The new 2014 ICAEW minimum wording and probate claims

The ICAEW has announced changes to the minimum wording applying from 1 January 2014 to reflect the opening up of probate work to chartered accountants and which is anticipated to take place later this year.

In December 2013 the Legal Services Board approved applications by the ICAEW under the Legal Services Act 2007 to become both a regulator of probate services and a licensing authority for alternative business structures. The initial significance is that ICAEW members will be able to carry out probate work, a reserved legal activity. They are subject to final approval by the Lord Chancellor.

As part of the approval, a significant change has been made to the minimum wording. Pursuant to C1(a) and in respect of probate claims, the limit of indemnity must be a minimum of £500,000 on an each and every claim basis and exclusive of defence costs.

Although ICAEW members may have some experience in acting as executors, carrying out probate work is entirely new for them and in respect of firms intending to carry out this activity underwriters will wish to take extra care to satisfy themselves that they have the experience and training to perform the work to a reasonable standard of care. With reports that ICAEW members feel that they can undercut solicitors on fees by some 30%, underwriters will also wish to explore closely how that will be achieved.

In an associated measure the ICAEW is also setting up a compensation fund, payments from which will be capped at £500,000 per estate and subject to total payments in any one year of £5,000,000.

In a separate amendment to the wording, the ICAEW have closed a lacuna regarding the level of cover needed by firms carrying out insurance mediation activities, for which they should be directly authorised by the FCA or licensed under the ICAEW’s Designated Professional Body arrangements and which has not always been occurring. The new wording therefore confirms that the minimum limit of indemnity for claims arising out of such work is €1,120,000 per claim and €1,680,300 in the annual aggregate, again excluding defence costs.

In respect of both of the changes to the limits of indemnity, neither will erode the annual aggregate otherwise applying and the new wording therefore leads to significantly higher potential exposures for underwriters.

Key facts:

The Legal Services Board approved applications by the ICAEW to become both a regulator of probate services and a licensing authority for alternative business structures. In respect of probate claims, the limit of indemnity must be a minimum of £500,000 on an each and every claim basis and exclusive of defence costs.

The ICAEW is also setting up a compensation fund, payments from which will be capped at £500,000 per estate.

The ICAEW have closed a lacuna regarding the level of cover needed by firms carrying out insurance mediation activities. The minimum limit of indemnity for claims arising out of such work is €1,120,000 per claim excluding defence costs.

For further information please contact

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