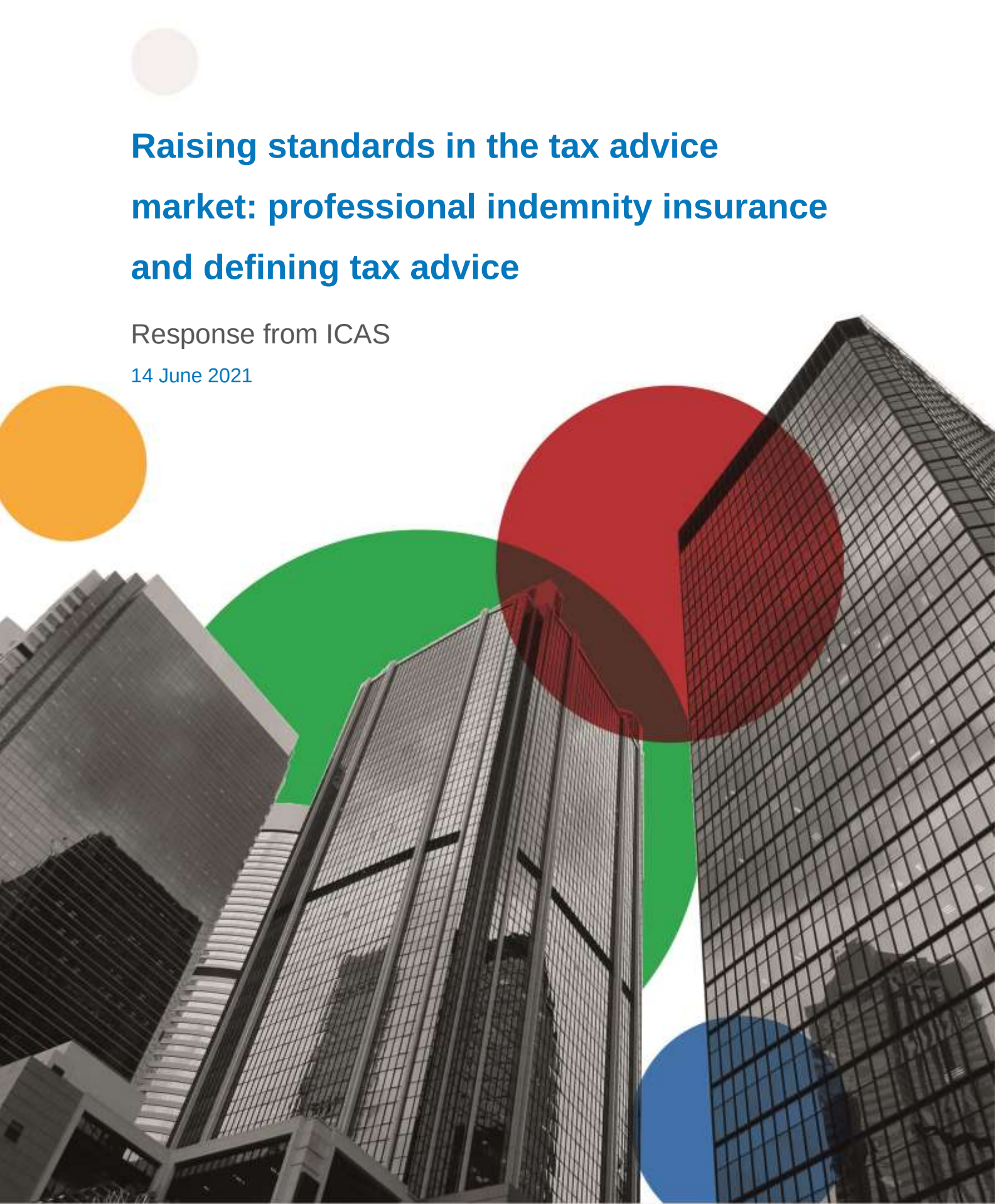




Raising standards in the tax advice market: professional indemnity insurance and defining tax advice

Response from ICAS

14 June 2021

About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 22,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 10,000 of our members are based in Scotland and 10,000 in England.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.
3. The ICAS Regulation Board is the body appointed by Council to be responsible for regulatory policy at ICAS and for maintaining professional standards amongst Members, CA Student Members, Affiliates and Firms. The Regulation Board is also a strategic body, discussing developments in regulation and closely monitoring ICAS' relationships with its oversight regulators.
4. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and regulatory system design, and to point out operational practicalities.

