



JURISK!

June 2013 Volume 9 Issue 2
Risk Management Quarterly

A quarterly publication of Professional Indemnity Insurance Committee, Bar Council Malaysia



MAKING YOUR CLAIMS' PROCESS EASIER

Helping You Get Back on Your Feet

Managing Risks

The Bar Council has endeavoured to ensure that our Professional Indemnity Insurance ("PII") Scheme works well and Members get the full benefit of the Scheme.

It is an Insurance Scheme and it is a protection for Members in the event that you are faced with a suit for negligence or some other form of loss related to your practice. It does not cover ALL forms of losses you may suffer but it is fairly comprehensive.

From the time your notification is received by the Insurer, much of the work is then taken over by its appointed Claims Administrator, Echelon Claims Consultants ("Echelon"). But you must first notify! Without your notification, nobody will be able to provide you any assistance.

Even though Echelon takes over the conduct of defending your claim, this does not mean that you can rest easy. Many requests will be made of you, and these you will have to comply with. There will be case files and evidence to make copies of and provided to the Echelon whenever asked. You will have to give up some of your time to meet and discuss case strategy with Echelon and your appointed panel solicitor. You must comply with all requests and directives!

In this issue we provide an in-depth guide on how to respond to a claim. If you have any queries on any part of the process, please call the PII and Risk Management Department.

If you are currently in an unfortunate position of defending a claim and you find the services rendered to you by the relevant Stakeholders not to your expectations, feel free to call or email me at the contacts provided. One of our most important aims in the Scheme is to make the claim's progression a stress-free process in what is already a troubling time for Members.

Ragunath Kesavan

Chairperson

PII Committee

Email: ragunath@kesavan.com.my

Tel: 03-2095 2299



Dear Members,

In our last issue of *Jurisk!* (March 2013), we have explained the terms and conditions of the 2013 Certificate of Insurance ("COI"). We hope Members found the issue useful and it had shed some light to the clauses within the COI.

It is imperative for Members to send a notification to our Scheme Broker to trigger the policy as coverage is subject to policy terms and conditions. The Scheme Broker will then notify the Insurer. It is important that the Insurer receives notification within 60 days of the date of awareness or receipt of a claim or circumstance.

The next question that comes to mind is how to make a notification and how is the notification managed.

Our latest issue of *Jurisk!* explains three different backgrounds of when a notification should be made, ie claim, demand or circumstance. Members will find the information useful as the issue explains how these notifications are managed and the people involved in managing them.

If you are still in doubt, however, feel free to contact the Professional Indemnity Insurance and Risk Management Department and speak to our officers. Incidentally, we encourage Members to contact the Department if you have any questions or concerns and if you have any feedback to share with us. The Department can be reached directly by telephone at 03-2032 4511, or by email at pirm@malaysianbar.org.my.

Happy reading!
The *Jurisk!* Team

Getting Started! Workshop

The *Getting Started!* Workshop is a full-day workshop comprising of core sessions on crucial aspects of starting up one's own practice: managing accounts, litigation practice as well as conveyancing practice.

This Workshop is conducted by accounting professionals and senior legal practitioners. Comprehensive workshop kits are provided to all participants. Attending Members of the Bar will qualify for CPD points.

The Department will be organising the following *Getting Started!* Workshop on 5 Sept 2013 at Raja Aziz Addruse Auditorium, Bar Council Secretariat, Kuala Lumpur.

Risk Management For Staff Workshop

The *Risk Management for Staff* Workshop has been conducted since 2010, and covers communication, law firm accounts, office administration, and file and time management. The Workshop has been attended by office managers, paralegals, clerks as well as a few Members of the Bar and pupils in chambers. The main aim of the Workshop is to help law firm staff improve themselves in their daily job requirements. In addition, the Workshop exposes the risks emanating from the staff's daily routines, and highlights pitfalls to avoid, and offers workable strategies to keep in place.

The Department will be organising the following *Risk Management for Staff* Workshop on 21 Nov 2013 at Raja Aziz Addruse Auditorium, Bar Council Secretariat, Kuala Lumpur.

If you would like to pre-register for either workshop, please contact the Department as soon as possible. We encourage early registration in order to avoid disappointment as seats are limited, and sell out fast.

The Malaysian Bar Professional Indemnity Insurance

The Professional Indemnity Insurance (“PII”) Scheme for the Malaysian Bar was introduced in 1992. PII was made compulsory in the Legal Profession (Amendment) Act 1992 under section 78A. A Mandatory Scheme was established by the Bar Council for all Members of Malaysian Bar.

The Bar decided on a Scheme as we wanted to ensure that insurance was available to all practitioners despite their claims history. On behalf of Members, the Bar Council arranged for a Master Policy which indemnifies every advocate and solicitor who is permitted to practice.

The PII Committee of the Bar Council is responsible to study and review the efficiency of the current mandatory PII Scheme and negotiate new and better terms to make the Scheme more equitable across the board. The Committee is committed to improving the Scheme to maintain its sustainability and affordability, and to provide comprehensive coverage for Members of the Bar. In 2007 when the Scheme was revamped, the PII and Risk Management Department was set up to assist the Committee with its activities and as a platform for Members to get information on PII and risk management.

