



JURISK!

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JURISK! is 5



DID YOU KNOW?

When Jurisk! was first
published in 2005, it:

1. Was called the
Risk Management Quarterly,
RMQ

2. Was printed in full colour
over 16 pages

3. Featured
'Quotable Quotes' from
famous personalities
including Yoda!

DO YOU RUN A SMALL PRACTICE?

Is your practice equipped to be efficient and profitable?

The PII Committee's mission is to provide Members with practice ideas, checklists and tools to boost a risk aware culture amongst the profession. In 2010, we continue this effort with new practice tools targeted at small to medium practices and young lawyers.

Two new booklets, one on setting up practice and another on accounts will be available by mid-2010. Both Booklets will incorporate sample proformas, practice tips and illustrations.

In the second quarter of 2010, we will be organising two workshops, *Risk Management for Staff* and *Risk Management & You*. The former is targeted at office managers, clerks, paralegals, etc. and will focus on office procedures and skills. *Risk Management & You* is targeted at both lawyers and staff. Using case studies, videos and checklists, this practical Workshop will cover daily skills, inter alia, managing critical dates and deadlines, client engagement and document management.

We strongly encourage Members to utilise practice tools developed by Bar Council in your practice. For more information on these practice tools, please attend our Roadshows (see Page 9 for Roadshow details). Our Practice Booklets, Practice Area Checklist CD, and Jurisk! to name a few, are invaluable assets for any firm. With increasingly demanding clients and globalisation, these practice resources will equip you to manage emerging risks and changes in practice standards better.

Enclosed in this issue of Jurisk! also is our Risk Management Survey. Tell us what tools/support you need, and what your practice needs are. It will take 2 minutes of your time.

To end, we are celebrating Jurisk! IS 5 this issue. To commemorate this occasion, we would like to give back to Members with THE BIG GIVE – 3 vouchers – all aimed at enhancing your 2010 risk management experience!

I hope you enjoy this issue and we look forward to seeing you at our Events.

Ragunath Kesavan, President / PII Committee Chairperson, Malaysian Bar



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Engaging Senior Partners on Risk Management

By Martin Goh and Kelvin Wu,
JLT Risk Consulting Asia

New Year risk resolutions have been made and plans to begin implementing risk management initiatives in your firm are underway – until you realise a major stumbling block in your path – the lack of senior partner(s) buy-in.



This is a common story among risk managers and the difficulties they face in their perpetual fight to gain credence for their work. And in many cases, the inability to communicate and gain senior partner(s) buy-in has accounted for the failure of many risk management projects.

In a survey¹ conducted by the North Carolina State University ERM Initiative faculty involving more than 700 organisations whose 2008 revenues ranged from USD\$14,950 to USD\$115 billion (with a median for the sample of USD\$50 million), close to 40% of the survey respondents cited the ‘lack of board or senior executive leadership’ as a ‘perceived barrier to Enterprise Risk Management (ERM)’.

In the same survey, it was found that for **75% of the organisations surveyed**, the board of directors is asking senior executives to increase their involvement in risk oversight at least moderately, reflecting the increasing awareness of senior executives’ involvement being critical to the success of any risk initiatives (refer to Exhibit 1 and 2 below²).

Exhibit 1 – Reported Barriers to ERM Implementation

Description of Barrier	Percentage Reporting that Barrier is:		
	Extensive	Very Significant	Combined Percentage
Competing Priorities	40%	21%	61%
Insufficient Resources	43%	17%	60%
Lack of Perceived Value	34%	14%	48%
Lack of Board/Senior Executive ERM Leadership	28%	10%	38%
Perception ERM Adds Bureaucracy	26%	11%	37%
Legal/Regulatory Barriers	4%	1%	5%

Exhibit 2 – Source of Requests for Increased Risk Oversight

Extent of Requests for Increased Senior Executive Involvement in Risk Oversight Coming from:	Percentages		
	Moderate	Extensive	A Great Deal
Board of Directors	30%	36%	9%
Audit Committee	28%	46%	12%
Internal Audit	30%	43%	10%

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Malaysian Bar Mandatory Professional Indemnity Insurance (PII) Scheme: **FAQs**

By Charles Perera, Jardine Lloyd Thompson Sdn. Bhd.

