

CNA Hardy/BIBA Excess of Loss Scheme – Insurance Act 2015

BIBA are delighted to announce that, following discussions with their Excess of Loss Scheme provider, CNA Hardy has agreed an enhancement to their wording for the benefit of BIBA members and their customers in relation to the Insurance Act 2015.

The common standard market practice for Excess of Loss wordings is to include a Condition requiring the primary Insurer to pay their full limit of indemnity before any cover is granted under the Excess policy. This means that an Excess policy would not respond whenever a proportional settlement was applied by the primary Insurer, under the Insurance Act 2015.

CNA Hardy have enhanced their BIBA Scheme Excess of Loss policy to respond to a loss that exceeds the primary limit of indemnity, even though the primary insurer has applied a proportionate remedy to their portion of the loss and not paid the full amount of the primary indemnity limit. CNA Hardy retain their own Insurance Act General Condition within their wording.

For example –

PL Loss - £8million

Primary Insurer PL limit of indemnity - £5million

CNA Hardy BIBA Scheme Excess Layer PL limit of indemnity - £5million in excess of primary £5million

Primary Insurer applies proportionate remedy of 90%, but in this instance CNA Hardy decide not to apply any remedy -

Primary Insurer will pay - £4.5million (£5million loi x 90%)

CNA Hardy will pay - £3million

Insured will pay - £0.5million

In the absence of an enhanced Excess wording, the non-CNA Hardy Excess insurer would not be obliged to make a payment as the Primary layer has not been exhausted and it would fall upon the Insured to pay £3.5million of the £8million loss.

CNA Hardy has further agreed that they will deal with any new claims reported to them on the basis of their new enhanced wording.

Members are reminded that the CNA Hardy Scheme for Excess Layer Public, Products and Employers' Liability has the ability to underwrite limits up to £20million in excess of the primary limit for organisations with turnover not exceeding £50million. CNA Hardy can provide short-term or longer terms policies to ensure that their policy falls in line with the primary insurer. Please see – <https://www.biba.org.uk/members/biba-schemes/excess-public-product-liability/>