured capacity.

Section 6: Claim Conditions

The following Claim Conditions apply to all **sections** purchased and shown as having been purchased in the **schedule**.

6.1 Notification – Claims Made and Notified

To the extent that the **policy** is a claims made and notified **policy**, the **policyholder** and/or any **insured** must notify **us** of any **claim** or **investigation**, which may trigger this **policy** as soon as is reasonably practicable after they first became aware of such **claim** or **investigation** and within the **insurance period**.

Such written notice will include the following, so far as is reasonably practicable and so far as the relevant **insured** is aware:

- a. the identity of the claimant if relevant;
- b. an outline of the facts alleged;
- c. an estimate of the likely quantum of any **loss**; and
- d. details of the policy under which the notification is made.

Such notice to **us** will be given in writing, and delivered to:

[The National Claims Manager](#)

By Email: claims@dualaustalia.com.au

or by mail to: Level 29, Angel Place, 123 Pitt Street, Sydney NSW 2000

Any written notice will be considered effective from the date such notice is first received by **us**.

6.2 Notification – Discovery

To the extent that a **policy** is **discovery** based, the **policyholder** must give written notice to **us** of any **direct financial loss** it suspects was caused by an **internal crime** or **external crime** as soon as practicable within the **insurance period** or **discovery period** (if a **discovery period** is operable and has been purchased) but in any event not later than 60 days after any loss is first **discovered**.

Such written notice will include the following, so far as is reasonably practicable and so far as the relevant **insured** is aware:

- a. the identity of the defalcator, if known;
- b. an outline of the facts alleged; and
- c. an estimate of the likely quantum of any **loss**.

Such notice to **us** will be given in writing, and delivered to:

[The National Claims Manager](#)

By Email: claims@dualaustalia.com.au

or by mail to: Level 29, Angel Place, 123 Pitt Street, Sydney NSW 2000

Any written notice will be considered effective from the date such notice is first received by **us**.

6.3 Allocation

Our liability under this **policy** is limited to the proportion of **loss**, which is a fair and equitable allocation as between:

- a. covered and uncovered parties; and/or
- b. covered and uncovered matters;

having regard to the relative legal and financial exposures attributed to the covered and uncovered matters and/or parties. Only **loss** incurred by covered parties in relation to covered matters will be covered by this **policy**, and is subject always to the terms and conditions of this **policy**.

We will use **our** best endeavours to agree with the **insured** upon a fair and equitable allocation of the proportion covered under this **policy**, having regard to the relative legal and financial exposures attributable to covered and uncovered matters and/or parties.

If an allocation cannot be agreed then it will be determined by a suitably qualified Senior Counsel to be mutually agreed upon or, in default of agreement, to be nominated by the then President of the Bar Association of the jurisdiction in which the **policy** was underwritten.

The Senior Counsel will make a determination as an expert based on the relative legal and financial exposures attributable to covered and uncovered matters and/or parties. Submissions made to the Senior Counsel will be in writing.

Pending Senior Counsel's determination **we** will meet the **loss** on an interim basis at the percentage, which **we** contend should be fairly and equitably allocated. After the allocation has been determined or agreed, such allocation will be applied retrospectively. The parties agree to be bound by the Senior Counsel's determination. The costs of any referral for determination to a Senior Counsel under this clause will be borne by **us**.

6.4 Co-operation

The **insured** will, at the **insured's** own cost, frankly and honestly provide **us** with all information, documentation, evidence and assistance reasonably required by **us** or any lawyers, investigators or other professionals, who may be appointed by **us**.

The **insured** will, at their own cost, do all things reasonably practicable to minimise any **loss**, including but not limited to the **insured's** liability in respect of any **claim**.

Each **insured** will provide **us**, at their own cost, with all information, assistance and co-operation which **we** reasonably require, and in the event of a **claim** or potential **claim**, each **insured** agrees that they will not do anything that could foreseeably prejudice **our** position or **our** potential or actual rights of recovery.

6.5 Legal Representation and Settlement

With respect to Section B (Directors & Officers Liability), it will be the duty of the **insured** to defend **claims** and arrange for legal representation at **investigations**.

With respect to Section A (Professional Indemnity), Section C (Employment Practices Liability) and Section E (Statutory Liability), it will be **our** duty and right and not the duty or right of the **insured** to defend **claims** and arrange for legal representation at **investigations**.

