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Insurance support  
for Insurtech start-ups  
and scale-ups



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Technological advancements are reshaping the future of the insurance industry. However, the challenge remains for Insurtech's to ensure that they themselves, have their own insurance protections in place.

There are the obvious legally required policies, but for Insurtech companies, there are also regulatory obligations to consider. And, if you are fundraising, investors may also expect you to have certain policies in place.

Building a successful business takes a lot of time and energy and with so many things to focus on, understanding what insurances you need can seem overwhelming.

Rather than being something you are simply required to have, insurance can be a valuable tool to help you manage your business risks. It can deliver peace of mind by allowing you to take control and transfer many of them – even the ones you hadn't considered. The result? You can focus your time and capital on growing your business, rather than having to spend precious funds on issues that would have been covered by an insurance policy.

This guide is intended to provide an overview of the key insurances that Insurtech companies should consider at each stage of your journey – from incorporation right through to exit – and to explain why it's important to ensure that you have specialist cover.



*"Innovation distinguishes between a leader and a follower."*

Steve Jobs



## Incorporating the business



Congratulations! You've registered with Companies House and are now officially a director of your own company. However, you also now carry a number of significant responsibilities and are subject to scrutiny from a wide array of stakeholders; all of whom could bring actions against you personally. The first step is to arrange some protection in the form of **Directors & Officers Liability insurance**.



You might not have employed any staff yet, but if your company has two or more directors, then **Employers Liability insurance** is a legal requirement. Failure to have this in place could result in you being fined up to £2,500 per day.



Now to protect your IP! For many companies, much of their value lies in what makes them different. It's therefore important to protect any patents, trademarks, copyrights, and other intellectual property that makes your business unique. **Intellectual Property insurance** covers the defence of intellectual property infringement claims, as well the costs associated with enforcing rights if someone infringes a valid right of yours.



## Fundraising

Most investors include your insurance policies as part of their wider due diligence process. Whilst requirements differ between investors, the majority will insist on you having **Directors & Officers Liability insurance** and **Keyperson insurance in place**.

So, if you don't have these in place already, you will most likely find that the terms of the deal will mean that it cannot be closed until you have. It is always better to be prepared and secure coverage in advance so that you avoid any delays in securing your investment.

## Regulatory application

If you are applying for regulatory permissions, you may find that you are required to at least have a quotation for **Professional Indemnity insurance** as part of your application.

### INSURANCE DISTRIBUTION

Those applying for Insurance Distribution permissions will need to ensure that their insurance meets the minimum regulatory requirements as set out by the FCA under the MIPRU. This includes:

- Minimum limits of indemnity
- Maximum excesses
- Ombudsman awards
- Legal defence costs
- Cover to include appointed representatives.

Policies which comply with these regulations are not widely available, so it's crucial you speak to a specialist insurance provider.

### APPOINTED REPRESENTATIVES

If you are initially acting as an Appointed Representative of a Principal firm rather than becoming directly authorised, then you will almost certainly find that your Principal firm will demand that you put into place your own **Professional Indemnity insurance**.

If you haven't already got **Directors & Officers insurance** in place, now is the time to implement it, as specialist policies extend to include cover for regulatory investigations and other exposures under regimes such as the Senior Managers and Certification Regime (SMCR).



## Managing and monetising your data

You are responsible for all of the data that you collect and hold, so it's vital that you take measures to protect it. **Cyber Liability insurance** can help you to manage your cyber risk, as well as minimise the impact of any data breaches. Smaller companies are often the target of cyber criminals as they are seen as more vulnerable than larger corporations. Without insurance, any malicious attack or data breach could have catastrophic consequences for your business – both financially and reputationally. It is also becoming more commonplace for clients and vendors to insist upon **Cyber Liability insurance** as a contractual term.

## Becoming operational

Now that you're an operational business, you might be moving into an office or a shared working space. You can protect any assets that the company owns by arranging a package insurance policy which also includes **Public Liability insurance**. If you haven't already arranged **Employers Liability insurance** and now have staff, you can include this within the same policy.

If you weren't required to have **Professional Indemnity insurance** as part of any FCA application, then now is the time to put this cover into place, regardless of your regulatory status. This will give you protection for your liability arising from a third-party claiming to have suffered a loss as a result of your professional negligence. For Insurtech companies, this will also include the technology services that are provided.

As you take on more employees and it becomes difficult to monitor them as closely, Crime insurance provides protection for your losses if an employee is dishonest, as well as fraud committed by third parties, such as fraudulent payment instructions and social engineering.

You should also consider **Employment Practices Liability insurance** to protect you against employee litigation.







## Scaling Up

So, you've managed to successfully navigate the rocky landscape of launching a start-up and you're now ready to scale things up. This is the time to take stock of any insurance policies that you already have in place and ensure that you remain protected for the exciting next phase in your journey.

You may have arranged your insurance directly with an insurer previously, but as you grow it is important to use an independent insurance broker to give you advice and support.

Perhaps you're going global. Many insurance policies will exclude any claims arising out of contracts in the USA/ Canada as standard. There are also other territories that can cause concern for insurers, so it is vital that you review any insurance policies that are already in place to establish what your jurisdictional limits are.

Insurance contracts work on the basis of "utmost good faith", meaning that you are required not to withhold any information that could affect the policy. In addition, the vast majority of insurance contracts contain additional conditions which means that you are required to advise them of any information which is classed as a "material fact" on an ongoing basis throughout the policy period for cover to be operational.