Other key players of the Scheme include the Broker, Insurer and Claims Administrator. The Broker is appointed to manage the Scheme through a tender process. And, in order to ensure the efficiency of handling claims, a Claims Administrator is appointed to the Scheme.

The Stakeholders of the PII Scheme

BAR COUNCIL

Professional Indemnity Insurance Committee

- Oversees the Scheme in general;
- Together with the Broker, negotiates with Insurer for better terms and policy coverage;
- Develops policies and guidelines pertaining to the Scheme;
- Develops risk management Programmes to complement the Scheme.

Professional Indemnity Insurance and Risk Management Department

- Supports all initiatives of the PII Committee;
- Implements the PII Committees’ policies and programmes;
- Develops risk management tools;
- Entertain queries and provides support to Members.

BROKER

Scheme Management

- Processes the renewals and applications of Firms into the Scheme;
- Provides support to Firms in dealing with PII matters.

Negotiating with Insurers

- On behalf of Bar Council, seek and negotiate with Insurers for best possible coverage.

Accepting Notifications

- Accepts all formal notification from Firms;
- Forwards notification to the Insurer.

INSURER

- The underwriter of the Scheme who undertakes to indemnify Members.

Claims Administrator

- Streamlines the claims process from notification to management of the claim;
- Acts as command centre between Insured Practice, Insurer, Panel Solicitor.

Broker: Jardine Lloyd Thompson Sdn Bhd

Jardine Lloyd Thompson Sdn Bhd ("JLT") manages the Scheme which includes processing PII renewals and applications of firms as well as receiving your notification of a claim or circumstance. When notifying JLT of a claim or circumstance, do so in writing and ensure the following is done:

1. Letter is written and signed by the Partner in charge;
2. Contains brief account of events that led to the claim materialising;
3. Letter is faxed or email to JLT. Speak to a personnel from JLT soon after to ensure that your notification was received.

Upon receipt of your notification, JLT will issue a letter acknowledging receipt of your notification and provide you with a Claims Notification Form.

Contact Details:

Jardine Lloyd Thompson Sdn Bhd
Suite 10.2, 10th Floor
Faber Imperial Court
21A Jalan Sultan Ismail
50250 Kuala Lumpur

Telephone: 03-2723 3388

Fax: 03-2723 3301

Email: pii_bc@jlt.com

Claims Administrator: Echelon Claims Consultants

Echelon receives IP's notification **on behalf of the Insurer** from JLT and thus will become the focal point in the administration and management of your claim. Echelon will respond to IP with a Letter of Acknowledgement which will inform IP that their notification has been received and that all relevant parties will act upon the matter on instruction from the Insurer.

Among other things, the Letter of Acknowledgement will contain the following:

1. A basic explanation on the coverage of the policy including its terms and conditions, as well as IP's obligations and duties under the COI.
2. A brief explanation of Base Excess and IP's obligation to pay up to their Base Excess amount for legal fees and damages.
3. That IP is to prepare all documents/evidence in support of the notification.
4. The IP's rights; other terms and conditions.

It is imperative that the IP reads and understands the content of this letter. Whenever in doubt, IP can always contact Echelon directly for further clarification.

Contact Details:

Echelon Claims Consultants Sdn Bhd
Suite 9.1, 9th Floor
Faber Imperial Court
21A Jalan Sultan Ismail
50250 Kuala Lumpur

Telephone: 03-2698 5033

Fax: 03-2693 8145

Email: admin_general@echelonasia.com



How Your Notification is Managed

We illustrate in a flowchart below, the normal course of events that take place when an Insured Practice (“IP”) is faced with a claim or circumstance.

<p>1. A claim can happen against the IP either in the form of:</p> <ol style="list-style-type: none"> 1. A Writ, Summon or any other form of legal action; or 2. Letter of Demand; <p>OR the IP is faced with a situation where he is made aware of an event or a circumstance that could lead to either No. 1 or No. 2 (above) in the future.</p>	<p>See below for brief description of each type of notification.</p>
<p>2. IP to notify the Scheme’s Insurer in writing through the Broker, Jardine Lloyd Thompson Sdn Bhd (“JLT”) as soon as possible but no later than 60 days of any claim made against them or their awareness of a potential claim.</p>	<p>We explain on Page 5 how firms are to notify the Insurer. All notifications are to be sent to our broker, JLT.</p>
<p>3. JLT will send the IP a letter acknowledging receipt of the IP’s notification. They will also provide IP with a Claims Notification Form which IP has to complete and return within the timeline specified. <i>Please ensure that you obtain a letter of acknowledgement from the Broker.</i></p>	<p>See page 7 for details and explanation on completing the Claims Notification Form.</p>
<p>4. Concurrently, JLT will forward your notification on to the Insurer, Pacific & Orient Bhd (“P&O”) and to the claims administrators, Echelon Claims Consultants (“Enchelon”).</p>	<p>Refer to Page 4 page to better understand the Stakeholders of the Scheme and their individual responsibilities.</p>
<p>5. Echelon receives IP’s notification from JLT and will issue IP a Letter of Acknowledgement which informs IP that they have received your notification.</p>	<p>See Page 9 on IP’s rights and obligations in dealing with Echelon and P&O.</p>
<p>6. Depending on the type of claim the IP is facing, P&O through Echelon will adopt different approaches in handling a notification.</p>	<p>See how various types of notification are managed on Page 8.</p>

Types of Notification

Writ/Summon

The receipt of such legal instruments means that a third party has already initiated legal proceedings against IP; and there will be tight deadlines to comply with.