General comments

5. ICAS welcomes the opportunity to give its views and to respond to the consultation document '[Raising standards in the tax advice market: professional indemnity insurance and defining tax advice](#)', published by HMRC on 23 March 2021. We have contributed to the joint submission from the PCRT professional bodies, and we were also pleased to have the opportunity to meet with HMRC on 21 May 2021 to discuss the consultation.
6. In addition, ICAS will continue to contribute to other related strands of work in the 'Raising Standards' package and, in particular, to work with HMRC to explain the role we undertake to maintain and promote regulatory and professional standards.
7. This submission expands upon the general principles discussed in the joint PCRT submission; it also discusses our views in relation to most of the 30 questions in the consultation but excluding those addressed to insurers.
8. We are pleased to note that the foreword to the consultation document says the Government recognises that the majority of tax advisers are competent, adhere to high professional standards and are an important source of support for taxpayers. We also note that it is recognised that the market for tax advice is complex.
9. HMRC and agents need a good working relationship to facilitate taxpayer compliance. Trust and respect between agents and HMRC staff are vital, as is respect for the different relationships between the three parties: taxpayer, agent and HMRC.
10. Professional indemnity insurance (PII) is a requirement that is placed on ICAS members who are in practice; we believe it is a key feature of providing a professional service to have insurance should anything go amiss, which offers protection to both our members and their clients. This requires having adequate, suitable PII with appropriate oversight procedures to ensure full compliance. ICAS members are bound by the requirements of the [ICAS PII Regulations](#).

11. And, clearly, if PII is to become a statutory requirement for all of those offering tax advice, there needs to be a robust and watertight definition of tax advice. This will be key to making the proposal work.
12. ICAS supports Government efforts to address the minority of incompetent, unprofessional and malicious advisers whose activities harm their clients, reduce public revenue, and undermine the functioning of the tax advice market. It is in no one's interests to have such advisers.
13. The Government's goals to support taxpayers, raise standards of advice, and curb tax avoidance and its promotion throughout the market may be simple; however, we note that putting this proposal into practice may not be so simple.
14. In effect, the Government is outsourcing the decision about who can provide tax advice to the insurance industry because only those who can obtain PII will be able to give advice. There is the question as to whether this is appropriate; there also remains the question of who would oversee compliance to ensure that each tax adviser does hold PII which meets the minimum requirements – will this be HMRC?
15. From our conversations with insurers, we understand that one key component of the risk profiling of anyone who seeks insurance, is to check that they are appropriately qualified. It may be that those who are not qualified may find it difficult to get cover.
16. There is a lack of clarity in HMRC's aims with this reform and whether it is to raise standards or to enhance consumer redress in the event of poor advice. PII may form part of the solution, but it is only a part of a solution to a perceived 'standards gap' unless the PII market starts to operate as an indirect regulator (i.e., if firms cannot get PII).
17. This proposal may help to achieve Government aims in relation to those who are currently unaffiliated to the professional bodies and offer tax compliance services (and we understand that this may be about 15% of tax advisers, or about 10,000 in number). However, we are not convinced this will address those few who continue to promote aggressive tax avoidance schemes, often from offshore, or those who sell to the unrepresented, for example, disguised remuneration schemes.
18. We also note that many disguised remuneration schemes (which have fed into this debate about the need for protection of the taxpayer consumer/standards in the advice market) are used by unrepresented taxpayers. Consumer protection in relation to disguised remuneration needs to be addressed in a different manner.
19. We continue to recommend that the long-term aim should be to require that all tax agents should be qualified and should belong to one of the main professional bodies. There should be a transitional period, perhaps involving some form of affiliated status, to allow existing agents to adapt to the change.

