

Fee protection insurance

This guide is for intermediary / accountancy practices reference only:

It doesn't 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

Fee Protection Insurance (FPI) is a Policy provided to accountancy practices to insure their professional costs (hours worked) in dealing with an enquiry from HMRC into the tax affairs of a client of the practice.

FPI in the current format was designed following the introduction of the self-assessment tax regime in 1997. Every business must submit an annual Tax Return to make a Self-Assessment declaration of their tax liability. HMRC operate under a process now check later system and so will accept all declarations made but then open an enquiry into a number of Returns each year to check the accuracy of the declaration.

VAT Returns are submitted on a quarterly basis but follow the same self-assessment principle.

Individuals who are not in business will receive most of their income from employment which is taxed at source through the PAYE system. However, there is an annual obligation to notify chargeability to tax and so they will need to complete a Tax Return to make a declaration to HMRC if they have a tax liability from another source, such as, income from land & property, capital gains tax or other more transactional taxes.

Product design

The accountancy practice will always be the insurance policyholder, but the policy provided will depend on the regulatory status of the accountancy practice. Furthermore, the accountancy practice can decide whether to insure their entire client base or merely the clients that wish to subscribe for the cover.

The Policy will cover enquiries from HMRC arising into the main areas of tax where accountants act for their clients, namely;

Corporation Tax (CT), Income Tax (IT), Capital Gains Tax (CGT), VAT, Stamp Duty Land Tax and regional variations (SDLT), PAYE, IR35 & Inheritance Tax (IHT).

A risk assessment of each accountancy practice is undertaken prior to a bespoke quotation being provided.

We deal directly with the accountancy practice rather than through the broker channel and so consideration needs to be given to whether the accountant can provide an insurance product to their clients.

Client Protector (Insurance route)

To enable a client protector policy to be provided, the accountancy practice must either be authorised by the FCA or hold a Designated Professional Body (DPB) licence from their accountancy institute allowing the practice to be involved in insurance mediation.

The practice is the policyholder, but their clients are buying an insurance and are an insured party against the accountant's Policy.

Practice Protector (Service route)

The vast majority of accountancy practices are not regulated to be involved in insurance mediation and so operate a practice protector policy.

Under this route, the practice is the policyholder but the only insured party. This was developed in conjunction with the Institute of Chartered Accountants for England & Wales (ICAEW).

The existence of the practice protector policy allows the accountancy practice to offer a tax investigation service to their clients. The end client is NOT buying an insurance product and is NOT insured, they are buying a service from their accountant. The end client will never be involved in the notification or settlement of a claim.

All Client or Client Decide Cover

Irrespective of which policy is being operated the accountancy practice must decide whether they wish to provide cover for their entire client base (All Client) or merely those that pay for the cover (Client decide)

Accountancy practices generally don't want to fund the costs of the cover and so will write to their clients to invite them to subscribe to their tax investigation service or pay for insurance cover on an annual basis.

If a practice operates a client decide policy, they should never be out of pocket as they will only declare and pay a premium for a client that has agreed to take out the cover.

Conversely, where a policy is operated on an all-client basis, the practice will be charged a premium for every client and so they need to be conscious of cost recovery from subscribing clients.

This product is not suitable, and we will not look to write risks for:

- businesses established and/or operate outside of the UK
- companies with connections or links to sanctioned individuals or countries

Target market

There is a long-established market (20+ years) for the sale of FPI products accountancy practices.

Accountants know that any of their clients are at risk of enquiry from HMRC as some enquiries are undertaken purely on a random basis whilst others are selected by HMRC after a risk assessment process. Accountants are aware that if they do not hold a policy, any fees incurred in dealing with an HMRC enquiry will need to be charged to the client. If a client is subjected to an enquiry they will often try to 'blame' their accountant for it starting. Furthermore, if additional tax is due to be paid at conclusion of the enquiry, the client will have to pay HMRC and so may have little or no funds left to pay the accountant. Under either scenario, accountants regularly wait to be paid their fees or even discount/write off fees. Accountants will, therefore, take out a policy to protect themselves and their income in addition to providing protection to their clients. However, accountants will only want to take out a policy where there is demand from their clients to ensure they can fund the cost of the policy from client subscriptions to their service.