Letter of Demand

Although not as formal as the receipt of a write, a summon or a letter of demand must be treated with the same level of urgency.

Circumstance

A circumstance or an event, or a chain of events that happened that gives cause for concern to the IP that an actual claim can actually materialise although at this point of time there may or may not have been any intimation by the party to sue. A verbal threat to sue can also amount to a circumstance. Please note that it is safer to err on the side of caution as notification protects you and you will not be penalised in any form or manner if you choose to notify.

When to Make a Notification

IP will have 60 days to notify a claim or a notifiable circumstance as described in Clauses 14(a) and (b) of the Certificate of Insurance ("COI"). It is however, encouraged that you do so immediately upon awareness. Claims or notifiable circumstances must be reported in writing to the Broker (Clause 14(c), COI). Failure to do so within the 60 day period may result in the Insurer declining your Claim.

There are no penalties or claims loading that will be imposed on IP in making a notification of a claim or merely on a notifiable circumstance that may or may not lead to an actual claim. It is for record purposes, and should the circumstance evolve into an actual claim, the Insurer will treat the said claim as if it had been made against you during the period of Insurance that you notified of the matter.

Claims loading is defined in Clause 39, COI: *In the event that we make a payment towards your claim or notifiable circumstance under this insurance, an additional premium (also referred to as the claims loading) will be applied upon renewal of your insurance. The additional premium will be calculated either as 5% of the claim amount paid by us or 5 times the 2013 premium whichever is the lower, subject to a maximum cap of up to 25% of the amount paid for that particular claim and will apply over a period of 5 years from the date of notification.*

You would however, be liable for any payments (towards defense costs or damages) up to the amount of your Base Excess.

What to expect in a Claims Notification Form

IP will receive a Claims Notification Form ("CNF") from JLT upon receipt of a notification. JLT will then forward your CNF to the Insurer, P&O and to the Claims Administrator, Echelon. Echelon will review your CNF, chronology of events and documents, and get back to you if the Insurer or the panel solicitor requires anything else. Meanwhile, IP should be in close contact with the panel solicitor.

In the form, you will have to provide all information that is required in the two pages of the same. They are:

Page 1 of the CNF

1. Name of Practice.
2. Firm Code – This is Item 3 of your Schedule of your COI
3. Address.
4. Telephone, fax and mobile telephone numbers and email address.
5. Are you notifying a
 - potential claim (this is a circumstance – see Clause 14b of your COI); or
 - claim – notice of demand; or
 - claim – writ/summon.
6. When and how you first became aware of this claim or potential claim – provide a narration of events.
7. Name of claimant/potential claimant.
8. Date the claim was received or date you became aware of a potential claim.
9. Claim amount/potential claim amount.

Page 2 of the CNF

1. Date summon/writ or case papers served on you.
2. Has your Firm entered Appearance. Answer Yes or No.
3. Has your Firm filed defence/reply. Answer Yes or No. If Yes, who filed defence (Firm or Firm's third party solicitor).
4. Developments since the writ/notice of demand. Answer Yes or No and if Yes, provide information on developments.
5. Provide details of practitioner/employee involved in the alleged act. Designation and identity of the person has to be provided.

Return the duly completed CNF and chronology of events to Echelon or JLT. For expediency, especially where a panel solicitor has been appointed, it is better for the IP to attach all the relevant documents to the chronology of events.



Sample workflow base on notifications

Receipt of a Writ/Summons/Other Types of Legal Action

1. The Insurer will appoint a panel solicitor from its panel of solicitors to represent IP in the action.
2. Ensures that all parties are aware of tight deadlines and work in cohesion with one another.
3. Appointed panel solicitor will liaise with IP to file the necessary court documents to defend IP; it is imperative that IP provides all relevant documents at an early stage so that the panel solicitor can mount an effective defence. The file strategy will be decided by the panel solicitor and the Insurer.
4. The suit will proceed to trial with the panel solicitor managing it; or if other party is willing, the matter can be mediated or in some cases settled out of court (especially where IP's liability is clear).
5. Concurrently, Echelon will monitor reports from the panel solicitor. If the IP has any issues to raise or discuss they can also inform Echelon or JLT.
6. Meanwhile the Insurer will determine coverage liability based on information then available (sometimes with a coverage solicitor) and determine the damages exposure.
7. A loss adjuster may be appointed where a case requires investigation especially where IP reports a fraud or embezzlement.