Specific questions

Question 1: In your opinion, would introducing a requirement for anyone providing tax advice to have professional indemnity insurance satisfy the policy aims of improving trust in the tax advice market, by targeting poor behaviour and allowing taxpayers greater redress when things go wrong?

20. Within a professional body such as ICAS there are two key requirements that must be met by members in practice; these are to have PII in place and to undertake regular, ongoing professional development. PII as such will not necessarily create or improve trust in tax advice but the insurers do provide a constraint on poor behaviour/ advice because if a client seeks redress and compensation, which is paid for by the insurers, the PII costs will inevitably increase.

21. Much like a 'no claims' policy for car drivers, accountants and tax advisers will want to keep their PII costs down by not having claims against them. This is done by not giving poor advice; hopefully this ensures the advice is sound or, better still, good.
22. PII is a crucial element of the regulatory framework in ICAS to support professionalism in firms of Chartered Accountants. We would note however that the direct aim of PII is to protect advisers, rather than being aimed at taxpayers/consumers. As a consumer protection mechanism, it is an indirect measure.

Question 2: If the government introduces the requirement for professional indemnity insurance, what further steps would you recommend?

23. As well as introducing a general requirement for PII, the Government will need to ensure that suitable PII is obtained, so that there is adequate cover and that it will be there when a claim may be made (so it needs to be for more than the one year; run off cover will also be needed when a tax adviser leaves practice). This is further discussed in questions 15 and 16.
24. There will also need to be compliance measures including an annual confirmation of compliance to ensure that adequate PII is in place, with sanctions should it not be there. In other words, PII is a part of the wider regulatory framework.

Question 3: Are there any alternative options you would recommend?

25. We remain of the view that the best solution would be to use 'option E' as put forward in our response to the earlier Call for Evidence.

Question 4: Apart from the costs and potential effects outlined above, are there any other costs you foresee for advisers?

26. As noted in paragraph 28 of the consultation paper, there are potential risks and costs associated with this proposal. We agree that these risks exist and are of concern. Broadly, costs may well increase if more risky practices are brought into this market and may make cover more difficult to obtain.
27. An increased risk profile may taint the whole market, and not only those practices newly seeking insurance, thereby affecting and furthering a hardening of the PII market (which we have seen in recent years). This may increase the costs for the 85% of advisers who already hold PII.

Question 5: What are your experiences of obtaining professional indemnity insurance or of the market for professional indemnity insurance?

28. As a professional body it is a regulatory requirement that every Practising Certificate (PC) holder resident in the UK or Ireland must ensure that their firm has appropriate PII in place that meets the requirements of the ICAS PII Regulations. Across the Chartered Accountancy bodies (ICAS, ICAEW and CAI) there are common requirements for PII, although each body has tailored their regulations to the individual Institute.
29. The issue for some members may be the cost of PII if they have had previous claims.
30. In recent years, the PII market has hardened for members in practice. There are less insurers in this market and the remaining insurers are more cautious about practices with a significant tax base – premiums have been increasing over the last few years.

Question 6: If you are a tax adviser who practices without insurance, why is this?

31. This is not relevant to our member firms and principals.

Question 7. What factors do you take into account when pricing professional indemnity insurance?

32. Not applicable

Question 8. What are your views on the government's proposals for making information on promoters public? How would having more information about promoters of tax avoidance help you in making decisions about pricing or offering insurance?

33. Not applicable

Question 9: In your opinion, does the insurance market have the appetite and capacity to manage the new requirement?

34. Not applicable

Question 10. What checks do you carry out when you engage a tax adviser? Do you check whether they are insured?

35. We would hope that anyone would conduct due diligence before appointing an adviser, including a tax adviser, although it may be questionable how many do. In our risk management courses for members in practice, we also recommend that our members conduct due diligence before taking on any client - it should be a two-way relationship.

