

Policy Wording – Canopius 04/04

CANOPIUS FINANCIAL ADVISERS' PROFESSIONAL INDEMNITY INSURANCE

- Notes:
1. *You should read this policy carefully and check that it meets your needs. If you have any queries, you should contact the intermediary (if any) through whom you arranged this policy.*
 2. *Requirements for Professional Indemnity Insurance for Personal Investment Firms are set out in the Interim Prudential Sourcebook for Investment Businesses published by the FSA. You should check that you comply with the FSA's Rules. No representation or warranty is made by Underwriters or by Collegiate Management Services Ltd. as to whether or not this policy complies with the requirements of the FSA.*
 3. *Various words and phrases have a standard meaning within this policy and such definitions and interpretations are as set out in Section 6. Headings and notes are for information purposes only and are not to be construed as part of the policy wording.*

Section 1 - Insuring Clause

In consideration of the Assured having agreed to pay the premium shown in the Schedule, and in reliance upon all information supplied by the Assured prior to the inception of this policy which is hereby incorporated into the policy and agreed to be the basis of this contract of insurance, Underwriters agree, subject to the Excess and to the other terms, conditions and exclusions of this policy, to indemnify the Assured, up to the Limits of Indemnity, as stated in the Schedule, for:

1.1 Legal Liability

any Claim for compensation and/or damages (including claimant's costs and expenses and Legal Defence Costs where such costs have been incurred with Underwriters' prior written consent) first made against the Assured and notified to Underwriters during the Period of this Policy which the Assured may become legally liable to pay in consequence of:

- 1.1.1 any Negligence in the exercise and conduct of the Assured's Professional Business by the Assured;
- 1.1.2 the dishonesty, fraudulent, criminal or malicious act or omission of any Employee of the Assured who is not a principal, partner or director of the Assured;
- 1.1.3 any libel, slander or defamation uttered by the Assured in the exercise and conduct of the Assured's Professional Business.

1.2 Loss of or Damage to Documents

In the event of physical loss of or damage to any Documents which are the property of the Assured or in the care, custody or control of the Assured or for which the Assured is legally liable discovered during the Period of this Policy:

- 1.2.1 reasonable and necessary costs and expenses incurred with Underwriters' prior written consent in replacing, restoring or reconstituting any Documents;
- 1.2.2 any legal liability which may arise in consequence of the physical loss of or damage to such Documents.

1.3 Financial Ombudsman Service

Awards made against the Assured by the Ombudsman appointed under Part XVI Financial Services and Markets Act 2000 under the Ombudsman's compulsory jurisdiction in respect of Claims first made against the Assured and notified to Underwriters during the Period of this Policy to the same extent as if such awards had been judgments of the courts, provided that Underwriters' maximum liability in respect of any award of the Ombudsman shall be £100,000 (which shall be part of and not in addition to the Limits of Indemnity).



Section 2 – Limits of Indemnity and Excess

- 2.1** Underwriters' maximum liability under all the insuring clauses of this policy in the aggregate inclusive of Legal Defence Costs shall be the Aggregate Limit of Indemnity stated in the Schedule.
- 2.2** Underwriters' maximum liability in respect of any Claim or number of Claims arising from or attributable to one originating cause shall be the Single Claim Limit of Indemnity stated in the Schedule. Underwriters will pay Legal Defence Costs in addition to the Single Claim Limit of Indemnity provided that if the amount required to settle any Claim is more than the Single Claim Limit of Indemnity Underwriters shall only be liable for the proportion of the Legal Defence Costs which the Single Claim Limit of Indemnity bears to the total amount paid or payable to settle the Claim. The liability of Underwriters in respect of all Claims and Legal Defence Costs shall not however exceed the Aggregate Limit of Indemnity in any one Period of this Policy.
- 2.3** The Assured shall pay the Excess shown in the Schedule which shall be the first amount of each and every Claim by each and every claimant, including Legal Defence Costs. Underwriters' liability shall only be in excess of this sum.

Section 3 - Claims Conditions

The following claims conditions and the more general conditions listed under Section 4 apply to this policy:-

- 3.1** **Conditions 3.2 to 3.4 below are conditions precedent to any liability of Underwriters under this policy.**

Discovery of a Claim or Circumstance.

