

Pension Lawyers Association

Fund and Trustee Liability Insurance Presentation



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Teri Solomon, Finpro South Africa, Sandton

A business of Marsh McLennan

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FSP Licence no.: 7784

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Directors: S Fatouros, K Groenewald, M Pienaar, GA Royston

Fund and Trustee Crime and Liability Insurance

Coverage recap

Who is Insured?

The **Fund** is covered against **loss** of fund assets as a result of:

- Errors and omissions (**Claims made basis**)
- Theft and fraud (**loss discovered basis**)
- Third party computer fraud (**loss discovered basis**)
- **Committed/omitted by an OFFICER/EMPLOYEE of the Fund**

Trustees, the Principal Officer and Information Officer for actual or alleged Wrongful Acts

What is covered?

- LOSS, including:
 - Damages, judgements, settlements and costs and expenses)including legal costs) awarded against the insured for which the Fund/Officers are legally liable

**ALL COVER FOR LOSS
REQUIRES INSURERS
WRITTEN CONSENT**

Extensions

- **Impersonation Fraud (10% sublimit)**
- Regulatory Investigations (10% sublimit)
- Mitigation costs (10% sublimit)
- Third party dispute costs (10% sublimit)
- Run-off cover for past trustees (36 months)
- **Data Protection Extension (up to R5m)**

Impersonation Fraud Extension

Loss of money belonging to the Insured, or for which the Insured is responsible, **resulting directly from an Officer or Employee**, if applicable, having, in good faith:

- (i) **Transferred money from the Insured's accounts, or**
- (ii) **Amended the banking details of a member in the Insured's payment systems**

As a result of a **fraudulent instruction** in writing or by email **to an Officer or Employee** if applicable, **by a person purporting to be:**

- (a) **An Officer** of the Insured, including an Employee of the Insured where applicable, or;
 - (b) **A member** of the Insured.
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- NB – (a) and (b) are subject to proof of **independent verification**

Data Protection Extension - Optional

- Bespoke contingent cover for the fund for damages and defence costs following a data/privacy breach

Resulting from:

- Liability following **theft or loss of member data**
- Liability following a privacy breach (**unauthorised disclosure**)
- Liability emanating from a **breach of POPI**
- Liability following **failure to disclose a privacy breach**
- Liability following **negligent failure to prevent transmission of malicious code or virus or failure to prevent a denial of service**
- **Defence costs**
- Costs of **regulatory actions/investigations**
- **Insurable fines and penalties**
- Crisis management costs (**member notification expenses**)

- Limit up to R5m available subject to Underwriting questions relating to:
 - Data records, encryption of data, overview of network security, MFA and Privilege Access
 - Deductible of R10 000 each claim applies



Data and Security Governance for Trustees No “One size fits all”



Identify, Assess and Minimize

- Assess data flows
- Understand security controls at all levels (Employer – Trustees- TPP)
- Scenario plan (the threat landscape)
- Vulnerability assessment
- Establish an appropriate cyber security strategy
- Ensure Hygiene practices apply to ALL officers



Incident Response

- Robust Incident response plan to address a cyber event
- Include a “stakeholder” communication strategy focused on member notification (time will always be of the essence and reputational risk retention will be paramount)



Quantify a potential loss

- Could there a BI risk?
- Cost of member notification
- Legal costs to defend an action or to bring an action against a TPP
- Legal costs following a regulatory enquiry
- Possible fines and penalties



Risk Transfer considerations

- Data Protection Extension under Fidelity policy
- Full cyber liability policy
- Self-insurance/funding



Monitor

- Ongoing assessment of TPP SLA's
- Ongoing assessment of data security controls at TPP's, especially if changing providers
- Ongoing Trustee training on data governance and cyber resilience