

**PROFESSIONAL INDEMNITY INSURANCE (INSOLVENCY EXCLUSIONS) FOR
PERSONAL INVESTMENT FIRMS INSTRUMENT 2018**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give 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 1 June 2019.

Amendments to the Handbook

- D. The Interim Prudential sourcebook for Investment Businesses (IPRU(INV)) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Professional Indemnity Insurance (Insolvency Exclusions) for Personal Investment Firms Instrument 2018.

By order of the Board
15 November 2018

Annex

**Amendments to the Interim Prudential sourcebook for Investment Businesses
(IPRU(INV))**

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

13 Financial Resources Requirements for Personal Investment Firms

13.1 APPLICATION, GENERAL REQUIREMENTS AND PROFESSIONAL INDEMNITY INSURANCE REQUIREMENTS

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Limitations

13.1.20 R The policy must not be subject to conditions or exclusions which unreasonably limit its cover (~~whether by exclusion of cover, by policy excesses or otherwise~~).

13.1.20A R The policy must not limit cover which would otherwise be provided by the policy where:

(1) any of the following default:

(a) the firm; or

(b) a person or fund relevant to a potential claim; or

(2) a person other than the firm is entitled to make a claim on the policy.

13.1.20B R (1) IPRU(INV) 13.1.20AR does not limit the generality of the scope of IPRU(INV) 13.1.20R.

(2) In IPRU(INV) 13.1.20R and IPRU(INV) 13.1.20AR, “limit cover” includes limiting by exclusion, by policy excesses or otherwise.

(3) In IPRU(INV) 13.1.20AR, “default” means becoming:

(a) in default;

(b) insolvent or likely to be unable to satisfy claims against it;
or

(c) the subject of one or more of the proceedings listed in COMP 6.3.3R in the United Kingdom (or of equivalent or similar proceedings in another jurisdiction) whether or not a determination under COMP 6.3.3R has been made.

- 13.1.20C R The policy's terms must include a statement confirming that the policy complies with IPRU(INV) 13.1.20AR.
- 13.1.20D G (1) An example of a *person* or fund relevant to a potential claim (see IPRU(INV) 13.1.20AR(1)(b)) is a fund the *firm* advised its *customers* to invest in.
- (2) An example of a *person* entitled to make a claim under the policy (see IPRU(INV) 13.1.20AR(2)) is:
- (a) a *customer* of the *firm* or related *person* by virtue of the Third Parties (Rights Against Insurers) Act 2010; or
- (b) the *FSCS*.
- (3) One of the purposes of IPRU(INV) 13.1.20AR(2), taken with COMP, is that a claim on the policy by the *FSCS* is treated as each of the claims the *FSCS*'s claim represents, taken separately. For example, the *FSCS* may make a claim on the policy in relation to each claim under (2)(a) as a result of assignment.

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TP 1 Table: Transitional provisions applying to IPRU(INV)

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions coming into force
...					
<u>20</u>	<u>IPRU(INV) 13.1.20AR and 13.1.20CR</u>	<u>R</u>	<u>The <i>rules</i> referred to in column (2) only apply to a policy effected (including any renewal) after 1 June 2019.</u>	<u>From 1 June 2019 indefinitely</u>	<u>1 June 2019</u>