Joining a new Firm. Hiring a new lawyer. Dissolving your Firm. A sole proprietorship going into a partnership? How do these situations affect your Professional Indemnity Insurance?

In this first instalment of our PII FAQ Series, we address Members' frequently asked "What Do I Do?" PII questions when there are changes in their Firm.

I just joined a Firm mid-year: What do I do? How would my PII work?

The Firm would notify the Broker by letter to include your name in the policy schedule.

- ▶ If you have not been insured for that year, the Broker would advise the Firm of the premium payable.
- ▶ If you were practising with another Firm prior to joining the new Firm then there is no premium payable since you are already insured for the policy period in question. Your Insurance would protect your Previous Firm for all work that you have done and would continue to protect you at the new Firm.

My Firm was dissolved mid-year: What do I have to do? Will I be covered while winding up the Firm?

The Firm would have to notify Bar Council of the dissolution. You would then formally inform the Broker and attach the letter from Bar Council acknowledging the dissolution of the Firm. The Firm is covered up to the date it is dissolved.

Existing files that follow a lawyer to another Firm would be covered under the new Firm's policy. If you have ceased practice then you are covered for any claims made against you under the Master Policy.

I'm leaving my present Firm to start a new Firm this June, what should I do?

Members who intend to start a new Firm would have to first inform Bar Council of your intention. The Firm has to formally inform the Broker and attach a copy of the 'approval or no objection' letter from Bar Council together with the duly completed Proposal Form to the Broker. Firms can complete and submit their Proposal Forms online or mail the completed print copy to the Broker.

If you have any PII questions, please contact:
 The PII & RM Department – 03 2032 4511 / 03 2032 1870
 or The Broker, Jardine Lloyd Thompson Sdn. Bhd. – 03 2723 3388

We've paid our premium and the partners of the Firm have decided to go their separate ways. Are we entitled to a refund of the premium?

Partner/s set up a new Firm. Can the premium paid under the previous Firm be 'transferred' into the new Firm?

There is no refund of the premium since the partner/s joining another Firm would not have to pay any additional premium and those who have ceased practice are covered under the Master Policy.

The newly set up Firm is treated as a new entity. The premium paid under the previous Firm is not transferable to the new Firm.

My Firm is changing from a Partnership to a Sole Proprietorship. What arrangements need to be made?

Your policy would still cover the work carried out by your previous partner/s. You have to formally write to the Broker providing them with details of the change. The Broker would then issue you with a policy schedule reflecting the changes. Your policy limit would remain for the year of coverage.

Legal assistant is moving to a new Firm, can the Firm ask him to reimburse premium paid on his behalf?

This is dependant on the contract of employment executed between the Firm and the legal assistant. It is a private arrangement that would not have any bearing on the policy coverage.

Sole Proprietor/Partners decide to change the existing Firm name. What arrangements need to be made?

For change of firm name, the current Firm needs to inform Bar Council on the new Firm name. The Firm then has to formally inform the Broker and attach a copy of the 'approval or no objection' letter from Bar Council on the change of name together with the duly completed Proposal Form under the new Firm name. The Broker would then issue you with a policy schedule reflecting the changes.

* For the purpose of this FAQ Series, 'the Broker' refers to the Malaysian Bar PII Scheme Insurance Broker. The 2010 PII Scheme Insurance Broker is Jardine Lloyd Thompson Sdn. Bhd., Suite 10.2, 10th Floor, Faber Imperial Court, 21A Jalan Sultan Ismail, 50250 Kuala Lumpur. Tel: 03 2723 3388. Fax: 03 2723 3301.

I Resolve

NEW YEAR RESOLUTION: a commitment that an individual makes to a project or the reforming of a habit, often a lifestyle change that is generally interpreted as advantageous.

STATISTICALLY, at least 30% of all resolutions are broken in Week One.

WHY?

