

Legal Update

— Insurance

26 October 2009

Updated compensation and insurance arrangements for licensees

ASIC has released an updated version of Regulatory Guide 126 *Compensation and insurance arrangements for AFS licensees*.

The current PI requirements applicable to AFS licensees in relation to their retail clients will continue as is, subject to the following:

- no automatic run-off cover is to be required from 1 January 2010. Previously, it was proposed that from that date AFS licensees be required to obtain professional indemnity (PI) insurance policies that included up front 12 months automatic run-off cover. ASIC decided to remove the requirement as it is not available to AFS licensees in the current insurance market. ASIC will continue to monitor the availability of automatic run-off cover and may reassess its position should the market soften and automatic run-off cover become available.
- RG 126 clarifies that fraud cover is not required for licensees who are sole traders; and

- from 1 January 2010 the PI policy of an AFS licensee must be able to cover legitimate switching cases where a client is being switched from a fund or product that is not on an approved product list to another fund or product that is on the approved product list. This would usually only be of relevance financial planners whose PI policies may currently exclude cover for advice on products not on the approved product list. Such policies may need to be amended to take this new requirement into account.

Mark Radford
Partner

T: 02 8281 4442

E: mar@cbp.com.au