- 3.2** a) If during the Period of this Policy the Assured shall receive any Claim or discover any loss of Documents, the Assured shall give immediate written notice to Underwriters.
- b) If during the Period of this Policy the Assured shall discover any Circumstance, the Assured shall give immediate written notice to Underwriters (in any event within 30 days of discovery and not later than expiry of the Period of this Policy) supplying full particulars of the name of the potential claimant, the date of the Assured's Negligence, the amount of the likely Claim, the Assured's Negligence, the name of the person who committed the relevant act, error or omission on behalf of the Assured and such further information as Underwriters may require.

Underwriters agree that any such Circumstance provided it has been notified to them in accordance with the preceding paragraph and which subsequently gives rise to a Claim after expiry of this policy shall be deemed to be a Claim first made during the Period of this Policy.

Conduct of Claims

- 3.3** In the event of a Claim or the discovery of any Circumstance, the Assured shall not admit liability and no admission, offer, promise or payment shall be made by the Assured without Underwriters' prior written consent.
- 3.4** Following notification of a Claim or notification of any Circumstance, Underwriters shall be entitled if they so desire to take over and conduct in the name of the Assured the investigation, defence or settlement of any such matter. The Assured shall give all such assistance as Underwriters may reasonably require and if any Claim is settled the Assured shall forthwith pay the Excess. If Underwriters make any payment which is the responsibility of the Assured by reason of the Excess, the Assured shall forthwith reimburse such sum to Underwriters and Underwriters may set-off such sum against any other monies payable by them under this policy.



Claim Settlements

- 3.5** Underwriters may at any time pay to the Assured in connection with any Claim or series of Claims under this policy the Limit of Indemnity (less any sums already paid) or any lesser sum for which such Claim or Claims can be settled, and upon such payment Underwriters shall not be under any further liability in respect of such Claim or Claims except for costs and expenses incurred prior to such payment.

Misleading information

- 3.6** In the event of Underwriters at any time being entitled to avoid this policy ab initio by reason of any materially inaccurate or misleading information given to Underwriters in the written proposal form or at any time during the negotiations leading to the inception of this policy or as a result of failure to disclose material facts before the inception of this policy or for any other reason, Underwriters may at their election and in their absolute discretion instead of avoiding this policy ab initio give notice to the Assured that they regard this policy as being in full force and effect except that there shall be excluded from the indemnity provided hereunder any Claim which has arisen or which may arise out of any circumstance which ought to have been disclosed to Underwriters in the written proposal or which arises out of materially inaccurate or misleading information given to Underwriters.

Small Claims Handling

(Conditions 3.7 to 3.11 inclusive shall apply only where the policy Schedule or an Endorsement thereto, makes reference to the operation of a 'Small Claim Handling Clause')

- 3.7** Conditions 3.2 and 3.3 shall not apply to any Claim or Circumstance of the types specified in the Schedule where, in the reasonable opinion of the Assured, the quantum (including any Legal Defence Costs) arising from such Claim or Circumstance is unlikely to exceed the Small Claims Handling Limit stated in the Schedule or endorsed thereto.
- 3.8** In respect of Claims or Circumstances of the types specified in the Schedule (and/or Endorsement) where, in the reasonable opinion of the Assured, the quantum (including any Legal Defence Costs) arising from such Claim or Circumstance is unlikely to exceed the Small Claims Handling Limit the Assured shall maintain a record showing in respect of each matter:
- (a) Date of the Assured's first awareness
 - (b) Name of adviser
 - (c) Brief background details of matter
 - (d) Date of relevant act, error or omission
 - (e) Name of claimant/potential claimant
 - (f) Likely or actual quantum or amount paid if matter settled
 - (g) Status (whether outstanding or closed).

The Assured shall permit Underwriters to inspect this record and any files in respect of any of the matters referred to in it at any time on reasonable notice and the Assured shall supply a copy of this record to Underwriters if requested to do so. In any event, the Assured shall supply a copy of this record to Underwriters via Collegiate Management Services at 11 months after the inception date of this Policy.

- 3.9** Prior to settling any Claim the Assured shall obtain from the claimant a signed form of discharge in full and final settlement of the Claim.
- 3.10** In the event of the quantum of any Claim or Circumstance exceeding or in the reasonable opinion of the Assured being likely to exceed the Small Claims Handling Limit, then the Assured will immediately advise Underwriters and Conditions 3.2 and 3.3 of the Policy shall apply. Alternatively, and solely at their discretion, Underwriters may agree that the Assured may retain conduct of the Claim or Circumstance.