Resolutions we set may sometimes be too strenuous or too unforgiving and unfortunately, our busy schedules rarely change with the turning of the year.

I RESOLVE TO: try these 4 easy risk resolutions for the rest of 2010 (not that we are in any way suggesting that you've broken your new year's resolutions!):

...to de-clutter!

The average executive wastes (6) weeks a year searching for important documents buried in clutter according to the Wall Street Journal.

DE-CLUTTER YOUR DESK:

- Put away items you rarely use.
- 'Avoid it's here somewhere' syndrome – prioritise the work on your desk, put them away after you've made a list or diarised them.
- Focus on getting your day's top priorities completed.

DE-CLUTTER YOUR PC:

- Find a desktop search tool that works for you – all major search engines, Google, Yahoo, Ask.com offer desktop searching.
- Clear your email inbox daily.



Best Practice Booklet: Law Practice Management.

Practical guidance on productivity levels, profit tracking and improving your practice.

TOOLS

...to bill regularly!

Say you have 100 active files and the average disbursement expenditure on each file is RM100.00, at any one time your firm is out of pocket by RM10,000.00!

- Time your bills – preferably after a successful outcome.
- Issue interim bills regularly, don't wait for a significant milestone to bill.
- Stop work on clients who are behind on their bills - after at least (3) reminders, you're entitled.

TOOLS

JURISK! Quarterly newsletter



Best Practice Guides

Brand new Booklet on Accounts & Lawyers coming in mid-2010!

...to value my time!

Value your time and guard it jealously, regard time as a commodity.

- Do the things you dread the most first thing each day.
- Procrastinate productively: If you're going to put something off, do something else you've been putting off instead.
- Fix a particular time of day to check emails and return calls e.g. 9.00am, 12.00pm, 3.00pm and 5.00pm.

TOOLS

JURISK! Quarterly newsletter



Best Practice Booklet: Time Management for Lawyers.

Value and importance of managing time highlighted through useful illustrations and practical tips.

...to prioritise!

- If it will take less than (2) minutes to do something, do it right away.
- Try the 'Touch a paper twice only rule':
Touch #1: Decide whether it's urgent, important or neither.
Touch #2: Act on the urgent/ important ones, file or trash what's left.
- File chronologically: by date sent, not date received.
- Divide your file into manageable folders; set rules on what goes into each folder.

TOOLS



The Practice Area Checklist Series Growing with Risk Management

Practice Area Checklist CD

- Step-by-Step Checklists.
A one stop file review list that details key procedures and timelines.
- Snapshot Checklists.
A short-hand list that focuses on critical stages and vital points.



Reinventing Your File Transfer System E-Brochure

eGUIDE Everyday Risk Management for Lawyers

STATISTICS tell us that new year resolutions are notoriously hard to keep. Fact is, nothing big gets accomplished in one day, so we've narrowed it down to our top 4. Try these little steps throughout the year; you may just be pleasantly surprised.

WE ARE STARTING TODAY. WHAT ABOUT YOU?

(NB: You have approximately 270 days left)

Reference articles:
<http://www.abajournal.com>
<http://www.abanet.org>



Continued from Page 3

The above merely reaffirms what risk managers have known all along; that senior partner(s) buy-in is absolutely crucial. How then, can **you** attempt to get the commitment of senior partners in your firm?

To address this issue, it will be helpful to first identify what accounts for the reluctance of senior partners to commit to such risk management initiatives and often, the reasons can be traced back to the following:

- **Lack of understanding of the concepts behind Risk Management**
- **Perceived lack of tangible/quantifiable return on investment to Risk Management**

The first issue can be easily addressed by the easy availability of resources pertaining to this area (such as Jurisk! articles, Risk Management tools and brochures from the Bar Council, as well as the Bar Council's Risk Management Department). These resources will help provide a clear and concise explanation of the theoretical drivers behind risk management.