The **insured** must not admit liability, settle any **claim**, make any admission, offer any payment or assume any obligation in connection with any **claim** or **investigation**, incur any **defence costs**, **investigation costs** or other **loss** covered by this **policy**, without **our** prior written consent, which will not be unreasonably withheld or delayed.

We will not be liable for any settlement, **defence costs** or other form of **loss**, admission, offer, payment or assumed obligation to which **we** have not given **our** prior written consent. However, where an **insured** has a statutory obligation to notify an **official body** of facts or circumstances, this clause will not apply.

We will have the right and will be given the opportunity to associate with each **insured** and participate in the defence of any **claim** or **investigation** including the negotiation and settlement of a covered **claim**.

With respect to any **claim** or **investigation** involving more than one **insured**, the **insureds** agree that **we** have the right to require such **insureds** to retain separate legal representation.

We reserve the right to settle any **claim** brought by a **retail client** at our discretion and to assume conduct of the defence of the **claim**.

If **we** are of the view that a **claim** or **investigation** may not exceed the **deductible**, **we** may require the **insured** to conduct the defence of the **claim** or **investigation**.

6.6 Order of Payments & Convergence of Coverage

If the payment of **loss** is to be made where such **loss** in the aggregate exceeds the remaining available **indemnity limit**, **we** will:

- a. first pay such **loss** for which the **policyholder** does not indemnify an **insured person**; then
- b. to the extent of any remaining amount of the **indemnity limit** available after payment under clause 6.6 (a) above, pay such **loss** for which coverage is provided under any other provision of this **policy**.

We will otherwise pay **loss** covered under this **policy** in the order in which such **loss** is presented to **us** for payment.

If a **loss** or **direct financial loss** can be covered under more than one **section**, then **we** will assess coverage in the following order of priority:

- a. firstly, Section A (Professional Indemnity);
- b. secondly, Section B (Directors & Officers Liability);
- c. thirdly, Section C (Employment Practices Liability);
- d. fourthly, Section D (Crime Protection); then
- e. finally, Section E (Statutory Liability & Supplementary Legal Expenses).

Section 7: General Conditions

The following General Conditions apply to all **sections** purchased and shown as having been purchased in the **schedule**.

7.1 Interpretation

Words and phrases appearing in bold text have the meaning defined in the **policy**.

In this **policy**:

- a. the singular includes the plural and the masculine includes the feminine;
- b. the headings are for descriptive purposes only; and
- c. in the event that any portion of the **policy** is found to be invalid or unenforceable, the remainder will remain in full force and effect.

7.2 Alteration to Risk

If during the **insurance period** a **transaction** occurs then the cover under the **policy** will only apply to **civil liability**, **wrongful acts**, **internal crime** or **external crime** committed prior to the effective date of the **transaction**.

If, during the **insurance period**, the **policyholder** decides to make a public offering of its **securities** in any jurisdiction the **policyholder** will provide **us** with any prospectus or offering statement for **our** review and assessment. **We** will be entitled to amend the terms and conditions of any **policy** and/or charge an additional premium reflecting any potential increase in exposure, which **we** deem reasonable.

The **insured** will give **us** written notice of the above listed events as soon as reasonably practicable.

If a **fund** raises additional capital above twenty-five percent (25%) of the **fund's** total funds under management at the time of the commencement of the **insurance period**, **we** reserve the right to charge such additional premium as **we** deem necessary and alter the terms of this **policy** as **we** see fit.

7.3 Assignment

The **insured** must not assign the **policy** or any rights under the **policy** to any third party without **our** prior written consent, which must be recorded by way of Endorsement to the **policy**.

7.4 Cancellation

The **principal organisation** may cancel any **policy** at any time by providing **us** with a minimum of fourteen (14) days written notice.

We may only cancel the **policy** for non-payment of premium and must do so in accordance with the provisions of the *Insurance Contracts Act 1984* (Cth).

Provided that there have been no claims or notifications made on the **policy**, **we** agree to allow a refund of premium calculated on a pro-rata basis, provided that **we** will always retain a minimum of 25% of the full annual premium.

7.5 Confidentiality

The **insured** must not disclose, either personally or through any person or entity acting on the **insured's** behalf or at the **insured's** direction, to any **third party**:

- a. the existence of this **policy**;
- b. the nature of the indemnity provided;
- c. the **indemnity limit** or any sub-limit; or
- d. the amount of premium paid for the **policy**.