- 3.11** If the Assured can establish to Underwriters' reasonable satisfaction that they have taken reasonable steps to quantify each matter accurately and to have dealt with them in a professional and business like manner, Underwriters will not seek to argue that they have been prejudiced in the event that the Assured's handling or assessment appears to be incorrect with the benefit of hindsight. Further, in the event that any matter which is subject to declaration under Condition 3.7 subsequently results in a payment being required under the policy, Underwriters agree that they shall not allege with the benefit of hindsight that their position has been prejudiced by any prior actions of the Assured in the defence or settlement of any such matter unless any such actions, in the opinion of an arbitrator to be mutually agreed upon by the Assured and Underwriters, are considered to have been unreasonable and prejudicial to Underwriters' interests. In such circumstances Underwriters shall only be liable for those amounts which would have existed in the absence of actions by the Assured and which in the opinion of the arbitrator are deemed unreasonable and prejudicial to Underwriters' interests.

Section 4 - General Conditions

The following general conditions apply to this policy:-

- 4.1 Other Insurance or Indemnity**
If the Assured is, or but for the existence of this policy would be, entitled to indemnity under any other policy or policies or other indemnity arrangements, Underwriters shall not be liable except in respect of any sum in excess of the amount which is or which would have been payable under such other policy or policies.
- 4.2 Subrogation**
Following notification of a Claim or notification of any Circumstance, the Assured grants to Underwriters all rights of recovery against any parties from whom a recovery may be made. However, Underwriters agree to waive any rights of recovery against any Employee or consultant or former Employee or former consultant of the Assured unless liability has resulted in whole or part from any act or omission on the part of such person which is dishonest, fraudulent, criminal or malicious or where such person had or was required to have any other insurance or indemnity arrangements.
- 4.3 Fraud, Dishonesty and Criminal Acts**
In the event of any Claim or loss arising out of or contributed to by the dishonesty, fraudulent, criminal or malicious act or omission of any person:
- (a) No person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission will be entitled to indemnity;
 - (b) There shall be deducted from any amount payable under this policy any monies which but for such dishonest, fraudulent, criminal or malicious act or omission would be due from the Assured to the person committing or condoning such act or omission;
 - (c) The Assured shall, if Underwriters so request, take all reasonable steps to effect recovery of the loss from any person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission or from the estate and/or from the legal representatives of such person and any such recovery shall be paid to Underwriters;
 - (d) No indemnity shall be provided for any act or omission by any person after the discovery by the Assured of reasonable grounds for suspecting dishonesty on the part of such person.
- 4.4 Governing Law**
This contract is governed by Laws of England and Wales.



4.5 Contracts (Rights of Third Parties) Act 1999

The parties to this contract are Underwriters and the Assured. A person who is not a party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract but this does not affect any right or remedy which exists or is available apart from that Act.

4.6 Authorisation and notices

The Assured named first in the Schedule is hereby authorised to act on behalf of all other Assureds for all purposes under and in connection with this policy, including the giving and receiving of all notices and the amendment of any terms and conditions of this policy.

4.7 Cancellation

This policy is cancelled immediately in the event of the Assured's Part IV permission under the Financial Services and Markets Act being suspended or revoked or the Assured being declared in default by the Financial Services Compensation Scheme. Upon cancellation Underwriters shall return the unearned premium for the remainder of the Period of this Policy calculated pro rata on a daily basis provided there shall be no return of premium if the Assured have notified any Claim or Circumstance.

Section 5 - Exclusions

5.1 This policy shall not indemnify the Assured in respect of the following:-

- a) Circumstances Known at inception**
Any Claim arising from any Circumstance of which the Assured was aware or ought reasonably to have been aware at any time prior to the inception of this policy, whether notified under any other insurance or not.
- b) Prior policies**
Any Claim notified under any policy of insurance held by the Assured in force prior to the inception of this policy.
- c) Fraud, Dishonesty & Criminal Acts**
Any Claim:
 - (i) directly or indirectly contributed to or caused by any dishonest, fraudulent, criminal or malicious act or omission of any Employee, principal, partner or director of the Assured or anyone under a contract of or for service with any Assured except as specifically insured under Insuring Clause 1.1.2;
 - (ii) from any Assured arising from or contributed to by any dishonest, fraudulent, criminal or malicious act or omission committed or condoned by that Assured;
 - (iii) arising from or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of any principal, partner or director of any Assured.
- d) Death or Bodily Injury or Loss or Damage to Property**
Any Claim for death or bodily injury or for loss of or damage to any tangible property (except Loss of Documents insured under Insuring Clause 1.2) or loss of use thereof except where such loss or damage arises directly out of professional advice provided by the Assured.