Receipt of a Letter Of Demand

1. The Insurer may appoint a panel solicitor to assist IP to reply to a letter of demand; quite often a proper response or clarification could result in the demand not developing into a suit. The panel solicitor may also arrange for a meeting with the aggrieved party to attempt a resolution.
2. Where no panel solicitor is appointed the IP is strongly advised to monitor the situation so that they can immediately inform Echelon if circumstances change and evolves from a likelihood of a suit or letter of demand into a suit.

Occurrence of an Event or Circumstance

1. The Insurer will open a file on your notification of a circumstance so that it is placed on record that IP notified during that particular period of insurance.
2. The IP will also be receive advise from the Insurer on corrective steps that they can take to resolve the situation and to prevent it from escalating.
3. The Insurer may also appoint a panel solicitor especially if the IP requires one to assist IP with resolving the situation.
4. Enchelon monitors at regular intervals with IP to ascertain developments of any legal action.



Other Matters to Keep in Mind

Full disclosure and co-operation with the Insurer

In order to successfully manage your notification, the Insurer and Echelon requires the fullest co-operation from IPs. Please read Clauses 15 to 17 of the COI to better that relate to this matter.

Below is a non-exhaustive list of the responsibilities of the IP post notification:

1. Ensuring the lawyer who was managing the case the claim stemmed from is always in communication with Echelon.
2. Prepare copies of all documents relating to the notification at IP's own costs and deliver them in a timely manner to Echelon or the panel solicitor or the loss adjuster (where one is appointed) whenever a request is made.
3. Being available to attend meetings and court appearances at IP's own cost and to do so in timely fashion.
4. Avoid from doing anything that would prejudice the Insurer's right in defending your claim such as not providing all relevant information, documents and data, and not attending meetings and court hearings.
5. Maintain a file of your own for this claim.
6. Collate any other information you may have that will help or benefit the defense of your claim.

Dispute with Insurer on whether to settle or defend the claim

There may be times when the IP will dispute the Insurer's methodology or strategy in conducting the notification and overall decisions. Clause 22, COI provides IP and Insurer with the choice of appointing a Senior Member of the Bar to decide the strategy but this option is subject to terms and conditions listed in Clause 23, COI.

Third Party Decisions

Below are three scenarios of disputes, complete with the relevant persons who will decide the outcome:

- **The type of work that is covered in the Policy** – This decision is left to the President of the Bar Council at the time in question.
- **If the claim notified should be settled or defended** through legal proceedings – A Senior Member of the Malaysian Bar will decide.
- **Disputes with Insurer's decision on policy liability** – A sole Arbitrator will be appointed by the President of the Malaysian Bar to decide.

Dissatisfied with services provided by the Broker, Insurer or Claims Administrator

IP who are unhappy or dissatisfied with the management of the claim or notification can always contact the PII & Risk Management Department's officers for further assistance.

Alternatively, the IPs can also contact the Chairperson of PII Committee for assistance.



Skim Profesional Indemniti Insurans Badan Peguam Malaysia

Skim Profesional Indemniti Insurans ("PII") bagi Badan Peguam Malaysia diperkenalkan pada tahun 1992. PII telah diwajibkan dalam Profesion Undang-Undang (Pindaan) 1992 di bawah seksyen 78A. Skim Wajib telah ditubuhkan oleh Majlis Peguam untuk semua ahli Badan Peguam Malaysia.

Skim ini telah diputuskan oleh Badan Peguam Malaysia bagi memastikan bahawa insurans terbuka kepada semua pengamal undang-undang walaupun mereka mempunyai sejarah tuntutan. Bagi pihak Ahli, Majlis Peguam mengatur untuk Polisi Induk yang melindungi setiap peguam bela dan peguam cara yang dibenarkan untuk beramal.

Dalam Majlis Peguam, Jawatankuasa PII bertanggungjawab untuk mengkaji kecekapan Skim Wajib PII semasa dan berunding terma baru dan lebih baik untuk memastikan Skim adalah saksama dan adil untuk semua Ahli. Jawatankuasa PII komited untuk meningkat dan mengekalkan kemampanan dan kemampuan Skim PII, serta untuk memberi perlindungan komprehensif kepada semua Ahli. Pada tahun 2007, Skim ini telah dirombak, Jabatan PII dan Pengurusan Risiko telah ditubuhkan untuk membantu Jawatankuasa PII dalam melaksanakan aktiviti-aktivitinya dan bertindak sebagai platform untuk Ahli mendapatkan maklumat mengenai PII dan pengurusan risiko.

Mereka yang turut terlibat dalam Skim ini termasuk Broker, Syarikat Insurans dan Pentadbir Tuntutan. Broker dilantik melalui proses tender untuk mengurus Skim ini. Bagi memastikan kecekapan pengendalian tuntutan, Pentadbir Tuntutan dilantik untuk Skim ini.

Pihak-pihak Berkepentingan Dalam Skim PII

MAJLIS PEGUAM

Jawatankuasa Insurans Indemniti Profesional

- Menyelia Skim secara umum;
- Bersama-sama dengan Broker, berunding dengan Syarikat Insurans untuk terma dan perlindungan polisi yang lebih baik;
- Membangunkan dasar dan garis panduan yang berkaitan dengan Skim;
- Membangunkan program pengurusan risiko untuk melengkapkan Skim.