However, the **insured** may disclose the above matters to the extent that:

- i. the **insured** is required to do so by law; or
- ii. **we** consent to the disclosure in writing; or
- iii. it is necessary to disclose to the **insured's** professional advisers including accountants, auditors, legal advisers and insurance brokers; or
- iv. **we** provide a Certificate of Currency which can be provided to third parties.

7.6 Deductible

Our liability under the **policy** for **loss** will only apply to that part of each **loss** which is in excess of the **deductible** specified in the **schedule**. Such **deductible** will be borne by the **policyholder**, except where otherwise provided.

Unless otherwise expressed in the **schedule**, all **deductibles** are inclusive of **defence costs** and/or **investigation costs** and/or financial loss to the amount of the **deductible**.

Except as otherwise stated in the **policy**, costs and expenses incurred by **us** in determining whether **we** are liable to indemnify the **insured** under the **policy** will not erode the **indemnity limit** and will be met by **us**.

Claims and **investigations**, and **internal crime** and **external crime** based upon, arising from, or attributable to the similar facts will attract a single **deductible**.

7.7 Currency

Any reference to premium or **indemnity limits**, **deductibles**, **loss**, **direct financial loss**, **defence costs**, **investigation costs** or any other amounts payable by **us** under this **policy** are expressed and are payable in Australian Dollars.

Where any payment is to be made into an admitted foreign jurisdiction, such payment is to be made and denominated in Australian Dollars at the cash rate for the purchase of Australian Dollars set by the Reserve Bank of Australia as at 4.00pm on the date which the foreign payment becomes due.

7.8 Goods & Services Tax (GST)

GST, Goods & Services Tax and Input Tax Credit have the meanings attributed to them under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

We will charge an appropriate amount to the **policyholder** on account of GST.

It is the duty of the **policyholder** to inform **us** whether or not it is entitled to an Input Tax Credit in relation to any amounts claimed under this **policy**.

Our liability to pay **loss** under this **policy** will be calculated having regard to the **policyholder's** or any other **insured's** entitlement to claim an Input Tax Credit.

No payment will be made to the **policyholder**, for any GST liability on account of a covered **claim** or **investigation**, where the **policyholder** is entitled to claim an Input Tax Credit.

7.9 Governing Law and Jurisdiction

This **policy** is governed by the laws of the Commonwealth of Australia and/or the State or Territory of Australia, where the **policy** was issued. Any dispute relating to **policy** interpretation will be submitted to the exclusive jurisdiction of the Courts of the Commonwealth of Australia.

7.10 Indemnity Limit

The **schedule** will indicate the **indemnity limit** applicable to each **section**. **We** will have no liability in excess of the sub-limits specified in the **schedule** in the aggregate for the applicable extension of cover, irrespective of the number of **sections**, which respond to the **claim** or **investigation**, **internal crime** or **external crime**. Where more than one Extension applies, **we** will apply the higher of the sub-limits or **indemnity limit** available.

Subject to any Extension of coverage which states otherwise, **our** total liability under the **policy** will not exceed the **indemnity limit** inclusive of all **loss** and **direct financial loss**.

7.11 Other Insurance

As permitted by the *Insurance Contracts Act 1984* (Cth), this **policy** will only cover **loss** to the extent that the amount of such **loss** is in excess of any indemnity or cover available to the **insured** in respect of that **loss** under the **other insurance** policy or policies listed in the **schedule**.

If **loss** or any other amount insured by the **policy** is also potentially insured under any **other insurance** policy or policies, then the **insured** must advise **us** within sixty days of making a claim for indemnity under this **policy** and provide **us** with a copy of such other policy or policies.

7.12 Preservation of Right to Indemnity

In the event and to the extent that the **policyholder** has not indemnified an **insured person** but is legally permitted or required to do so in respect of a **claim** or **investigation**, but for whatever reason, refuses to do so, then **we** will pay on behalf of the **insured person** any **loss** arising from the **claim** or **investigation** within the **deductible** and the applicable **deductible** will be paid by the **policyholder** to **us**.

7.13 Presumptive Indemnification

Where the **policyholder** is not prohibited by law from indemnifying an **insured person** and is not insolvent, then it is agreed that the **policyholder** will indemnify the **insured person** for all covered **loss**.

In the event that a **deductible** applies, the **policyholder** will pay the **deductible** directly to **us** and **we** will pay the **insured person's loss** on their behalf and will be entitled to claim an input tax credit which may be available.