- e) **Liability involving Transport or Property owned by the Assured**
Any Claim arising solely out of the ownership, possession or use by or on behalf of the Assured of any aircraft, watercraft, hovercraft, motor vehicle or trailer or any buildings, premises or land or that part of any building leased, occupied or rented by the Assured or any property of the Assured.
- f) **Liability arising out of Employment**
Any Claim arising out of injury, disease, illness or death of any Employee or any Claim arising out of any dispute between the Assured and any present or former Employee or any applicant for employment being brought under or relating to the Employment Rights Act 1996 or equivalent legislation in countries other than England or brought under the express or implied terms of that Employee's contract of employment.
- g) **Supply of Goods**
Any Claim against the Assured arising out of the supply by the Assured of any goods or products manufactured, constructed, altered, repaired, treated, sold, supplied or distributed by the Assured.
- The exercise and conduct of the Assured's Professional Business shall not be excluded by this exclusion even where the exercise and conduct of such Professional Business is held to be a "product" or "goods" in consequence of the Consumer Protection Act 1987 or equivalent legislation in countries other than England.
- h) **Regulatory Expenses**
Any costs and expenses incurred by the Assured in meeting any regulatory requirement or responsibility other than Legal Defence Costs in respect of a Claim.
- i) **Loss of Documents – Magnetic or Electrical Media**
Any Claim arising from the physical loss of or damage to Documents which are stored on magnetic or electrical media unless such Documents are duplicated on magnetic or electrical media with the intention that in the event of loss or damage the duplicate can be used as the basis for restoring the Documents to their original status.
- j) **Cyber Liability**
Any claim, loss, liability or expense arising directly or indirectly out of: -
(a) corruption, erasure, theft, alteration of, or
(b) access or lack of access to, or
(c) interference with
any electronically held data of the Assured wholly or partly caused by any computer virus or by any person who is not a Principal, Partner, Director or Employee of the Assured.
- k) **Directors' and Officers' Liability**
Any Claim arising from those liabilities consequent upon being a director, officer or trustee of the Assured (as opposed to those duties and functions carried out in furtherance of the Assured's Professional Business) or from the acceptance of any directorship or trusteeship in any other company.
- l) **Jurisdiction and Territorial Limits**
Any Claim brought outside the United Kingdom or arising from any act or omission done outside the United Kingdom or any proceedings for the enforcement of any judgment or award made outside the United Kingdom.
- m) **Punitive, Penal or Exemplary Damages**
Any punitive, penal or exemplary damages whatsoever or any fines or penalties or Legal Defence Costs incurred in proceedings for fines, penalties, punitive or exemplary damages



- n) Retroactive Date**
Any Claim arising from professional business undertaken prior to the retroactive date (if any) specified in the schedule, or if none specified prior to the date of the commencement of trading as declared by the Assured to Underwriters on the proposal for insurance.
- o) Appointed Representatives and Employees**
Any Claim:
(i) against the Assured in respect of any act or omission by any Appointed Representative not named in the Schedule;
(ii) against the Assured or against any Employee or Appointed Representative of the Assured in respect of any act or omission done prior to becoming or after ceasing to be an Employee or Appointed Representative of the Assured named first in the Schedule.
- p) Controlling Interest Exclusion Clause**
Any Claim made against any Assured by:-
(i) any other Assured;
(ii) any entity in which the Assured exercises a controlling interest; or
(iii) any entity exercising a controlling interest over the Assured by virtue of their having a financial or executive interest in the operation of the Assured
- unless such claim is made against the Assured for an indemnity or contribution in respect of a Claim first made by an independent third party.
- q) Nuclear Risks**
Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:-
(i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
(ii) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- r) Pollution**
Any claim directly from pollution.
- s) War and Terrorism**
Loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;
1. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
2. any act of terrorism.

For the purpose of this exclusion an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This exclusion also extends to loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to 1 and/or 2 above.



If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

Section 6 - Definitions and Interpretations

The following words and phrases are used in this policy. In certain instances the words may be used in their plural or singular form. Whenever they appear they are deemed to have the meaning set out below:-

6.1 Appointed Representative

Shall have the meaning given by section 39 Financial Services and Markets Act 2000.