It is the second issue which is potentially harder to grapple with, that of proving that risk management adds tangible value to the firm. While experts agree that calculating return on investment from Risk Management is difficult, there are practical ways of demonstrating the value it can bring if implemented properly. Here are some examples:

COST EFFICIENCY

What you might find after a coordinated firm-wide risk management initiative is launched is that it helps to consolidate the different risk management

processes that your firm already has in place. The consolidation of the numerous risk related activities that are all happening independently in their respective 'silos' through the establishment of common ground and/or reporting mechanisms, among others, can potentially translate into tangible cost savings. For example, there might be an overlap of risk management activities (e.g. management of critical dates, file management and review) across the conveyancing and litigation departments of the firm, such that when consolidated as a single streamlined function, can help to realise potential cost savings.

RISK ASSESSMENT/ RISK APPETITE



Risk management implementation would facilitate the conduct of a proper risk assessment. The development of a tailored risk matrix in the process will allow your firm to capture and record relevant risks and its associated severity and consequences. This will provide an opportunity for your firm to review its operations and take into consideration internal risk levels and tolerance when deciding the firm's business strategies with regards to the target clientele group and/or areas of law your firm should enter or exit from, for example tort, family law, copyright law, etc.

ADDED VALUE

One of the paradox that risk managers face is that the value of their work often only surfaces when unforeseen events occur, or in the case of determining the success of new control systems, when the risk **never** occurs. What risk managers need to keep in sight (and mind) is that the actual implementation process of a risk management framework generates value in itself. Often, the greatest value arising from

a corporate risk management programme is the development of physical, financial and cultural resilience in the company's overall business, while still focusing on achieving the company's overall business objectives.³

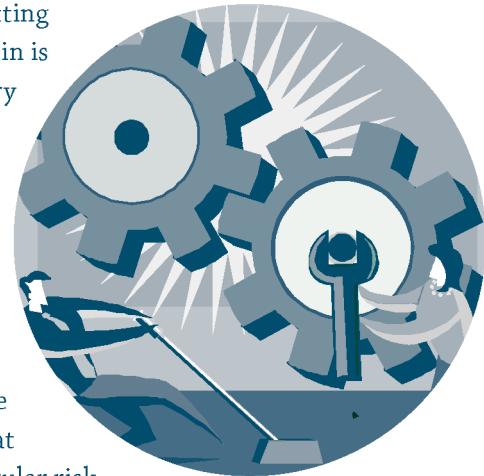
Resilience is ever more relevant in today's corporate world, as it positions organisations to bounce back after they have been affected by an incident which, if handled well, can become an opportunity for the organisation as well. Case in point

being Nokia and Ericsson's differing responses to a fire in a Philips plant in Albuquerque, which supply 40% of the plant's silicon wafer chips to Nokia and Ericsson. Nokia's prompt and organised response to what was initially perceived as a

minor accident saw them suffer no disruption in their production targets, and in the process capitalised on Ericsson's lack of preparation to gain an increase of 11% in market share at their rival's expense.⁴



IN CONCLUSION, getting senior partner(s) buy-in is but a step (albeit a very important one) towards the successful implementation of any risk management initiative. You would do well to consider the plethora of factors that could affect any particular risk management project. So go forth and sweep your partners off their feet as you seek their commitment on the way to the successful implementation of your risk management initiative!



1 'Report on the Current State of Enterprise Risk Oversight', Mark Beasley, Bruce Branson and Bonnie Hancock, March 2009. | 2 Ibid. | 3 'Risk Management in Practice: Adding Value through ERM', Bronwyn Friday, 15 March 2006. | 4 'The Resilient Enterprise: Overcoming Vulnerability for Competitive Advantage', Yossi Sheffi, The MIT, 2007.

News Flash! Risk Management Roadshow is coming to town.

PAHANG BAR
14 May 2010

3.00-5.30pm
Pahang Bar Auditorium

KEDAH/PERLIS BAR
24 June 2010

3.00-5.30pm
Venue: To be Confirmed

PENANG BAR
25 June 2010

3.00-5.30pm
YMCA Penang
211 Macalister Road

JOHOR BAR
16 July 2010

3.00-5.30pm
Johor Bar Auditorium

BAR COUNCIL, KL

To Be Confirmed

Details are correct at time of print. Bar Council reserves the right to change dates and/or venue without prior notice to members. For more information, please contact the PII & RM Department officers. Their contact details are on page 12.

