PROTECTING YOUR PROFESSIONALISM

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The professional indemnity landscape is undergoing a shift in the face of a hardening market – so how can advisers prepare? **Liam Pomfret** and **Stephanie Garraway** of AIG New Zealand share their insights with *IBNZ*

PROFESSIONAL INDEMNITY policies are put in place to protect professionals facing accusations that their negligence when delivering a service or advice has caused a financial loss. Traditionally the domain of professions such as architects, lawyers and accountants, PI insurance has gained increased prominence over the last few years among a much broader range of industries. Customer-facing professionals across a host of industries are, understandably, looking to protect themselves from both financial and reputational loss in an increasingly litigious society.

Liam Pomfret, head of cyber and professional indemnity at AIG Asia Pacific, isn't surprised by the growth of interest in PI policies and expects this will continue in 2021.

"We are technically in a recession at the moment, and in a recession, companies and people suffer financially," he explains. "Accordingly, they're more likely to look for someone who can be blamed for their loss or simply for ways to recoup costs. Economic downturns occur about once a decade, resulting in additional claims as professionals are required to defend themselves and protect their profiles."

In turn, spurious allegations can arise against businesses – but even those dubious claims can be expensive to defend against and can damage a professional's reputation in the process. Stephanie Garraway, national manager of the financial lines and casualty corporate team at AIG New Zealand, believes there will be an increase in claims as we move into 2021.

"Some sectors are definitely more recession-prone than others – lawyers and accountants, for example," Garraway says.

"But we also need to consider that this recession is quite different from previous ones we've seen – we've had whole sectors furloughed, and potentially we'll see a broader range of claims."

Pomfret agrees. "If you look at the day-to-day impact, it's playing out quite differently from previous recessions. For example, government subsidies mean that accountants are navigating new and often confusing rules. Recruitment consultants are having to recruit staff remotely. On top of that, everyone's rushing to digitise their business – which is good in theory, but we need to keep in mind that tech products are being rushed to market, which may cause unforeseen issues down the line."

The importance of cyber cover

Both Pomfret and Garraway see cyber as a critical but oft-overlooked component in modern professional services. Cyber incidents can cause reputational damage and extensive business interruption, which can then lead to PI claims.

"Cyber has slipped into everything," Garraway says. "And it's also a key area where confusion can arise."

Garraway notes that cyber insurance isn't a new phenomenon; it's existed for almost 30 years. But given the rapidly changing nature of technology, it's also an area that can cause considerable ambiguity within policy wordings. If it's not specifically mentioned in a policy, is it covered?

"Data breaches have been one of the really common points where professional risks and cyber exposures overlap," Garraway says. "When you add in considerations like privacy laws around data breaches, it's pretty easy to see how these issues could cause both reputational and financial damage for businesses."

The problem is that the wording of many professional indemnity policies doesn't explicitly state whether cyber issues are covered. Historically, it's been handled on a case-by-case basis. While precedent certainly has merit, it can't necessarily be relied on for future handling of cases.

"From an adviser's perspective, you need to be looking at areas where your client can manage potential exposures," Pomfret says. "For example, what sort of data protection do they have? While there's a greater aware-

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Liam Pomfret, AIG Asia Pacific

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What unites us across all our products is our commitment to helping our clients prepare for what's next – whether that's helping towns, cities and communities prepare for or recover from natural disasters, or supporting people and businesses through the challenges they face at home and abroad. Together, we are working to help see, build and secure a better future for everyone.

AIG has been operating in New Zealand since 1970, offering the benefits of our global experience with local expertise. Our comprehensive range of corporate and commercial insurance and risk management products and services helps New Zealand companies capture today's opportunities and look to the future with confidence.

ness of the potential for cyber risk now than there was five years ago, there's still work to be done."

Garraway notes that as part of AIG's move to 'affirmative cyber', where all policies are clear on their cyber cover, the insurer's professional indemnity policies will include specific wording around cyber insurance from 2021.

Navigating the hard market

Cyber is just one area where advisers should seek clarity of cover for their clients. Garraway notes that it's essential for advisers to get ahead of the curve and work with clients to secure relevant professional indemnity insurance in anticipation of a rise in claims due to current economic conditions.

For those clients who already have cover, it's an opportunity for advisers to reassess whether it's adequate or in need of an upgrade. The market is hardening as insurers prepare for more claims, and Garraway suggests that advisers should start renewals early, as some insurers are reducing their capacity. However, she notes that "at AIG, our appetite and capacity remain unchanged".

"'Engagement' is the key word," Garraway adds. "Advisers need to be engaging with underwriters, engaging with other markets and engaging with claims teams."

Pomfret likewise points to the importance of initiating early conversations with clients.

"Insurers need to ensure that risks are priced correctly by balancing the capacity they have available and the premiums they charge against the claims they expect to receive," he says. "When the economy dips, capacity tends to dry up, and we've already seen a reduced appetite for certain types of risk across the market. There's also been reduced capacity coming from traditional overseas markets like London. In the long run, that's going to increase pressure on premiums overall."

Advisers have a dual role as intermediaries between clients and insurance companies, Garraway explains. Accordingly, they're well equipped to transmit information from one party to the other. What sorts of risks are clients experiencing on the front line? How closely do those risks align with existing products, and where might insurers need to adjust their risk appetite? All of these considerations can help advisers secure the best possible coverage for their clients.

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Of course, the onus is also on insurers to provide relevant support in the face of a shifting market.

"It's been a difficult few years for advisers," Garraway says. "They've had to deliver a lot of hard messages, and it's important for us as insurers to give them the tools they need to explain the challenges and clearly demonstrate to clients why these challenges exist. At AIG, we hold a variety of panels and educational seminars to help advisers stay up to date with our offerings."

The good news is that New Zealand is a mature market for insurance and broadly receptive to managing risk. Awareness of professional indemnity insurance is already quite high, even though it's not necessarily compulsory for certain industries as it is in some other countries.

"We're receiving a massive influx of inquiries in New Zealand at the moment, suggesting that advisers are aware of the importance of PI insurance in the current environment," Pomfret says. "The earlier these are received, the easier it is to make informed decisions and work with insurers to negotiate capacity and sell that risk."

Garraway agrees. "We want to work with clients in New Zealand to provide service for the long term," she explains. "Moving forward, we expect to see an increased demand for professional indemnity cover, even in a hardening market. At AIG, we have the experience, claims expertise and drive to provide advisers and clients with market-leading professional indemnity insurance solutions." IB