36. Under the terms of the [Provision of Services Regulations 2009 \(SI 2009/2999\)](#) advisers who are subject to requirements to have PII are required to disclose information about the insurance and in particular the name of the insurer and the territorial coverage of the insurance. The regulations require prescribed information to be provided to the prospective client in good time before the conclusion of a contract to provide services, or where there is no written contract, before the service is provided. The regulations are not prescriptive how the information is provided but this is often included in one or more of a letter of engagement, terms of business, letterheads, websites, notices displayed at offices and other marketing material.

Question 11. Do you have any experience of making claims or complaints against a tax adviser for bad advice that you would be happy to share with us?

Question 12. Do you think there are any lessons on how complaints are handled in similar industries that we can learn to help improve redress?

37. In relation to questions 11 and 12, ICAS members who offer tax advice are subject to the practice regime; there is information about [Practice Monitoring visits](#) with the aim of sharing experience and educating members on the key issues identified and further upholding standards.

38. The ICAS Investigation Committee issues a [public annual report](#) covering the operation of the ICAS investigations each year, which provides statistical information on the number and nature of complaints investigated by ICAS, setting out outcomes and timescales. It aims to provide ICAS Members and the general public with a greater understanding of the nature and scale of the complaints process, and hopefully greater confidence that issues of concern are considered and determined appropriately. Each year, ICAS would expect to receive and investigate a handful of complaints relating to the tax advice offered by our Members.

39. ICAS will take disciplinary action where there is sufficient evidence of a failure to observe the standards expected of our Members and further information on this may be found on the [ICAS website](#). We have applied disciplinary sanctions before as a result of conduct or competence concerns in connection with tax work. For complainants, redress is often closely associated with financial compensation, which is not a potential outcome of our disciplinary process (whether by way of award from ICAS, or by ordering the ICAS Member to make a payment). When considering a complaints process more generally, great emphasis has to be placed on proportionality, with the ability to deal more swiftly with lower-level concerns (e.g. through a conciliation process).

Transparency is also increasingly important, with practitioners and their representatives increasingly likely to challenge the decision-making process.

Question 13. What is the minimum level of cover you recommend, and why?

40. Where a firm's gross fee income is less than £600,000, the [ICAS PII Regulations](#) require a minimum level of 2.5 times its gross fee income for the previous accounting period, subject to a minimum level of £100,000.
41. The annual minimum limit of indemnity shall be £1.5m for any one claim and in total.
42. Larger firms with 50 or more partners can make their own arrangements.
43. It should be noted that these are minimum requirements that the Chartered Accountancy bodies (ICAS, ICAEW, and CAI) deem appropriate but some firms, due to the range of services they offer, may seek more than the minimum cover.

Question 14. What activities should it be mandatory to cover, and why?

44. ICAS members who are required to have PII cover need this for all public practice because inevitably there is an exposure to risk across all paid-for services.
45. If a new mandatory requirement for PII is brought in for tax advice then, clearly, the activities that need PII cover will be dependent on the definition of 'tax advice'. We discuss this further below in question 21 onwards.
46. As a general principle, a principal and their firm should have PII cover for all services/activities provided to the public on a paid-for basis.

Question 15. Should the government set mandatory minimum or maximum levels of: Cover, run-off cover, and excess

Question 16. What levels should these be?

47. In relation to questions 15 and 16, minimum standards of PII cover vary across the professional bodies, largely because each professional body may have a different membership profile (e.g., tax focused or general accountancy practice) and governance and supervisory arrangements (in terms of levels of member firm inspection requirements and oversight). There would therefore need to be careful consideration given to what the mandatory PII cover should be. It should not enable a low, and inadequate, cover to firms.