SIF FAQ 3 KEY BENEFITS & RISKS

We continue our FAQ Series with the key benefits and risks of moving to the SIF.

The Bar Council sees moving to the SIF as a key milestone with tangible benefits for Members, the profession and the public. The following criteria will form the guiding principles of the SIF:

- To maintain and preserve the Criteria for the PI Scheme as set out in the Dato Dr. Peter Mooney Memorandum dated 16 April 1992.
- To provide a platform that ensures stable and affordable costs to Members associated with the requirements of the PI Scheme.
- To represent the interests of the Malaysian Bar on a collective basis.
- To insulate the Malaysian Bar to a certain extent from volatility in the commercial insurance market, minimising the purchase of commercial insurance to the point where it is most cost expedient for Members.
- To provide cost effective administration of the PI Scheme.
- To maximise investment income earned on retained SIF funds.
- To manage PI claims and to ensure prompt settlement of claims.
- To promote risk management within the legal profession.

Key Benefits

PI Contribution: Affordability & Stability

Commercial insurers generally dictate the premiums for policy holders based on localised conditions and contributed by business conditions worldwide. Increased premiums on a number of occasions are triggered by events worldwide.

In establishing a SIF, it is intended contributions per lawyer will be dictated by the claims experience of the Scheme. The long-term cost to Members afforded by the PI Scheme's protection will be reduced and more stable premiums achieved. This is the shared experience of other law schemes that have implemented self-insurance schemes.

With the introduction of the SIF, we can significantly reduce the purchase of commercial insurance to the point where it is most cost expedient for the Bar.

However, Members should not expect dramatic reductions in their PI contributions. To achieve cost savings, claims cost has to be managed and risk management initiatives must be consistently applied.

Investment Income

A key financial benefit from the SIF is its ability to generate additional income from the SIF's retained fund. It is akin to investment income which commercial insurers generate.

More Control

Having more control over the Scheme affords Bar Council a greater ability to ensure that the coverage meets Members' needs.

SIF FAQ 3 KEY BENEFITS & RISKS

Reduced Dependence on Commercial Insurance

The SIF creates a positive alternative to the present dependence on commercial insurers. Commercial insurers are subject to their own business challenges (e.g. 9/11, Hurricane Katrina, etc.) and at times, this has translated into higher premiums for Members.



Key Risks

Reducing PI Contributions Too Quickly

Part of the objectives of the SIF is to ensure stable premiums are maintained for the benefit of Members. Against this, a key element of the SIF is to ensure that there are sufficient funds to pay claims costs, and administrative operating expenses.

Therefore, over eagerness to reduce Members' costs in the short term would put the SIF at financial risk. Reductions in Members' contributions should be implemented consistent with improvements in claims experience.

Low Investment Income Returns

The current economic environment has led to reductions in interest rates being offered by the banks. This would have an impact on the financial results of the commercial insurers as it would with a SIF. This would affect our ability to pass-back savings to Members in the short-term.

However, the proposed SIF is a long-term commitment by Bar Council. Over time, investment income returns should be a significant source of revenue to the SIF.

Poor Claims Control

For the success of the SIF, it will be imperative that it continues to run along commercial lines in all aspects of the administration of SIF with particular emphasis on Claims.

First and foremost is the need by all Members to prevent and/or reduce claims through collective risk management efforts.

Continued Need for Commercial Insurance

The establishment of the SIF will not for the foreseeable future remove the necessity to purchase commercial insurance. Schemes such as the State of Victoria, Australia in operation since 1986 still feel the need to purchase commercial insurance against a 'worse-case' claims scenario.



Read more about other Law Societies' Self-Insurance Schemes at the SIF Discussion Board @ the Malaysian Bar Website:

- i. Legal Practitioners' Liability Committee, State of Victoria, Australia
- ii. LSBC Captive Insurance Company Ltd Fund, Law Society of British Columbia, Canada

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A Look Back at JURISK!

