

**EMPLOYERS' LIABILITY INSURANCE: DISCLOSURE BY INSURERS (NO 4)  
INSTRUMENT 2013**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):
- (1) section 137A (General rule-making power);
  - (2) section 137T (General supplementary powers); and
  - (3) section 139A (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 4 December 2013.

**Amendments to the Handbook**

- D. The Insurance: Conduct of Business sourcebook (ICOBS) is amended in accordance with the Annex to this instrument.

**Citation**

- E. This instrument may be cited as the Employers' Liability Insurance: Disclosure by Insurers (No 4) Instrument 2013.

By order of the Board  
3 June 2013

## Annex

### Amendments to the Insurance: Conduct of Business sourcebook (ICOBS).

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 8.4 Employers' Liability Insurance

##### Application

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8.4.1 R ...

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(3) In this section references to:

- (a) an 'employers' liability register' are to the employers' liability register referred to in *ICOBS* 8.4.4R(1)(a);
- (b) a '*director's* certificate' are to a statement complying with the requirements in *ICOBS* 8.4.4R(1)(b);
- (c) *employers' liability insurance* include business accepted under *reinsurance to close* covering *employers' liability insurance* (including business that is only included as *employers' liability insurance* for the purposes of this section); ~~and~~
- (d) a 'qualified *director's* certificate' are to the statement complying with the requirements in *ICOBS* 8.4.4R(1)(b)(ii); and
- (e) a 'historical policy' are to a United Kingdom commercial lines employers' liability insurance policy or other evidence of cover issued or renewed before 1 April 2011.

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8.4.3 G The purpose of *ICOBS* 8.4 is to assist individuals with claims arising out of their course of employment in the *United Kingdom* for employers carrying on, or who carried on, business in the *United Kingdom*, to identify an *insurer* or *insurers* that provided *employers' liability insurance* (other than certain co-insurance and excess cover arrangements) by requiring *insurers* to produce an employers' liability register and to conduct effective searches for historical policies. In particular it aims to assist ex-employees whose employers no longer exist or who cannot be located.

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Requirement to conduct effective searches for historical policies

- 8.4.14 R A firm with actual or potential liability for United Kingdom commercial lines employers' liability insurance claims must take reasonable steps to conduct effective searches of their records when they receive a request to carry out a search for a historical policy from persons falling into one of the categories in ICOBS 8.4.4R(2)(c) or a tracing office which meets the conditions in ICOBS 8.4.9R.
- 8.4.15 R A firm must put in place a written policy for complying with ICOBS 8.4.14R and operate in accordance with it. The policy must cover at least the following matters:
- (1) details of where the firm's historical policies are held or are likely to be held (including details of records which are archived or stored off site);
  - (2) details of the different types of records to be searched by the firm, such as electronic files, paper files, and microfiche; and
  - (3) details of how the searches will be carried out, including a description of how and in what circumstances the firm may decide not to conduct a search.
- 8.4.16 R (1) When a firm receives a request under ICOBS 8.4.14R, from a qualifying tracing office, it must provide a response, in writing, to the requestor within one month of receiving the request.
- (2) This rule does not apply when the firm has conducted a search but no historical policies have been found.
- (3) When a firm receives a request under ICOBS 8.4.14R, other than from a qualifying tracing office, it must provide a response, in writing, to the requestor within two months of receiving the request in accordance with ICOBS 8.4.17R.
- 8.4.17 R (1) Where a firm has established that a historical policy does exist, the response should confirm what cover was provided and set out any available information that is relevant to the request received.
- (2) Where there is evidence to suggest that a historical policy does exist, but the firm is unable to confirm what cover was provided, the response should set out any information relevant to the request and describe the next steps (if any) the firm will take to continue the search.
- (3) Subject to ICOBS 8.4.16R(2), where the firm has conducted a search, but no historical policies have been found, the response should set this out clearly and explain that reasonable steps were taken to conduct an effective search.