Cover

48. Care needs to be taken in setting the levels of PII cover and it should be broadly consistent with those levels already set by the main tax related professional bodies. Problems could arise for the majority of tax advisers who are PB members and already hold PII, based on the requirements prescribed by their PB, if new statutory limits are set that are:
 - Lower, so that PII cover for those currently deemed to be problematic in terms of their standards of tax advice would be set lower than that required for other advisers. It could lead to the PBs reducing their requirements, or there would remain an unlevel field of operation.
 - Higher, which could result in all advisers, including the 85% who already have adequate cover, needing to increase their cover, and hence costs. We note that at no stage has a problem been identified with the existing levels of PII cover.
49. As a part of the compliance regime, consideration should be given to delegating oversight to those professional bodies that require of their members PII which has appropriate minimum cover.
50. The Institutes have an approved list of participating insurers that meet the requirements of the minimum approved policy wording and members/firms must obtain PII cover from a participating insurer.

Run-off cover

51. We consider that run-off cover is an essential element of PII requirements. ICAS requirements are that run-off PII must be held for a minimum of two years after a practice ceases, but a member should use best endeavours to obtain compliant run-off cover for a further four years.

Excess

52. ICAS PII Regulations permit firms to hold a maximum, aggregate excess of £30,000 times the number of principals in the firm.

Question 17. Should the government specify what advice must be covered by the policy? What advice do you think should be covered?

53. See our response to question 14 above.

Question 18. Are there any other insurance requirements the government should require?

54. We have no comments in relation to this question.

Question 19. Who should be required to hold the insurance? Should it be the firm, the principal, everyone who is acting as a tax adviser?

55. PII should be the responsibility of both the principals and the firm and should cover all employees involved in the giving of tax advice.

Question 20. What impact do you think setting minimum mandatory levels of cover would have on: the market including availability of insurance? Affordability?

56. As discussed in question 4 above, this will depend on the insurance industry's view of the risk attaching to those tax advisers who currently do not have PII and whether the risk attaches to individual premiums or is spread across all tax advisers.

57. There are concerns that this move could result in increased premiums for all concerned.

Question 21. We intend to model the definition of who the requirement will apply to on one of the definitions currently extant in legislation. What a) benefits and b) issues are there with using the Dishonest Tax Agent definition or the Money Laundering regulations definition? Do you have a preference or alternative and why?

58. There are attractions in using an existing statutory definition of 'tax advice' because it is already there, it would not add another different set of boundaries, and hence should provide certainty and less scope for disputes.

59. It is important that the definition is sufficiently clear so that it provides certainty to both advisers and consumers on whether a particular activity falls within the need for PII.

60. If a wide definition is wanted, and which the Government favours (see paragraph 52 in the consultation), it will need to be sufficiently wide to include, for example boutique firms specialising in a particular activity, but not so extensive that it catches a wide variety of peripheral and low risk activity.

61. It may be that there are certain niche areas of tax advice, such as with R & D claim services, or umbrella companies, that would provide a test scheme for whether a proposed definition of 'tax advice' encompasses the tax advisers that HMRC wishes to include in mandatory PII requirements. In our view, R&D firms (whether claims service or advisory) are giving tax advice – they are advising on how much R&D to claim in accordance with the tax law. Umbrella companies may be more difficult, however, as it may be a question of whether wider tax advice is given or it's simply setting up a company.

62. The advantages of using an existing statutory definition include:
- These already exist in statute.
 - People are accustomed to working with these definitions, particularly the AML definition.
 - Each definition is brief and because in the AML definition there is simply one wide ranging principle it ought to be all encompassing.
63. The disadvantages of using one of these definitions include:
- While the breadth of the existing definition in the money laundering regulations is useful, it may require further explanation and examples of which services are within scope for PII purposes and which are outside, for example, if there is a desire for this to encompass software provision.
 - Adoption of any pre-existing statutory definition carries the risk that the definition could be changed by an occurrence within the regime from which the definition was borrowed (for example a legislative change or a judicial ruling in relation to the AML or dishonest agent regimes).

Question 22. What activities do you think should be excluded from the requirement for compulsory professional indemnity insurance and why?

