



*Aon Corporate Risk Services*  
*Insurance Brokers*  
*Risk Consultants*

24 April, 2001

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Dear Stephen

**Outstanding HIH Insurance Group Claims  
 For Public Liability, Professional Indemnity, Malpractice, Directors &  
 Officers Company Reimbursement & Trustees Liability Insurance Policies**

You will be aware that HIH Insurance (HIH) were placed into provisional liquidation on 15<sup>th</sup> March 2001. As you have an outstanding claim with HIH, we felt that we should let you know what this means for you and what action we recommend in relation to that claim.

Whilst in provisional liquidation, HIH are unable to manage your claim in any way and cannot guarantee that they will be able to meet the cost of any claims. Thus you will need to act as a 'prudent uninsured' in relation to your claim and we have set out below some information that should help to answer some of your questions.

This information is presented in three sections:

- I. Litigated Claims - that is, where court proceedings have been issued.
- II. Unlitigated Claims – in cases where court proceedings have not been issued.
- III. Co-insured Policies – that is, where HIH was one of two or more insurers who shared a proportion of the insured risk.

**LITIGATED CLAIMS**

The Provisional Liquidator appointed to HIH has released a statement, which in part states:

- *HIH is currently unable to give any undertakings in relation to the payment of future costs.*
- *Solicitors appointed by HIH have no current instructions from HIH to defend any matters brought against you.*
- *HIH is unable to fund the legal costs and any judgements or settlements at this point in time.*
- *There is a serious doubt about the extent to which HIH will ultimately be able to pay any costs or claims.*
- *You are therefore financially exposed to such costs or judgements.*
- *You will rank as non preferential unsecured creditors in any future distributions by the Liquidator.*



You may have been approached by the solicitors appointed by HIH, advising that they are prepared to continue handling your claim. Aon has asked the solicitors who act for HIH to maintain their "HIH fee structure" for our clients. Whilst a number of legal firms have indicated some consideration may be given, in the main they reserve the right to determine their charges on a case by case basis.

Except for cases where there is doubt about indemnity or where the claim has been declined, there is some merit in your re-appointing HIH's solicitors to continue the conduct of the claim, as:

- These solicitors are experienced in insurance litigation and are already familiar with your claim.
- They are used to working with HIH, both in reporting and in the management of claims - particularly important at the time of seeking recovery against the Provisional Liquidator.
- The risk of any possible dispute relating to the management, settlement amount or the fees incurred, will be reduced or limited.

It is ultimately your choice whether to use the HIH solicitor or to obtain your own separate legal advice.

Whatever direction you wish to adopt in the appointment of solicitors, we would recommend that your solicitor copy Aon in on any reports and information to be sent by the solicitor to HIH.

### **UNLITIGATED CLAIMS**

If you have notified HIH of a claim or possible claim and have not yet received any response, the Provisional Liquidator has advised that you are required to act as a "prudent uninsured". That is, that you act as though you do not have any insurance (for the claim or possible claim), which may mean that you should appoint solicitors or investigators to assist with the defence or settlement of your claim.

Whilst the matter may not at this stage be litigated, HIH could in fact have appointed solicitors. If you decide to retain the HIH solicitors, then we recommend that you enter into a fresh retainer agreement on the basis that the solicitors will act solely on your behalf and not for HIH, and that the solicitors will be responsible for keeping HIH informed of the progress of the claim, on a regular basis.

With unlitigated claims, you should keep Aon informed of developments as they occur, so that we keep your files up to date and can also let HIH know what is happening.

### **CO-INSURED POLICIES**

The Co-Insurer/s will consider your claim under the terms and conditions of your policy to the extent of the proportion for which they were on risk. You will however be liable to contribute toward any costs incurred to investigate or defend the claim, together with any settlement payment, for the amount that represents HIH's proportion of the risk.

Additionally, the Co-Insurer/s may take over the management of your claim and you should discuss this matter with your Account Executive.



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Once your claim has been finalised, we will refer the matter to the Provisional Liquidator and have you listed as an unsecured creditor for the amount of the claim.

If you have any queries regarding any claims matters, please contact your Aon Account Executive.

Yours sincerely

**KEN WINKS**  
Consultant/Account Executive