Jabatan Insurans Indemniti Profesional dan Pengurusan Risiko

- Menyokong semua inisiatif Jawatankuasa PII;
- Melaksanakan dasar dan program Jawatankuasa PII;
- Membangunkan produk pengurusan risiko.
- Menjawab pertanyaan Ahli.

BROKER

Pengurusan Skim

- Proses pembaharuan dan permohonan oleh firma guaman ke dalam Skim;
- Memberi sokongan kepada firma guaman mengenai perkara-perkara berkaitan PII.

Berunding dengan Syarikat Insurans

- Bagi pihak Majlis Peguam, mencari dan berunding dengan Syarikat Insurans untuk perlindungan terbaik.

Menerima Pemberitahuan

- Menerima semua pemberitahuan secara rasmi daripada firma guaman.
- Mengemukakan pemberitahuan kepada Syarikat Insurans.

PEMEGANG INSURANS

Pihak yang menjamin Skim yang berjanji untuk membayar ganti rugi Ahli.

Pentadbir Tuntutan

- Memperkemas proses tuntutan dari pemberitahuan kepada pengurusan tuntutan.
- Bertindak sebagai pusat arahan antara Amalan yang Diinsuranskan ("IP"), Syarikat Insurans dan Peguam Panel.

Broker: Jardine Lloyd Thompson Sdn Bhd

Jardine Lloyd Thompson Sdn Bhd ("JLT") menguruskan Skim PII yang termasuk memproses pembaharuan PII dan permohonan daripada firma serta menerima pemberitahuan untuk tuntutan atau kemungkinan suatu tuntutan. Apabila membuat pemberitahuan kepada JLT mengenai tuntutan atau kemungkinan suatu tuntutan, buat secara bertulis dan pastikan perkara berikut dilakukan:

1. Surat ditulis dan ditandatangani oleh Rakan Kongsi yang bertanggungjawab;
2. Mengandungi ringkasan peristiwa yang membawa kepada tuntutan atau kemungkinan suatu tuntutan;
3. Surat itu dihantar kepada JLT melalui faks atau emel. Selepas menghantar surat pemberitahuan tersebut, hubungi kakitangan JLT untuk memastikan surat pemberitahuan anda diterima oleh mereka.

Setelah pemberitahuan anda diterima, JLT akan mengeluarkan surat perakuan penerimaan pemberitahuan anda dan memberi anda Claims Notification Form ("CNF").

Maklumat Perhubungan:

Jardine Lloyd Thompson Sdn Bhd
Suite 10.2, 10th Floor
Faber Imperial Court
21A Jalan Sultan Ismail
50250 Kuala Lumpur

Telefon: 03-2723 3388
Fax: 03-2723 3301
Emel: pii_bc@jlt.com

Pentadbir Tuntutan: Echelon Claims Consultants

Echelon menerima pemberitahuan IP daripada JLT, bagi pihak Syarikat Insurans dan dengan itu akan menjadi tumpuan utama dalam pentadbiran dan pengurusan tuntutan anda. Echelon akan membalas pemberitahuan IP dengan suatu Surat Penerimaan yang memaklumkan IP bahawa pemberitahuan mereka telah diterima dan semua pihak yang berkaitan akan bertindak ke atas perkara itu atas arahan Syarikat Insurans.

Antara lain, Surat Penerimaan akan mengandungi yang berikut:

1. Satu penjelasan asas polisi termasuk terma-terma dan syarat-syarat, serta tanggungjawab IP dan kewajipan di bawah COI tersebut.
2. Satu penjelasan ringkas tentang *Base Excess* dan kewajipan IP untuk membayar sehingga jumlah *Base Excess* mereka untuk yuran guaman dan ganti rugi.
3. Bahawa IP perlu menyediakan semua dokumen / bukti bagi menyokong pemberitahuan itu.
4. Hak-hak IP; terma-terma dan syarat-syarat lain.

Adalah penting bagi IP supaya membaca dan memahami isi kandungan surat ini. Seandainya ada keraguan, IP boleh menghubungi kakitangan Echelon secara terus untuk maklumat lanjut.

Maklumat Perhubungan:

Echelon Claims Consultants Sdn Bhd
Suite 9.1, 9th Floor
Faber Imperial Court
21A Jalan Sultan Ismail
50250 Kuala Lumpur

Telefon: 03-2698 5033
Fax: 03-2693 8145
Emel: admin_general@echelonasia.com



Bagaimana Tuntutan Anda Diuruskan

Dalam carta aliran di bawah, kami cuba memberikan gambaran urutan peristiwa-peristiwa yang berlaku apabila Amalan yang Diinsuranskan ("IP") berhadapan dengan tuntutan atau kemungkinan suatu tuntutan.