64. In order to identify who should hold PII, it will be necessary to define what constitutes 'tax advice'. In reaching a definition of 'tax advice' there are some potential grey areas, which will need clarification by the Government and to be scoped in or out of the definition. These include tax software, pro bono work and employee tax information.

Tax software

65. There should be detailed consideration given to whether tax software providers are providing 'tax advice'. This is going to be a critical area for the future, especially given the Making Tax Digital proposals some of which can include 'nudges', and sophisticated AI that can direct actions.
66. Consideration should be given to whether any proposed definition would separate out between, say, the following types of software:
- Processing of data and transmission
 - Prompts and nudges – and whether these are tax advice
 - Sophisticated AI that can direct behaviours dependent on given answers (such as the CEST tool).
67. In general, if the provision of tax software is sold as a product to enable a principal/ a firm to undertake tax work, then we think there is a strong argument that this is 'tax advice' (as in effect the tax software is telling the principal/firm what to do and therefore advising on how to treat transactions for tax purposes).
68. In relation to submission services or bridging software, where someone is simply submitting data, then it is unlikely to be tax advice. If calculation software is used, i.e. a product that calculates say payroll (and hence PAYE/NICs) there is less clarity; the software does work out the tax but some may not view this as 'tax advice', whilst others may do so.

Pro-bono work and advice in a charity context

69. In general, the starting point for 'tax advice' and the related professional indemnity insurance is that there needs to be a contractual relationship between the taxpayer and the adviser. However, if consumer protection is important then it may be that not all pro-bono work should be excluded from the definition.
70. We have no evidence to add to the debate regarding the quality of tax advice provided by voluntary groups/advice agencies and whether there is need to scope these agencies into the definition.

71. There are a number of questions around the tax aspects of charities, and whether these may be included in any definition of tax advice, that may need to be addressed, including:
- Would it include basic advice to charities on the operation of Gift Aid schemes?
 - Would it include other advice to charities on issues such as the limits on non-charitable trading and when a trading subsidiary is needed? Much guidance on these issues comes from umbrella bodies in the charity sector who would not see themselves as offering tax advice.
 - What about charities themselves advising donors about the tax implications of donating under gift aid or making a legacy gift?
 - Charities that offer general financial advice to address issues of poverty (e.g. benefits advice) have to help people understand what income is taxable - is that tax advice? (Sometimes this may include helping people with limited digital skills to complete a self-assessment tax return (though not as an agent)).

Employee tax information

72. An employer providing RTI information or P11D information to an employee should not be considered to be providing tax advice. The employer is simply fulfilling a statutory obligation to employees, albeit they may be applying tax rules to do so. We agree with the analysis in paragraph 55 of the consultation paper that where employees are doing something for their employer, this should be completely out of scope of tax advice; we anticipate that this would equally apply to the exclusion of cases where an employee of one member of an affiliated group provides tax support to another group company.

Question 23. Would there be any benefit in having different minimum requirements for different activities?

73. No - this would be unhelpful. It may also cause confusion amongst consumers if there are different minimum standards of cover for different activities.
74. In terms of regulatory requirements, the minimum is generally tied to fee income which is probably an efficient correlation with risk and exposure. Tax fees for a standard tax return are likely to be significantly less than for, say, tax advice around estate planning. Where difficulties may arise is if there are attempts to require PII in a 'tax advice' model that is an incidental part of something else, such as financial services (and discussed further in the question below).

Question 24. What benefits or issues would there be in considering the financial services regulatory distinction between advice and guidance for tax advice?

75. We consider that the distinction in Financial Services between 'advice' (making recommendations as to the action the client should take) and 'guidance' (information is provided but does not draw conclusions) when applied to tax services is not necessarily helpful to consumers. It may be difficult in tax to draw a clear dividing line between the two and, for instance, where types of tax guidance, or elements of it, fit in.
76. In terms of 'guidance' there are different levels, some of which may constitute 'tax advice'. Three levels of guidance come to mind:
- Paid-for technical material such as Tolley's online
 - General guidance that is specifically about tax such as HMRC's own
 - Totally general material ('Alexa – what is corporation tax?').
77. In relation to Financial Services regulation and its potential interaction with any new tax advice definition (and hence PII requirement), consideration may also need to be given to whether all tax advice is included no matter how incidental it may be to the overall advice. Furthermore, the application of PII requirements also needs to take account of regulatory overlap for externally regulated persons (in particular FCA regulation which is not referenced directly in this document).

