

211 CMR: DIVISION OF INSURANCE

211 CMR 24.00: LIMITED LIABILITY COMPANIES AND LIMITED LIABILITY PARTNERSHIPS; MINIMUM AMOUNT OF LIABILITY INSURANCE

Section

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24.01: Authority

211 CMR 24.00 is issued pursuant to authority granted to the Commissioner of Insurance by M.G.L. c. 108A, § 45(8) and M.G.L. c. 156C, § 65.

24.02: Scope and Purpose

The purpose of 211 CMR 24.00 is to designate and establish a minimum amount of required professional liability insurance to be maintained by limited liability partnerships and their partners and limited liability companies and their members.

24.03: Definitions

As used in 211 CMR 24.00, the following words will have the meanings indicated:

LLP refers to any "registered limited liability partnership" or "foreign registered limited liability partnership," as defined in M.G.L. c. 108A, § 1, licensed by the Division of Insurance.

LLC refers to any "registered limited liability company" or "foreign registered limited liability company" as defined in M.G.L. c. 156C, § 2, licensed by the Division.

Division refers to the Division of Insurance within the Department of Banking and Insurance.

24.04: Required Insurance and Capital Program

(1) An LLP or LLC must maintain in good standing professional liability insurance which meets the following minimum standards:

(a) The insurance shall cover negligence, wrongful acts, errors and omissions and insure the LLP, LLC and their respective partners and members (M.G.L. c. 108A, § 45(8)(a), M.G.L. c. 156C, § 65).

(b) The insurance shall be in an amount for each claim of at least \$100,000 multiplied by the number of individual licensees who are employed by, or partners of, the LLP, or members of the LLC, and in an aggregate amount of at least \$250,000 multiplied by the number of individual licensees who are employed by, or partners, of the LLP or members of the LLC;

(2) The requirements of 211 CMR 24.04(1) shall be satisfied if the LLP or LLC maintains insurance sufficient to provide coverage at a level of at least \$500,000 for each claim with an aggregate top limit of liability for all claims, during any one year, of at least \$1,000,000.

24.05: Exemptions from Coverage

The insurance required by 211 CMR 24.04 may provide that it does not apply to any dishonest, fraudulent, criminal, or malicious act or omission of the insured LLP or LLC, or any partner, member or employee thereof; or the conduct of any business enterprise not involving the business of insurance in which the insured LLP or LLC may hold an ownership interest or in which the insured LLP or LLC may be a partner or which may be controlled, operated, or managed by the insured LLP or LLC, in its own or in a fiduciary capacity including the ownership, maintenance, or use of any property in connection therewith; and bodily injury to, or sickness, disease, or death of, any person, or to injury to or destruction of any tangible property, including the loss of use thereof. The policy may contain reasonable provisions with respect to policy periods, territory, claims, conditions, and other usual matters.

The insurance required by 211 CMR 24.04 is not required if the LLP or LLC maintains designated and segregated capital equal to the amount of insurance required in 211 CMR 24.04.

#### 24.06: Alternative Means of Compliance

An LLP or LLC shall be in compliance with 211 CMR 24.04 if the LLP or LLC provides an amount of funds equal to the amount of insurance required in 211 CMR 24.04 which funds must be specifically designated and segregated for the satisfaction of judgments against the LLP, LLC, or their respective partners or members based on negligence, wrongful acts, errors and omission, by:

(a) deposit in trust or in bank escrow of cash, bank certificates of deposit, or United States Treasury obligations; or

(b) a bank letter of credit or insurance company bond.

#### 24.07: Cancellation and Interruption of Coverage

(1) Cancellation or any other interruption in required insurance coverage, or failure to maintain required designated and segregated capital, shall require the LLP or LLC to immediately cease the business of insurance until such time as the LLP or LLC is in compliance with 211 CMR 24.00.

(2) An LLP or LLC must notify the Division in writing, within five business days, if the LLP's or LLC's insurance coverage is canceled or otherwise interrupted or if the LLP's or LLC's designated and segregated capital falls below the amount required in 211 CMR 24.04. Failure to provide required notice to the Division will subject the LLP or LLC and their respective partners or members who are licensed by the Division to disciplinary action, pursuant to M.G.L.c.175, § 163.

(3) An LLP or LLC may be required to provide verification of compliance with 211 CMR 24.00, satisfactory to the Division, on initial application, renewal, and at any other time, at the request of the Division.

#### REGULATORY AUTHORITY

211 CMR 24.00: M.G.L. c. 108A, §45(8); c. 156C, § 65