

## Chapter 8

# Claims handling



## Employers' liability register

See ■ ICOBS 8.4.4R (1)(a).

Part 1 In relation to information to be included in the employers' liability register

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|-------|---|--|
| 1.1   | R | <p>A <i>firm</i> must:</p> <ol style="list-style-type: none"> <li>(1) for each <i>policy</i> it enters into or renews on or after 1 April 2011, include, in relation to that <i>policy</i>, all the information required by the form in 1.2R, in accordance with the notes;</li> <li>(2) for each <i>policy</i> not falling in (1) and in relation to which a claim is made on or after 1 April 2011, include, in relation to that <i>policy</i>, all the information required by the form in 1.2R that the <i>firm</i> holds, in accordance with the notes; and</li> <li>(3) in relation to (1) and (2) include the notes set out in 1.2R.</li> </ol>   |
| 1.1A  | R | <p>A <i>firm</i> is not required to include information required by 1.1R(1) and (2) to the extent that it relates to the <i>firm's</i> potential liability as a co-insurer, other than as the lead <i>insurer</i>, under a co-insurance arrangement satisfying the following conditions:</p> <ol style="list-style-type: none"> <li>(1) the risk is covered by a single contract at an overall premium and for the same period by two or more <i>insurers</i> each for its own part;</li> <li>(2) one of the <i>insurers</i> is the lead <i>insurer</i> who is treated as if it were the <i>insurer</i> covering the whole risk;</li> <li>(3) the lead <i>insurer</i> fully assumes the leader's role in co-insurance practice and in particular determines the terms and conditions of insurance and rating;</li> <li>(4) the <i>firm</i> has entered into and maintains with the lead <i>insurer</i> up-to-date written agreements identifying the <i>policies</i> in relation to which the <i>firm</i> is a co-insurer of the lead <i>insurer</i> and the proportions of the risk for which the co-insurer is responsible; and</li> <li>(5) the <i>firm</i> is satisfied that the lead <i>insurer</i> complies with the requirements in 1.1R(1) and (2) in relation to the co-insured <i>policies</i>.</li> </ol> |
| 1.1B  | R | <p>A <i>firm</i> is not required to include information required by 1.1R(1) and (2) to the extent that it relates solely to the <i>firm's</i> potential liability under an excess <i>policy</i> where another <i>insurer</i> has principal liability for the risk, and the following conditions are satisfied:</p> <ol style="list-style-type: none"> <li>(1) the principal <i>insurer's</i> maximum liability under the primary <i>policy</i> covering the risk is for no less than £5,000,000 in relation to a single event;</li> <li>(2) the <i>firm</i> has no liability to potential claimants until those claimants have exhausted their remedies against the principal <i>insurer</i>; and</li> <li>(3) the <i>firm</i> has adequate arrangements for identifying and recording the <i>policies</i> in relation to which the <i>firm</i> provides excess cover under an excess <i>policy</i>.</li> </ol>  |
| 1.1C  | R | <p>A <i>firm</i> is not required to include the employer reference number (ERN) required by 1.1R(1) and (2) where the conditions in either 1.1CAR or 1.1CCR are met.</p>   |
| 1.1CA | R | <p>The conditions in this <i>rule</i> are that:</p>  |