78. In Annex C, the potential definition of tax advice is very broad and includes the following examples:
- A family office advising on wealth and investment management for a high net worth family, including the tax implications of any recommended actions.
 - A financial adviser, who in the course of providing investment advice to a client, advises on the most tax efficient ways to invest.
79. Where tax considerations are outlined as part of financial advisory activity, whether in the context of an externally regulated investment management or financial planning activity by an FCA authorised firm, the tax element is more likely to be 'guidance' from an FCA perspective rather than 'advice' and should be excluded from any PII tax advice definition. There is also a risk of regulatory overlap as in any event consumer protection in respect of any 'tax advice' is provided by external regulation by the FCA in these instances of financial service provision.

Question 25. What benefits or difficulties do you foresee with the inclusion of a provision around UK taxation in the definition?

80. The definition should include advice given which is related to UK taxation; without this the proposed measure is unlikely to be effective. And as has been seen in the pandemic, working from home can be outwith the UK so that UK tax advice can easily be supplied from overseas. It is therefore important that this is addressed, although any difficulties may lie in enforcement.
81. The ICAS PII regulations include such a provision.

Question 26. Do you agree with the 3 elements of enforcement?

82. Yes. In order to be effective, the proposed measure that all tax advisers should have adequate PII, needs to be enforced and this will need a mechanism to check advisers have insurance, meaningful and effective consequences for those operating without PII, and visibility of policy.
83. In our view, taxpayers who may be exposed to poor advisers do not always know what questions to ask and, for instance, many do not know about the distinctions between different professional bodies or whether an 'accountant' is qualified or not. It is unlikely that part of their check list would be to ask about PII, otherwise they would do this already.
84. Also, as we discuss in question 10 above, under the terms of the [Provision of Services Regulations 2009 \(SI 2009/2999\)](#) there is already a legal requirement in place for advisers who have PII to disclose information about the insurance.
85. We support the publication of those who HMRC discover are not complying with the PII requirement, and also the sanctions imposed. It is a moot point, however, whether this will be much used by taxpayers when looking to appoint a new adviser.

Question 27. What are your views on the enforcement options described above?

86. The issues around conducting effective compliance and enforcement arise if the requirement for mandatory PII is wider than any obvious checkpoint or conditionality, such as being an agent. How will HMRC, or any other regulator, check that all have PII?
87. Paragraph 70 discusses tying checks to those who are agents. Paragraph 71 suggests the possibility of linking to AML compliance but neither of these will pick up those who operate at one remove from any interface with HMRC, which is a significant weakness and would undermine the objectives of the proposals if the aim is in part to tackle promoters of tax schemes.

Question 28. Do you agree that advisers who already hold professional indemnity insurance as it is required by their professional or regulatory body should automatically satisfy the new requirement? How could we check?

88. Yes. We believe that advisers who are required to hold PII under the rules of their professional body should automatically satisfy the new requirement. We welcome the suggestion in paragraph 68 that this would be the case; any other course of action would be a wasteful duplication of compliance measures.
89. Given that members in practice who belong to ICAS must hold appropriate PII, it should not be necessary for HMRC to undertake further checks; there would simply need to be a check that the adviser is an ICAS member who holds a practising certificate.
90. If in the course of any enquiries etc, HMRC found any ICAS member without PII then we would expect HMRC to report them to ICAS under the terms of the Memorandum of Understanding (under CRCA 2005, s 20) as this would clearly be in breach of our rules and, on the face of it, liable to investigation and disciplinary measures.