A material fact is defined as "anything that may influence the judgement of a prudent insurance underwriter in deciding whether to accept a risk and if so at what premium and terms".

If in doubt – declare it! It might lead to further questions, revised policy terms or even an additional premium, but if you fail to disclose information at any stage, it could result in you being unable to make a claim on the policy.

### TYPICAL MATTERS WHICH WOULD CLASS AS A MATERIAL FACT:

- A change in business activities, or additional service being offered.
- A change in territorial scope.
- A significant change in financial position or headcount.
- A complaint from a customer which could lead to a claim

## Exiting

Once you've built your business, you may decide that it's time to sell.

You should consider **Warranty and Indemnity insurance** to help minimise your liability on exit. It offers protection for representations, warranties and indemnities, contingent tax, and other M&A liabilities.

Paragon provides guidance at all phases of your transaction, from an early stage where we provide up-to-date market data, benchmarks and pricing, through to policy placement at transaction execution, or any phase in between.

## Insurtech

Traditional insurance policies are not normally suitable for Insurtech companies. Claims could arise from the regulated activities and/or as a result of the technology itself, so specialist policies are required.

These specialist policies cover both the regulated and technology elements of the business, offering a package that includes Professional Indemnity, Directors & Officers Liability insurance, Crime insurance and Cyber Liability insurance. These policies also meet the minimum requirements for Insurance Distribution permissions as set out by the FCA under MIPRU.

# Insurance Glossary

**Directors & Officers Liability insurance** provides financial protection where you are held to be personally liable and face allegations of breach of duty, neglect, misstatements or errors and omissions. Policies provide cover for the costs to defend such allegations, as well as damages and settlements that may be awarded, up to the policy limits. Far from covering just directors, policies typically extend to include management, shadow directors and non-executive directors. As a director, you carry significant responsibilities and are subject to scrutiny from investors, employees, authorities, regulators, and even customers, all of whom could bring actions against you.

Specialist policies also include cover for regulatory investigations.

## TYPICAL CLAIMS SCENARIOS INCLUDE:

- Investigations by the Regulator, including actions brought under the Senior Managers & Certification Regime (SMCR)
- Claims by investors and shareholders who blame directors personally for their losses.
- Data breaches or other data protection failures, as GDPR means that directors can be held personally liable.
- Actions brought by liquidators, where they suspect wrongful trading or incorrect payments to creditors.
- Actions brought by HMRC where insolvent trading or misappropriation of tax payments is suspected.
- HSE investigations where negligence is suspected.

**Keyperson insurance** is a life and critical illness insurance policy for which the company is a beneficiary, to protect itself against financial loss in the event that a “key person” passes away or receives a critical illness diagnosis. Investors will generally insist on this insurance as companies at start up and scale-up stage tend to have individuals who play vital roles in the financial success of a company.

**Professional Indemnity insurance** covers you in the event that you make a mistake that leads to your client suffering from a financial loss. Specialist Insurtech policies cover the costs involved in defending allegations of professional negligence in respect of both regulated and non-regulated activities, as well as damages or settlements that may be awarded against you.

**Warranty & Indemnity (W&I) insurance** policies provide cover for loss incurred in relation to valid breaches of warranty pursuant to an acquisition agreement (SPA) or a claim under the tax indemnity. Sellers use W&I insurance to help achieve a clean exit, while buyers often consider using it if seller liability caps are considered to be insufficient

**Cyber Liability insurance** provides cover for the costs associated with a data breach or a malicious cyber-attack. Policies act as your emergency response, providing you with access to a panel of experts who provide:

- ✓ Legal support to help you notify your customers, the regulator and any other relevant parties.
- ✓ IT forensics to investigate, help you recover your data and restore your systems.
- ✓ Public Relations to help minimise any damage to your reputation.

Policies also cover:

- ✓ Costs incurred as a result of an interruption to the business following an attack.
- ✓ Costs associated with extortion, including amounts paid in the event of a ransomware attack.
- ✓ Legal defence costs and damages awarded against you in the event that you are accused of being negligent by those who have had their data compromised

**Crime insurance** provides cover for your own direct financial loss in the event of fraud. Most policies cover both employee dishonesty and fraud carried out by third parties, including acting on fraudulent instructions and erroneous transfers.

**Employment Practices Liability insurance** provides cover for the costs involved in defending allegations of employment-related claims, such as unfair dismissal, misconduct, discrimination and harassment

**Employers Liability insurance** provides cover for your liability as an employer in the event that one of your employees is injured or becomes ill due to the work they do for you and decides to make a claim against you. It is also a statutory requirement in the UK.

**Product Liability insurance** provides cover for your legal liability to third parties in the event that they suffer bodily injury or damage to their property as a result of your negligence.

**Intellectual Property insurance** covers the defence of intellectual property infringement claims, as well the costs associated with enforcing rights if someone infringes a valid right of yours



## Contact

Paragon understand the unique risks that are faced by Insurtech companies. We help you to prioritise by discussing your own exposures, and build you an insurance solution that provides tailored, affordable and compliant protection according to your individual requirements.

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## ABOUT PARAGON

We are a specialist insurance broker, operating in the Lloyd's, London, Bermuda, European and International specialty markets. We have market-leading capabilities and experience in the Financial, Professional and Casualty Lines sectors.

With a broad platform, we can deliver the best services and resources for our clients to deliver risk transfer solutions, claims advocacy and risk management services.