6.2 Assured

Shall mean:-

- a) (i) The Professional Practice[s] whether corporate, sole trader or partnership named in the Schedule;
- (ii) The present, former or future partners and present or future directors of such Practice;
- b) the Employees or former Employees of such Practice;
- c) the estate, heirs, executors and assigns in bankruptcy of those parties mentioned in sub-paragraph (a) of this definition;
- d) the Appointed Representatives named in the Schedule.

6.3 Circumstance

Shall mean information discovered by the Assured which suggests that a Claim by an identified claimant is more likely than not to be made against the Assured. Such information does not constitute a circumstance merely because the Assured has sold or advised in relation to a product or class of investment that is the subject of adverse press comment or regulatory investigation.

6.4 Claim

Shall mean:-

- (i) any demand for compensation and/or damages or assertion of a right against the Assured which is communicated by a claimant to the Assured; or
- (ii) any complaint required to be dealt with under the *Dispute Resolution: Complaints* section of the FSA Handbook.

6.5 Documents

Shall mean deeds, wills, agreements, records, written or printed books, letters, certificates or written or printed documents and/or forms of any nature whatsoever and shall include computer software and systems records (electronic data shall be deemed to be physical property for the purposes of this policy). This definition excludes bearer bonds, coupons, bank or currency notes or other negotiable paper.

6.6 Employee

Shall mean a person employed by the Assured under a contract, whose remuneration is subject to deductions of tax under the PAYE system. Self-employed or contract hire persons engaged by the Assured and acting under the control and management of the Assured in connection with the Assured's Professional Business shall be deemed to be employees for all purposes of this policy.

6.7 Legal Defence Costs

Shall mean all external legal defence costs and expenses incurred by or on behalf of the Assured with Underwriters' prior written consent in the investigation, defence or settlement of any Claim or potential Claim. Legal Defence Costs do not include salaries, remuneration costs and expenses of the Assured or the Assured's own staff.

6.8 Negligence

Shall mean a negligent act, a negligent error or a negligent omission.



- 6.9 Period of this Policy**
Shall mean the period shown in the Schedule plus any extension to the period which may be granted by Underwriters.
- 6.10 Professional Business**
Shall mean the business activities which are listed in the Proposal.
- 6.11 Underwriters**
Shall mean those insurance companies or Lloyd's syndicates subscribing to this policy and detailed in the attachment to this policy. Underwriters' obligations under this contract are several and not joint and are limited solely to the extent of their individual proportions as set out in the attachment to this policy. The subscribing Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of their obligations.
- 6.12 United Kingdom**
Shall mean the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man.



THIS IS TO CERTIFY that in accordance with the authorisation granted under contract number 6839/E02293HAA to Collegiate Management Services Limited by Certain Underwriters at Lloyd's whose definitive numbers and the proportions underwritten by them, which will be supplied on application, can be ascertained by reference to the said Contract which bears the Seal of Lloyd's Policy Signing Office and in consideration of the payment of the premium specified herein, the said Underwriters are hereby bound, severally and not jointly, their Executors and Administrators, to insure in accordance with the terms and conditions herein or endorsed hereon.

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

If the Assured shall make any claim knowing the same to be false or fraudulent, as regards amount or otherwise, this Certificate shall become void and all claim hereunder shall be forfeited.

In witness whereof this Certificate has been signed at LONDON

This day of

By _____ Authorised Signatory

COLLEGIATE MANAGEMENT SERVICES LIMITED
5TH FLOOR
MINT HOUSE
MANSELL STREET
LONDON
E1 8FE

Telephone: 0207 459 3456
Facsimile: 0207 459 3455

Underwritten by certain Syndicates at Lloyd's



Notice to the Proposer/Assured.

E.U. Disclosure Clause (U.K.):

The parties are free to choose the law applicable to this insurance contract. Unless specifically agreed to the contrary this insurance shall be subject to the Laws of England and Wales.

Complaints procedure

Any enquiry or complaint should be addressed in the first instance to any intermediary through whom you arranged this policy.

If you are not satisfied with the way a complaint has been dealt with you may ask the Complaints and Advisory Department at Lloyd's to review your case without prejudice to your rights in law.

The Address is:

Complaints and Advisory Department
Lloyd's,
One Lime Street,
LONDON EC3M 7HA

Telephone 020 7327 1000

You may also, in accordance with the Rules of the Financial Services Authority, be able to refer a complaint to the Financial Ombudsman Service.