1.	Tuntutan boleh berlaku terhadap IP dalam bentuk: 1. Writ, Saman atau sebarang bentuk tindakan undang-undang; atau 2. Surat Tuntutan; ATAU IP berhadapan dengan keadaan yang mana dia mempunyai pengetahuan tentang kejadian atau keadaan yang boleh membawa kepada sama ada No 1 atau No 2 (seperti diatas) di masa hadapan.	Lihat di bawah untuk penerangan ringkas setiap jenis pemberitahuan.
2.	IP hendaklah membuat pemberitahuan secara bertulis kepada Syarikat Insurans melalui Broker, Jardine Lloyd Thompson Sdn Bhd ("JLT") secepat mungkin tetapi tidak lewat daripada 60 hari dari sebarang tuntutan yang telah dibuat terhadap mereka atau pengetahuan terhadap tuntutan yang berpotensi.	Dihalaman 11, kami menjelaskan bagaimana firma membuat pemberitahuan kepada Syarikat Insurans. Semua pemberitahuan hendaklah diajukan kepada Broker, JLT.
3.	JLT akan menghantar suratakuan penerimaan pemberitahuan kepada IP. Mereka juga akan membekalkan IP dengan <i>Claims Notification Form</i> yang perlu dilengkap dan dikembalikan dalam tempoh yang telah ditetapkan. Pastikan anda mendapatkan suratakuan penerimaan daripada Broker.	Rujuk halaman 13 untuk maklumat dan penerangan mengenai cara melengkapkan <i>Claims Notification Form</i> .
4.	Pada masa yang sama, JLT akan mengemukakan pemberitahuan anda kepada Syarikat Insurans, Pacific & Orient Bhd, ("P&O") dan Pentadbir Tuntutan, Echelon Claims Consultant ("Echelon").	Rujuk halaman 10 untuk memahami dengan lebih lanjut pihak-pihak berkepentingan dalam Skim dan tanggungjawab masing-masing.
5.	Echelon menerima pemberitahuan IP dari JLT dan akan mengeluarkan suatu Surat Penerimaan kepada IP yang mengesahkan bahawa mereka telah menerima pemberitahuan tersebut.	Rujuk halaman 15 tentang hak dan tanggungjawab IP ketika berurusan dengan Echelon dan P&O.
6.	Bergantung kepada jenis tuntutan yang dihadapi oleh IP, P&O melalui Echelon akan menggunakan pendekatan yang berbeza dalam menangani setiap pemberitahuan.	Lihat bagaimana pelbagai jenis pemberitahuan diuruskan pada halaman 14.

Jenis-jenis Pemberitahuan

Writ/Saman

Penerimaan instrumen undang-undang itu bermakna bahawa pihak ketiga telah memulakan prosiding undang-undang terhadap IP; dan akan ada tarikh akhir yang ketat untuk dipatuhi.

Surat Permintaan

Walaupun tidak formal seperti penerimaan writ atau saman, suatu surat permintaan perlu diuruskan dengan kadar segera yang sama.

Keadaan

Suatu keadaan atau peristiwa, atau rangkaian peristiwa yang berlaku yang mengkhawatirkan IP kerana tuntutan sebenar boleh menjadi kenyataan walaupun pada masa ini terdapat atau tiada sebarang petunjuk bahawa pihak ketiga tersebut akan mendakwa. Ancaman secara lisan untuk menyaman juga boleh dianggap sebagai suatu keadaan. Sila ambil perhatian bahawa adalah lebih baik untuk mengambil langkah berhati-hati dengan membuat pemberitahuan kerana ini dapat melindungi anda dan tiada hukuman akan dikenakan dalam sebarang bentuk atau cara jika anda memilih untuk berbuat demikian.

Bila Untuk Membuat Pemberitahuan

IP mempunyai 60 hari untuk memaklumkan suatu tuntutan atau keadaan yang boleh dilaporkan seperti yang dinyatakan dalam Fasal 14 (a) dan (b) Sijil Insurans ("COI"). Walaubagaimanapun, adalah digalakkan supaya berbuat demikian sebaik sahaja mengetahui. Tuntutan atau keadaan yang dilaporkan hendaklah dilaporkan secara bertulis kepada Broker (Fasal 14 (c), COI). Kegagalan untuk berbuat demikian dalam tempoh 60 hari boleh menyebabkan Syarikat Insurans menolak Tuntutan.

Tiada penalti atau *claims loading* yang akan dikenakan ke atas IP kerana membuat pemberitahuan sesuatu tuntutan atau keadaan yang dilaporkan yang mungkin atau tidak membawa kepada tuntutan sebenar. Pemberitahuan adalah untuk tujuan rekod, dan seandainya keadaan berubah menjadi tuntutan sebenar, Syarikat Insurans akan melayan tuntutan tersebut seolah-olah ia telah dibuat terhadap anda semasa dalam tempoh Insurans, sewaktu anda membuat pemberitahuan mengenai perkara tersebut.

Claims loading ditakrifkan dalam Fasal 39, COI: *In the event that we make a payment towards your claim or notifiable circumstance under this insurance, an additional premium (also referred to as the claims loading) will be applied upon renewal of your insurance. The additional premium will be calculated either as 5% of the claim amount paid by us or 5 times the 2013 premium whichever is the lower, subject to a maximum cap of up to 25% of the amount paid for that particular claim and will apply over a period of 5 years from the date of notification.*

Walau bagaimanapun, anda bertanggungjawab ke atas sebarang bayaran (ke arah kos pembelaan atau ganti rugi) sehingga amaun *Base Excess* anda.