		(1)	in accordance with <a href="#">ICOB 8.4.7R(1)(a)(ii)</a> and <a href="#">ICOB 8.4.11R(2)</a> , the <i>firm</i> has arranged to make the information on its employers' liability register available on the website of a tracing office that meets the conditions in <a href="#">ICOB 8.4.9R</a> ;
		(2)	that tracing office has effective systems in place to obtain and record accurate ERN data on its database; and
		(3)	that tracing office has provided the <i>firm</i> with a commitment that it will use its best endeavours to obtain the ERN.
1.1CB	G	(1)	Where the tracing office in 1.1CAR is using its best endeavours to obtain the ERN and asks a <i>firm</i> to help with obtaining it, that <i>firm</i> should take reasonable steps to do so in line with its obligations under <i>Principle 2</i> (to conduct its business with due skill, care and diligence) and <i>Principle 3</i> (to take reasonable care to organise and control its affairs responsibly and effectively).
		(2)	Where a <i>firm</i> is in possession of or comes into possession of the ERN, the <i>firm</i> should provide the ERN to the tracing office in 1.1CAR as soon as reasonably practicable.
		(3)	Where a <i>firm</i> makes information on its employers' liability register available on its own website in accordance with <a href="#">ICOB 8.4.7R(1)(a)(i)</a> or the tracing office in 1.1CAR fails to meet any of the conditions in 1.1CAR, the <i>rule</i> in 1.1CCR may apply.
1.1CC	R		The conditions in this <i>rule</i> are that:
		(1)	the <i>firm</i> has not been able to obtain the ERN solely due to failures by parties outside the <i>firm's</i> control; and
		(2)	the <i>firm</i> has used and continues to use its best endeavours to obtain the ERN, other than refusing to provide cover to an employer solely because it has not provided the ERN.
1.1D	G	(1)	To help to demonstrate that it has used its best endeavours, a <i>firm</i> should consider:
		(a)	appointing an <i>approved person</i> with appropriate seniority within the <i>firm</i> to be responsible for agreeing and signing off the <i>firm's</i> approach to obtaining employee reference numbers;
		(b)	establishing an appropriate framework for collecting employee reference numbers and monitoring of compliance with <a href="#">ICOB 8.4.4 R</a> . The framework should be documented and should include the following matters (this is not an exhaustive list):
		(i)	collection procedures which are subject to regular reviews;
		(ii)	appropriate compliance monitoring, and production and review of management information;
		(iii)	regular meetings between those responsible for operational collection;
		(iv)	escalation of compliance issues on a timely basis; and
		(v)	appropriate use of internal and external communication to promote the importance of ERN compliance;
		(c)	implementing and maintaining appropriate:
		(i)	internal audit measures to ensure ERN collection procedures are being followed internally and by the <i>firm's</i> intermediary partners; and
		(ii)	controls to ensure any issues identified through the audit process are followed up and corrected within appropriate timescales;
		(d)	updating terms of business agreements to cover ERN collection.

		(2)	It is the responsibility of each <i>firm</i> to decide what processes to use to obtain the ERN based on what is appropriate and proportionate for that <i>firm</i> , taking into account the volume of policies, type of business written and the distribution channels used to write that business.
1.2	R	FORM	
Part 2 In relation to information not required to be included			
2.1	R		<p>A <i>firm carrying out contracts of insurance</i>, in relation to which information is not required to be included in the register under <i>FCA rules</i>, must, beneath the form in 1.2R, state the following, where applicable, tailored as necessary to the <i>firm's</i> circumstances:</p> <p>“We have potential liability for policies under which UK commercial lines employers’ liability cover has been provided to employers and which commenced or were renewed before 1 April 2011 and in respect of which no claims were made on or after 1 April 2011. However, we are not required to make details of those policies available in this register under <i>FCA rules</i>. Enquiries may be made about these policies by individual claimants, their authorised representatives, or insurers or their insurance intermediaries, with potential claims, by contacting [insert contact details]”</p>
2.1A	R		<p>A <i>firm</i> with potential liability as a co-insurer and which satisfies the requirements of 1.1AR must tailor the statement in 2.1R to include reference to the following:</p> <p>(1) that the <i>firm</i> has potential liability for <i>policies</i> under which <i>UK commercial lines employers’ liability cover</i> has been provided to employers for which the <i>firm</i> was co-insurer, but not lead insurer, but that the <i>firm</i> is not required to make details of those <i>policies</i> available in the register under <i>FCA rules</i>; and</p> <p>(2) responsibility for making information available in relation to <i>policies</i> to which (1) applies is with the lead insurer.</p>
2.1B	R		<p>A <i>firm</i> with potential liability under an excess <i>policy</i> and which satisfies the requirements of 1.1BR must tailor the statement in 2.1R to include reference to the following:</p> <p>(1) that the <i>firm</i> has potential liability for <i>policies</i> under which <i>UK commercial lines employers’ liability cover</i> has been provided to employers for which it provides cover only in excess of that provided by another <i>insurer</i> (and where the principal cover is for £5m or more) but that the <i>firm</i> is not required to make details of those <i>policies</i> available in the register under <i>FCA rules</i>; and</p> <p>(2) responsibility for making information available in relation to the <i>policy</i> providing the principal cover is with the principal <i>insurer</i>.</p>
2.2	G		The purpose of 2.1R, 2.1AR and 2.1BR is to inform users of the register that the <i>firm</i> may be potentially liable in relation to <i>policies</i> other than those on the register. However, a <i>firm</i> may include <i>policies</i> additional to those entered into, renewed, or in relation to which a claim was made, after April 2011, in the register. If it does, the statement in 2.1R, 2.1AR or 2.1BR may be amended as necessary to refer to the <i>policies</i> that are not included.