It is the fear of an enquiry from HMRC that drives end clients to subscribe for the cover and so the need for a policy by the accountant.

Scope of cover

The coverage is continually considered to ensure that the scope meets the requirements of the accountancy practice/their clients and adapts to any legislative changes or changes or within HMRC. Consideration is also given to any changes made by competitors to ensure it meets the requirements of the market.

The Policy will cover enquiries from HMRC arising into the main areas of tax where accountants act for their clients, namely;

- ✧ Corporation Tax (CT),
- ✧ Income Tax (IT),
- ✧ Capital Gains Tax (CGT),
- ✧ VAT,
- ✧ Stamp Duty Land Tax and regional variations (SDLT),
- ✧ PAYE,
- ✧ IR35,
- ✧ Inheritance Tax (IHT).

Policyholder services

Markel offer exclusive benefits and services for policyholders, providing practical advice and professional help from industry experts

- ✧ We provide free access to a Tax/VAT/Legal telephone helpline
- ✧ We also can offer to undertake a mailer service to accountants where we issue the invitation letters to their clients at no cost to the practice.

Product value assessment

Our product value assessment includes the cost to Markel of providing the product, the distribution channel by 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 will take into account the nature of the product and its cover, benefits and any limitations, the price paid by the end customer together with the services we provide. A wide range of factors are considered, not exhaustive but such as, 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

Where an accountant is operating a client protector policy (Sale of Insurance) we place a restriction on the amount of commission that can be paid to the accountant to ensure a fair outcome for the accountant's clients.

We also consider how the premium is affected by the commission we pay by a placing intermediary for the activities they conduct on our behalf 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 our products. These may affect the value to the end customer and will need to be taken into your consideration of value and must be proportionate to the benefits, cost and service provided

We wouldn't expect this product to provide fair value to:

- non-renewable covers for less than twelve months
- This product would not be expected to provide fair value to policyholders/risks that fall outside the target market

Where appropriate, we will group 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 fair value is not being provided, we will engage with the relevant distribution channels to agree appropriate actions.

Distribution strategy

Our fee protection insurance product has been designed for distribution directly to accountancy practices by our in-house team of Area Sales Managers (ASM). The ASM must have the appropriate level of understanding about the policy, risks and exposures faced by the clients of the accountancy practice and how the policy would react in the event of a HMRC enquiry.

The accountancy practice is provided with marketing collateral to assist with the promotion of the product which will explain the cover being provided and meet any regulatory requirements.

This product can also be sold through authorised intermediaries if required to form part of their insurance portfolio requirements.

Partner remuneration and costs

When our product is sold directly to accountancy practices, we do not pay any commission to any accountant operating a practice protector policy (Provision of Service), instead, the accountant will charge their clients for subscribing to the tax investigation service with their own service charge.

Where accountants operate a client protector policy (Sale of Insurance) Markel Tax will quote premiums net of any commission. The accountant will then add their earned commission to the insurance premium, but we have controls in place to ensure that commission levels set provide fair value.

When our product is sold through authorised intermediaries commission levels are agreed prior to placement.

Conflict of interest

We do not:

- delegate any claims handling duties
- delegate any underwriting authority
- pay commission to any accountancy practice providing a tax investigation service

Where insurance policies are sold, allow for commission to be paid greater than what Markel has set and deemed for value in the distribution chain. We confirm that the product is free from any innate conflict of interest that would compromise an accountant from putting their clients (the customer) interests first.

Distributor's responsibilities

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

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

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

- 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 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 let us know.

Please contact your Markel Relationship Manager.

Version control

Version	Updated By	Revision Description	Version Date
1.1	Rishi Bhanderi	Minor typo corrections.	09/08/23
1.2	Sonja Wigglesworth	Minor typo corrections.	05/08/24