

Energy Liability (On and Offshore)

→ Distributor Guide
September 2024

**This guide is for intermediary
reference only:**

It does not contain the full terms and conditions of the contract of insurance. Full terms and conditions are within the policy documents; you can request to have a copy of these.

Background

Energy Liability is a core class within the Marine Liability book and has been written for over 20 years at Markel. It includes two sub-classes; Energy Onshore and Energy Offshore. The primary focus is Upstream energy business; however Markel began offering a composite line in 2019 for Upstream risks that include elements of Midstream and/or Downstream exposures and more recently standalone Midstream and/or downstream risks. Markel also writes Liability policies for the renewable energy sector.

By taking the time to understand the activities of our insureds and to subsequently identify the specific exposures faced, we are at the forefront of insuring a variety of diverse risks, many of which are complex.

Product design

Energy Liability insurance is designed to provide cover for liabilities imposed upon the insured by law or under an insured contract to third parties in respect of; property damage and or injury or illness or death, as well as providing coverage for third-party sudden & accidental pollution and also legal costs incurred by the assured whilst the claim is on-going.

This is written on a standalone basis, or part of a wider package, alongside first party risks. We offer both primary and excess policies. The excess policies can be written as a Bumpershoot that can be full follow of the underlying terms and conditions or typically on an umbrella wording. This policy includes the same cover as the primary general liability policy described above, as well as various other underlyings, including, but not limited to the following:

- ⊗ Auto Liability for vehicles carrying equipment and personnel around
- ⊗ Aviation Liability, typically non-owned for chartered aircraft. Typically min xs \$50m
- ⊗ Charterers' Liability (Offshore)
- ⊗ Contingent OEE (On & Offshore), linked to the Master Service Agreement
- ⊗ Employers Liability
- ⊗ General Liability including Product Liabilities & Completed Operations (On & Offshore)
- ⊗ Maritime Employers Liability (Offshore)
- ⊗ P&I for vessels or drilling rigs and their crew (Offshore)

Cover is provided on either an 'Occurrence' basis, or 'Claims Made'. The former provides coverage for incidents that happen during the policy period, regardless of when you file a claim. The latter is where the policy is designed to respond to claims that are made during the period of insurance, regardless of when the wrongful act that caused the claim took place (subject to any retroactive date that may apply).

Limits apply either on an any one claim basis or in the aggregate for the period of insurance, dependent upon the type of exposure.

Target market

In general, the target market for our Energy Liability product are commercial customers who meet the following criteria:

- ⊗ Operators and Non-operating partners
- ⊗ Drilling contractors
- ⊗ Service contractors and sub-contractors
- ⊗ US midstream/downstream companies (high excess only)
- ⊗ Offshore construction and decommissioning projects (maximum duration 72 months)
- ⊗ Renewables (wind and solar) – full cycle offering from construction to operational and decommissioning from an owner/operator basis only.

We are able to provide insurance solutions for a broad range of businesses and are happy to consider those that sit outside of these parameters (e.g. smaller operations), however this product is not suitable for:

- ⊗ Trucking companies
- ⊗ Non-US standalone midstream/downstream operations
- ⊗ Standalone battery energy storage

Scope of cover

Markel International's Energy Liability policies can be arranged with a number of different extensions to allow other types of business protection to be arranged under the same policy.

We tailor all aspects of each policy specifically to the individual risk, ensuring that you have the right cover for your client's exact needs.

We can offer cover for:

- ⊗ Contingent Commercial Liability (CGL), primary and umbrella
- ⊗ Oil Pollution Act, Certificate of Financial Responsibility
- ⊗ Offshore Construction (WELCAR Section II wording), including damage to existing property (DTEP)
- ⊗ Offshore Decommissioning

Product value assessment

Our product value assessment includes the cost to Markel International of providing the product, through the distribution channel which the product is sold, and a review of the product performance and the type and quality of services provided to the end customer.

We take into account the nature of the product and its cover, benefits and any limitations, the price paid by the end customer, together with any services provided. A wide range of factors are considered including historical and expected claims frequencies, declinatures, incurred and projected claims costs, plus scenario analysis including likely economic and climatic trends, along with customer feedback and complaints and any other relevant information.

We also consider how the premium is affected by the commission we pay the placing intermediary together with any fees that we may pay for additional services received.

This also applies where an add-on product (including premium finance) not manufactured by us is sold alongside, or forms a package with the distribution of our products. These may affect the value to the end customer and will need to be taken into your own consideration of value and must be proportionate to the benefits, cost and service provided.

This product may not be suitable for policyholders/risks that fall outside the target market. Please refer to the target market noted above.

Our assessment is that the product is overall suitable for the target market. There are exclusions and indemnity limits that apply and when distributing the product you need to ensure that the needs of individual policyholders are considered and that the policyholder can make an informed decision on whether the product is suitable for them and where applicable discuss individual policyholder requirements that may be outside of the standard exclusions or limits with underwriters.

We have grouped products together for the assessment where they are intended to deliver a similar outcome and the target markets are consistent. If any of our fair value assessments result in an outcome where we believe the product is not offering fair value to the end customers, we will engage with the relevant distribution channels to agree appropriate actions.

Distributor / partner remuneration and costs

- Commission levels agreed prior to placement
- Fee for Service arrangements should they be entered into between both parties
- No additional costs or fees applied, except for local taxes (where applicable)
- Any additional charges within the distribution chain may potentially erode the intended value of our product

Distribution strategy

Our Energy Liability insurance product has been designed for distribution by insurance intermediaries / partners that hold commercial agreements with us. They must have the appropriate level of understanding about the risks and exposures faced by their customers in the operation of their business.

The distribution strategy is considered appropriate for the target market with customers having the option to purchase these products through a distributor of their choice. These products are considered suitable for advised and non-advised sales, where seen and agreed appropriate by suitably skilled persons.

Conflicts of interest

On the basis that we:

- Have not delegated any claims handling duties to you
- Have not delegated any underwriting authority to you
- Are not remunerating you beyond the flat rate commission or fee for services provided, agreed between parties

We confirm that the product is free from any innate conflict of interest that would compromise you from putting customers interests first.

Distributors / partners responsibilities

You are reminded to assess fair value to your customers where you charge additional fees or where commission rebating takes place. Distributors / partners should consider whether their customers who are purchasing a Markel International product are being charged any additional fees that are not funded by the premium paid. If customers are being charged additional fees by any party in the distribution chain, this could impact the outcome of the fair value assessment.

If a distributor / partner identifies that a product is not providing fair value and this has been caused by the distributor's / partner's distribution arrangements, including its remuneration arrangements, the distributor / partner must immediately inform Markel International for appropriate action to be determined.

Markel International are satisfied that the product offers fair value to its intended Target Market subject to distributors / partners:

- Not charging customers additional amounts over and above the gross premium quoted by us without first determining that they do not have a detrimental effect on the value of the product.
- Ensuring that no duplicate cover exists or is caused by an add-on where that cover is already provided by the policy

Providing feedback

We welcome any feedback from our distributors / partners on the performance of our products. All feedback will be considered in our next product review. Also, if you believe that your staff would benefit from additional training on this product, please contact your representative at Markel International.

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