7.14 Severability, Non-Imputation and Non-Avoidance

No state of mind or knowledge possessed by any one **insured** will be imputed to any other **insured** for the purpose of determining whether any provision in this **policy** applies. However, any state of mind or knowledge possessed by the chairman of the board, chief executive officer, chief operating officer, company secretary or chief financial officer of the **policyholder** will be imputed to the **policyholder**.

We agree not to rescind or avoid this **policy** in whole or in part, for any reason, other than for non-payment of premium.

We waive all rights under section 28(3) of the *Insurance Contracts Act 1984* (Cth) for non-fraudulent non-disclosure or non-fraudulent misrepresentation by an **insured**.

If **we** are entitled to reduce **our** liability pursuant to section 28(3) of the *Insurance Contracts Act 1984* (Cth) as a result of fraudulent non-disclosure or fraudulent misrepresentation, **we** will only reduce **our** liability under a **policy** in respect of the **insureds** who were involved in or were aware of the fraudulent non-disclosure or fraudulent misrepresentation on final adjudication.

7.15 Several Liability of Underwriters

The obligations of **our** subscribing Underwriters, where there is more than one Underwriter subscribing to the **policy**, are several and not joint and are limited solely to the extent of their individual subscriptions. No subscribing Underwriter is responsible for the subscription of any co-subscribing Underwriter who, for any reason, does not satisfy all or part of its obligations.

7.16 Subrogation & Recoveries

Where **we** have paid any amount of **loss** or **direct financial loss** under a **policy**, **we** become entitled to assume any rights available to the **insured** against any party to the extent of **our** payment. On **our** request, the **insured** will assign all rights of recovery against any person or entity, but only to the extent that payment has been made under a **policy**.

The **insured** must, at its own cost, assist **us** and provide information as **we** may reasonably require, to exercise **our** rights of recovery and/or subrogation. This may include providing and signing statements and other documents and the giving of evidence.

Where a recovery is made, the proceeds of such a recovery will be applied as follows:

- a. firstly, to the satisfaction of all costs incurred in effecting the recovery;
- b. secondly, to the **insured** for the amount of **loss** in excess of the **indemnity limit** specified in the **schedule** which is also in excess of any excess insurance purchased over this **policy**;
- c. thirdly, to **us** and any excess insurers amounts paid under the **policy** and such excess policies;
- d. finally, to the **insured** for the amount paid in respect of the **deductible**.

7.17 Territorial Scope

Unless otherwise stated in the **schedule** and subject to General Condition 7.18 (Jurisdictional Limitation), cover provided under this **policy** extends to the conduct of an **insured** anywhere in the **territorial limits**.

7.18 Jurisdictional Limitation

Unless otherwise stated in the **schedule**, cover provided under this **policy** extends to **direct financial loss, loss, claims and investigations** brought and maintained:

- a. for Sections A, B, C, and D, anywhere in the world; and
- b. for Section E, Australia and New Zealand only,

except within the territorial limits of the United States of America or Canada or their respective territories or protectorates or to enforce any judgment, order or award obtained in or determined under the laws of the United States of America or Canada or their territories or protectorates.

General Conditions (Section D: Crime Protection)

The following conditions only apply to Section D if purchased:

7.17 Proof of Loss

Following **discovery** and subsequent notification of a **direct financial loss** to **us**, the **policyholder** must:

- a. provide **us** with affirmative **proof of loss** with full particulars within 6 months of the **direct financial loss** being first **discovered**; and
- b. provide **us** with all requested information and documents and co-operate with **us** in all matters pertaining to the **direct financial loss**.

7.18 Valuation of Loss

With respect to any **direct financial loss** covered under this **policy**, **we** are not liable for more than:

- a. the actual market value of **securities, money or property** at the close of business on the day the **direct financial loss**

was first **discovered** (determined by the value published in the Australian Financial Review), or the actual cost of replacing the **securities, money** or **property**, whichever is less.

- b. the actual cash value of other tangible property (not referred to in (a) above) at the close of business on the day the **direct financial loss** was first **discovered**, or the actual cost of replacing the property with property of like quality or value, whichever is less.
- c. the cost of blank books, blank pages or other materials plus the cost of labour and computer time for the actual transcription or copying of **data** furnished by the **policyholder** in order to reproduce books of account and other records for any **direct financial loss** covered under Automatic Extension 3.38 (Computer Crime Costs).
- d. the cost of labour for the actual transcription or copying of electronic **data** furnished by the **policyholder** in order to reproduce such electronic **data**.
- e. with respect to Artwork, the average valuation of two licensed independent artwork valuers, selected by **us**.