Perkara-perkara yang Terdapat dalam *Claims Notification Form*

Setelah JLT menerima pemberitahuan, IP akan menerima Claims Notification Form ("CNF"). CNF ini akan diserahkan kepada Syarikat Insurans, P&O dan Pentadbir Tuntutan, Echelon. Echelon akan mengkaji CNF, kronologi peristiwa serta dokumen-dokumen, dan akan menghubungi anda sekiranya Syarikat Insurans atau Peguam Panel memerlukan maklumat lebih lanjut. Dalam pada itu, IP seharusnya berhubung rapat dengan peguam panel.

Dalam CNF, anda perlu mengisikan kesemua maklumat yang diperlukan dalam dua muka surat yang sama. Isikan:

Halaman 1 CNF

1. Nama amalan.
2. Kod firma – Ini terkandung di dalam Perkara 3 Jadual COI.
3. Alamat.
4. Telefon, faks dan nombor telefon bimbit dan alamat emel
5. Adakah anda membuat pemberitahuan tentang
 - tuntutan yang berpotensi (ini adalah *circumstance* - lihat Fasal 14b dalam COI anda); atau
 - tuntutan - notis tuntutan; atau
 - tuntutan – writ/saman.
6. Bila dan bagaimana anda mula-mula sedar akan tuntutan ini / tuntutan yang berpotensi - sediakan satu kronologi peristiwa.
7. Nama yang menuntut/penuntut berpotensi.
8. Tarikh tuntutan itu diterima atau bila anda sedar akan tuntutan yang berpotensi itu.
9. Jumlah tuntutan / amaun tuntutan yang berpotensi.

Halaman 2 CNF

1. Tarikh saman / writ atau kertas kes disampaikan kepada anda.
2. Sudahkah Firma anda memasuki Kehadiran. Jawab Ya atau Tidak.
3. Sudahkah Firma anda memfailkan pembelaan/ jawapan kepada pembelaan anda. Jawab Ya atau Tidak. Jika Ya, siapa yang memfailkan pembelaan (Firma atau peguam pihak ketiga).
4. Perkembangan sejak writ / notis permintaan. Jawab Ya atau Tidak dan jika Ya, berikan maklumat perkembangan.
5. Berikan butir pengamal / pekerja yang terlibat dalam kejadian itu. Jawatan dan identiti orang itu haruslah disediakan.

Kembalikan CNF dan kronologi peristiwa yang telah dilengkapkan kepada Echelon atau JLT. Untuk tidak membuang masa, terutamanya jika peguam panel telah dilantik adalah lebih baik bagi IP untuk melampirkan semua dokumen yang berkaitan dengan kronologi peristiwa.

Contoh aliran kerja berdasarkan pemberitahuan

Penerimaan Writ / Saman / Lain-lain Jenis Tindakan Undang-undang

1. Syarikat Insurans akan melantik peguam panel daripada panel peguam untuk mewakili IP dalam tindakan undang-undang tersebut.
2. Memastikan bahawa semua pihak sedar akan tarikh akhir yang ketat dan bekerjasama di antara satu sama lain.
3. Peguam panel yang dilantik akan berhubung dengan IP untuk memfailkan dokumen-dokumen mahkamah yang perlu dalam pembelaan IP, adalah penting bagi IP menyediakan semua dokumen yang berkaitan dari peringkat awal supaya peguam panel boleh menjalankan pembelaan yang berkesan. Strategi fail akan diputuskan oleh peguam panel dan Syarikat Insurans.
4. Saman itu akan dibicarakan dengan dikendalikan oleh peguam panel, atau jika pihak yang satu lagi bersedia, usaha pendamaian boleh dilakukan atau dalam beberapa kes diselesaikan di luar mahkamah (terutama di mana liabiliti IP adalah jelas).
5. Pada masa yang sama, Echelon akan memantau laporan daripada peguam panel. Jika IP mempunyai sebarang isu untuk dibangkitkan atau dibincang mereka juga boleh memberitahu Echelon atau JLT. Sementara itu, Syarikat Insurans akan menentukan liputan liabiliti berdasarkan maklumat yang tersedia (kadang-kadang dengan peguam liputan) dan menentukan pendedahan terhadap ganti rugi.
6. Seorang pelaras kerugian boleh dilantik bagi kes yang memerlukan siasatan terutamanya apabila IP melaporkan penipuan atau penyelewengan.

Penerimaan Surat Tuntutan

1. Syarikat Insurans boleh melantik peguam panel untuk membantu IP membalas surat tuntutan; selalunya balasan atau penjelasan yang bersesuaian boleh menyebabkan tuntutan tidak diteruskan menjadi saman. Peguam panel juga boleh mengaturkan pertemuan dengan pihak yang terkilan untuk cuba mencapai penyelesaian.
2. Jika tiada peguam panel yang dilantik, IP dinasihatkan untuk memantau keadaan supaya mereka boleh terus memaklumkan Echelon jika keadaan berubah dan berkembang dari satu kemungkinan atau surat tuntutan menjadi saman.