Question 29. The government's ambition is for HMRC to share information about the adviser with the client digitally. What are your views of this?

91. This proposal may need further teasing out because:
- It is not clear what type of information it is envisaged might be shared.
 - There may be GDPR considerations.
 - It would be difficult for HMRC to identify all advisers (unless they are agents).
 - Many taxpayers engage an agent in order to disengage themselves from a direct relationship with HMRC.
92. We would support the re-instatement of information on gov.uk about choosing a tax adviser and with links to recognised professional bodies. (This information used to be available but is currently housed on the CCAB website, but it is less accessible in this location.)

Question 30: What effects do you foresee of introducing the requirement for everyone at the same time?

93. We note the comments in paragraph 79 about pressures on customs intermediaries due to the current changes at the borders, but this might be the very reason that mistakes occur and PII is needed (assuming that the intermediaries do not already hold it).
94. More generally, we think that if this proposal is to be subject to a staggered roll out, then it should commence with those where the risks are greatest.
95. However, a full rollout across the tax advice market would be best, with simultaneous requirements across the tax advice sector, to provide clarity and certainty for both consumers and to businesses within the sector.

ICAS PII regime – an update to Annex B of the HMRC consultation document

ICAS, ICAEW and CAI have very similar PII requirements and operate a joint advisory panel with insurers.

	ICAS (and also ICAEW and CAI)
Regulatory requirements	ICAS – PII regulations (Note - each of the three professional bodies have their own PII regulations – each set of regulations is tailored to each institute, but they have common requirements)
Latest version	March 2020 (ICAS)
When is cover required?	Members who hold a practising certificate and are engaged in public practice in the UK / Republic of Ireland Where individuals / firms carry on audit and other activity that is regulated by ICAS under statute
Tax work included?	Yes, as part of ‘public practice’ – and see our guidance about when members are considered to be in practice
Territorial extent	Worldwide excluding US and Canada
Participating insurers required	Yes
Brokers – do members have to use a particular broker/are any recommended?	No
Minimum level of cover required.	Yes – the minimum required limit of indemnity is 2.5 times a firm's gross fee income for the previous accounting period, subject to a minimum of £100,000 and a maximum of £1.5m per claim and aggregate. Larger firms (50 or more partners) can make own arrangements.
Where not already stated are levels of indemnity per claim or aggregate?	The limit of indemnity is on a ‘per claim and aggregate’ basis
Level of excess permitted and whether this is per claim or aggregate.	A maximum of £30,000 per principal in the aggregate.
How is cover for defence costs dealt with (inclusive or exclusive)?	Defence costs are exclusive of the limit of indemnity that is available to meet claims.
Is cover subject to minimum terms and conditions?	Yes – minimum approved wording.
Insurance cover declined - procedure and time limits for member notification and PB procedure on receipt of information	Firms that can demonstrate ‘declinature’ or ‘constructive declinature’ can apply for cover in the Assigned risks pool (ARP) for up to 2 years. (‘Declinature’ is where cover is not available in the commercial market; ‘constructive declinature’ is where cover is available, but at a cost that could jeopardise the financial stability of the firm). Firms that cease public practice while in the ARP can access a further 2 years’ cover for run-off purposes. Normally, firms may only remain in the pool after 24 months at the discretion of the Joint Advisory Panel (see below).

Extended Policy Period if cover declined?	Yes – under the minimum approved wording, participating insurers are required to provide a 30 day Extended Policy Period if they refuse renew cover and the insured is unable to obtain alternative, compliant terms.
Run-off	Compulsory – two years Best endeavours – following four years
Monitoring	Annual return declaration; reviews by monitoring departments
Enforcement	Disciplinary action See ICAS Guidance on Sanctions (1 January 2020) page 24.
Easements	Various, but must be approved by the PII committee.
How does the body oversee the PII rules	ICAS – Authorisation Committee.
How does the body liaise with insurers?	Joint Advisory Panel It includes representatives from ICAS, ICAEW and CAI and four insurers. It meets twice a year.

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