MARKET UPDATE

Half way through the 2010 – 2011 year of insurance two major issues have caused extensive debate in the Irish solicitors profession generally and amongst professional indemnity underwriters in particular.

SOLICITORS MUTUAL DEFENCE FUND

The first issue is the financial collapse of the SMDF which until recently was the largest insurer of Irish solicitors and last year still accounted for approximately 30 percent of the market by premium income.

In March 2011 the SMDF approached the Law Society to seek financial support and indicated that it would have no alternative but to go into liquidation if support was not forthcoming.

In April, the Council of the Law Society called a special general meeting of members and recommended that the Law Society provide support up to €16 million to the SMDF over a 10 year period. Come what may, the SMDF is to cease writing new business from next renewal (1 December 2011) and the purpose of the proposed support was to allow for an orderly wind down of the SMDF over a 10 year period. It was suggested that reinsurance recoveries would be in jeopardy if the SMDF went into liquidation and a number of matters were publicised that may not have been common knowledge to many solicitors and indeed to some insurers. These included the fact that the SMDF is not regulated by the Irish Financial Regulator and also that the most recent published financial statements for the SMDF for the year ended 30 November 2009 were qualified by the auditors.

The proposed financial support was referred to a poll of all Law Society members which is now in progress. The results should be announced before the end of the month and if members refuse to support the bailout, it is assumed that the SMDF will immediately be placed in liquidation.

The consequences of liquidation, should that happen, are far from clear but it is assumed that firms currently insured with the fund will have to take out alternative insurance on the open market for the unexpired period of cover up to 30 November 2011.

MASTER POLICY

The second market issue which has recently been in the news is the consideration by the Law Society of a Master Policy for the profession. No firm proposals were tabled but it was assumed that a Master Policy would operate along similar lines to those which exist in Scotland and Northern Ireland.

The most significant features of a Master Policy are generally:

- It is a collective policy underwritten by all subscribing insurers;
- There is a single policy wording which avoids the need for separate Minimum Terms;
- All practising solicitors are obliged to insure for minimum levels of cover under the Master Policy and by the same token the Master Policy insurers are obliged to provide cover to all solicitors firms. That avoids the need for an Assigned Risks Pool;
Underwriting criteria and rating is standardised and subject to the proviso that insurers cannot refuse cover.

On 3 June the Law Society announced that a Master Policy would not be introduced this year. Whether the proposal is now dead and buried remains to be seen.

**CHANGES TO MINIMUM TERMS AND CONDITIONS**

The Law Society has also announced that there are expected to be changes to the Minimum Terms and to the Qualified Insurers Agreement as from next renewal 1 December 2011. Other mooted changes include a common proposal form which will be accepted by all qualified insurers.

We shall report further later in the year.

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