Kejadian atau Keadaan

1. Syarikat Insurans akan membuka fail tentang pemberitahuan kebarangkalian anda supaya boleh direkodkan bahawa IP telah memaklumkan dalam tempoh yang diinsurankan.
2. IP juga akan menerima nasihat daripada Syarikat Insurans mengenai langkah-langkah pembetulan yang boleh diambil untuk menyelesaikan keadaan bagi mengelak daripada menjadi semakin rumit.
3. Syarikat Insurans juga boleh melantik peguam panel terutamanya jika IP memerlukan seseorang untuk membantu IP menyelesaikan masalah tersebut.
4. Echelon membuat pemantauan secara berkala dengan IP bagi menentukan jika terdapat apa-apa perkembangan tindakan undang-undang.



Perkara-perkara lain yang Perlu Diingat

Pendedahan penuh dan kerjasama dengan Syarikat Insurans

Dalam usaha untuk menguruskan pemberitahuan dengan jaya, Syarikat Insurans dan Echelon memerlukan kerjasama sepenuhnya daripada IP. Sila baca Fasal 15 hingga 17 daripada COI untuk memahami lebih baik berkaitan perkara ini.

Tanggungjawab IP setelah membuat pemberitahuan termasuk seperti yang disenaraikan:

1. Memastikan peguam yang berkaitan tuntutan itu sentiasa berkomunikasi dengan Echelon.
2. Sediakan salinan semua dokumen yang berhubungan dengan pemberitahuan itu dengan ditanggung sendiri oleh IP dan hendaklah disampaikan dengan kadar yang munasabah kepada Echelon, peguam panel atau penyelaras kerugian (jika terdapat perlantikan) sekiranya diminta berbuat demikian.
3. Bersedia untuk menghadiri mesyuarat dan hadir ke mahkamah pada kos yang ditanggung oleh IP sendiri dan berbuat demikian dengan cara yang sebaiknya.
4. Elakkan daripada melakukan apa-apa yang akan memudaratkan hak Syarikat Insurans dalam membela tuntutan anda, seperti tidak menyediakan semua maklumat yang berkaitan, dokumen dan data, dan tidak menghadiri mesyuarat dan perbicaraan mahkamah.
5. Mengekalkan fail anda sendiri untuk tuntutan ini.
6. Mengumpul apa-apa maklumat lain yang anda mungkin ada bagi membantu atau memberi manfaat dalam pembelaan tuntutan anda.

Pertikaian dengan Syarikat Insurans sama ada untuk menyelesaikan atau membela tuntutan

Ada kalanya IP akan mempertikaikan kaedah atau strategi Syarikat Insurans dalam mengurus pemberitahuan dan keputusan keseluruhan. Fasal 22 COI, memberi pilihan kepada IP dan Syarikat Insurans untuk melantik seorang Ahli Kanan Majlis Peguam untuk menentukan strategi tetapi pilihan ini adalah tertakluk kepada terma dan syarat-syarat yang disenaraikan dalam Fasal 23 COI.

Keputusan Pihak Ketiga

Berikut adalah tiga senario pertikaian, lengkap dengan individu yang berkenaan yang akan menentukan keputusan:

- **Jenis-jenis kerja yang dilindungi dalam Polisi** – Keputusan ini dibiarkan kepada Presiden Majlis Peguam Malaysia pada masa tersebut.
- **Jika tuntutan diberitahu perlu diselesaikan atau dipertahankan** melalui prosiding undang-undang – Ahli Kanan Majlis Peguam Malaysia akan membuat keputusan.
- **Pertikaian dengan keputusan Syarikat Insurans mengenai polisi liabiliti** – Seorang Penimbang Tara tunggal akan dilantik oleh Presiden Majlis Peguam Malaysia untuk membuat keputusan.

Tidak berpuas hati dengan perkhidmatan yang disediakan oleh Broker, Syarikat Insurans atau Pentadbir Tuntutan

IP yang tidak berpuas hati dengan cara pengurusan tuntutan atau pemberitahuan boleh menghubungi pegawai-pegawai di Jabatan PII dan Pengurusan Risiko untuk bantuan lanjut.

Atau, IP juga boleh menghubungi Pengerusi Jawatankuasa PII untuk bantuan.



PI INSURANCE & RISK MANAGEMENT DEPARTMENT

Bar Council Malaysia

Suite 4.03A, 4th Floor, Wisma Maran

28 Medan Pasar, 50050 Kuala Lumpur, Malaysia

Tel: **03-2032 4511** Fax: **03-2031 6124**

Email: **pirm@malaysianbar.org.my**

BAR COUNCIL MALAYSIA

No 15, Leboh Pasar Besar

50050 Kuala Lumpur, Malaysia

Tel: 03-2050 2050

Fax: 03-2034 2825 / 2026 1313 / 2072 5818

Email: council@malaysianbar.org.my

Mysahra Shawkat Executive Officer

✉ mysahra@malaysianbar.org.my

Iznina Rafa Officer

✉ iznina@malaysianbar.org.my

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