



THE
LAW SOCIETY
OF HONG KONG
香港律師會

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15 May 2012

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(by email : shau@legco.gov.hk)

Ms. Mary So,
Clerk to Bills Committee,
Legislative Council,
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong.

Dear Ms. So,

Bills Committee on Legal Practitioners (Amendment) Bill 2010
Meeting on 21 May 2012

Subsequent to the last meeting of the Bills Committee on 17 April 2012, the Law Society has issued a Circular to members (attached) and we have not received any strong objection to the top-up insurance proposal.

Yours sincerely,

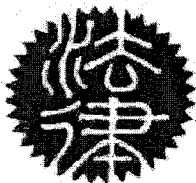
Heidi Chu
Secretary General

Encl.

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香港社會服務聯會頒發



Index Reference :

Solicitors

CIRCULAR 12-302 (SG)

23 April 2012

LIMITED LIABILITY PARTNERSHIPS ("LLPs")

1. The overwhelming view expressed by members at the Members' Forum on LLPs ("Forum") held on 13 February 2012 was that the existing bankruptcy law was sufficient for enforcement purposes and it was unnecessary to introduce a claw back provision; but if there must be a claw back provision, the appropriate limitation period should be two years from the date of distribution.
2. Since the Forum, the Law Society has had numerous discussions with the Administration on how to resolve the deadlock on the claw back provision.
3. In a recent discussion with the Law Society, the Administration has indicated that it is agreeable to reduce the claw back period from 6 years to 2 years if in addition to the indemnity provided to Hong Kong firms under the Professional Indemnity Fund or similar indemnity provided to foreign firms, an LLP is required to maintain top-up professional indemnity cover of no less than HK\$10 million for each and every claim with no aggregate limit, failing which the LLP will lose its LLP protection for the period without such top-up cover ("Latest Proposal").
4. On the question of additional professional indemnity, some members have expressed their views previously during the discussion at the Forum. There were comments objecting to a general increase of the indemnity cover of the statutory Professional Indemnity Scheme, but there were also members indicating that they were agreeable to pay a higher premium in exchange for an LLP status.
5. Based on the Latest Proposal, firms wishing to operate as LLPs will have to seek additional cover from the market. The Law Society has sought some preliminary information from a leading insurance broker about the cost of such additional cover. Please click [here](#) for the information.

6. The Council has considered carefully all the circumstances including the Administration's concern for consumer protection; members' view that a claw back period, if any, must not be more than 2 years; as well as the availability and indicative pricing of top up cover in the market. Having evaluated the different factors and considered the importance of having in place an additional choice for law firms to operate as LLPs, the Council has taken the view that the Latest Proposal is an acceptable way forward.

7. The next Bills Committee meeting will be scheduled during the first week of May 2012. As time is of the essence, the Council will proceed to support the Latest Proposal. If members have any strong objection to the Latest Proposal, please send your comments to the President at president@hklawsoc.org.hk before **30 April 2012**.

**Indicative cost of top-up cover of HK\$10 million for each and every claim
with no aggregate limit**

<u>Size of Firm (by Turnover)</u>	<u>Premium Rate on Turnover</u>
Below HK\$5 million	0.26% - 0.35%
Above HK\$5 million - HK\$20 million	0.21% - 0.26%
Above HK\$20 million - HK\$50 million	0.15% - 0.21%
Above HK\$50 million	0.06% - 0.1%

Important note:

The above indications are subject to the following:-

- 1. The indications are based on a leading insurance broker's own data in relation to law firms in Hong Kong and may not represent the full picture. Accordingly, the indications are for general information only and DO NOT CONSTITUTE a binding quotation for any firm nor constitute a guarantee or warranty as to the premium rates, the extent or availability of cover to firms. The Law Society and the assisting insurance broker do not guarantee or warrant the accuracy thereof.*
- 2. The indications are based on standard cases - clean no claims record, no higher risks (e.g. high volume conveyancing, IPO, M&A). Underwriters will require specific information from every firm before providing a firm quote for that firm. However, firms should be aware that the operation of commercial insurance markets is different from the PIS. Insurers' willingness in taking each firm's risk will vary and they may decline to quote.*
- 3. Certain insurers require a minimum premium. Thus for small firms, the above may not be applicable.*
- 4. Firms with higher risks / different risks profile (in accordance with each insurer's underwriting guideline) and/or claims record in general may be subject to different premium rates, claims loadings and/or special terms and conditions may apply.*
- 5. Each insurer has its own underwriting policy and risk appetite so premium, terms and conditions may vary.*
- 6. The top up policy is issued in "Claim Made" policy form which run off cover may be needed if the lawyer is retired or deregistered.*