

# Errors & Omissions for Financial Institutions – (Expanded Edition)

## I | Preamble

Whereas the **Insured**, named in the Schedule attached has made to the Insurer a Written Proposal (hereinafter called the "Proposal") bearing the date stated in the Schedule and containing the particulars and statements which it is hereby agreed are the basis of this contract and are considered as incorporated herein and have paid the premium stated in the Schedule or the undertaking of the Insured to pay to the insurer.

## II | The Insuring Clause

1 The Insurer shall indemnify **the Insured and/or Employee** (s) for any **Claim** or **Claims** made against the **Insured** and/or Employee and reported to insurers during the policy Period and/or ERP for any legal liability arising from Claims made against the Insured or Employee(s) for or as a result of:

- a Breach of trust, misstatement, misleading statement, breach of authority breach of professional duty, negligent act, error or omission.
- b Loss of **Documents** and for costs and expenses incurred in replacing or restoring such Documents. The amount of any Claim for costs and expenses incurred in replacing or restoring any **Documents** shall be a reasonable amount supported by bills and accounts.
- c Libel, slander or defamation.
- d Dishonest or fraudulent or malicious act or omission by any Employee and/or anyone acting on the Insureds behalf and/or for whom the Insured may be responsible. The Insurers shall not indemnify any such person committing, making or condoning any Dishonest or fraudulent malicious act or omission.

Committed or allegedly committed in connection to the Business, by the Insured or by anyone acting in his name or on his behalf or for whom the Insured may be responsible

2 **Costs and Expenses** The Policy covers also Defense Costs, even in so far as such costs are in excess of the Limit of Liability, as defined in the Insurance Contract Law, 1981.

## III | Definitions

1 **Business** All professional activities of the Insured as stated in the Schedule or signed proposal form attached thereto.

2 **Claim** Any written notification by a third party containing a demand for indemnity or an intention to hold the Insured and/or Employee responsible for any loss or damage or seeking for declaratory relief (that might reasonably lead to a third party Claim for any loss or damage).

Any written notification submitted by the Insured to the Insurer of any circumstances of which the Insured shall become aware which might reasonably be expected to give rise to a Claim against the Insured and/or Employee, with full particulars as to dates and persons involved. Any subsequent Claim resulting from and/or in connection with a notice already given as required shall be deemed to have been made during the period of insurance.

A Claim is deemed to have been made at the moment of receipt by the Insurer, provided that the circumstances, which cause, attribute to, or give rise to the Claim, took place during the period of insurance or after the retroactive date stated in the schedule of the policy.

A Claim shall be reported

- a Any time during the policy period or during the Extended Reporting Period (if applicable); or
- b within 30 days after the end of the policy period as long as such Claim(s) is reported no later than 90 days after the date such Claim was first made against an Insured and/or Employee.

Several or a series of Claims which are mutually connected either arising out of each other, or out of one source, or being the result of or arising out of, the same identical cause shall be regarded as one and the same Claim.

**3 Deductible**

The sum, which the Insured shall pay out of any indemnity or expenses, received in connection with a Claim under this policy.

All Claims arising out of one Claim shall be considered as one and the same Claim in respect to the Deductible.

**4 Documents**

Shall mean deeds, wills, agreements, maps, plans, records, books, letters, certificates, computer systems records, securities, guaranties, forms and Documents of whatsoever nature whether written, printed, or reproduced by any other method (**other than bearer bonds, coupons, bank notes and negotiable instruments**).

**5 Defense Costs**

Shall mean reasonable and necessary fees, costs and expenses incurred with the written consent of the Insurer to be not unreasonably withheld (including premiums for any appeal bond, attachment bond or similar bond, but without obligation to apply for or furnish any bond) resulting solely from the investigation, adjustment, Defence and appeal of any Claim including arbitrations fees, mediation fees as well as costs and expenses which, may occur in investigation and/or proceedings of any authorized authority that might lead to a Claim against the insured but shall not include the salary of any *Insured*.

**6 Dishonest, Fraudulent or Malicious Acts or Omissions**

Dishonest, fraudulent or malicious acts or omissions shall mean Dishonest, fraudulent or malicious acts or omissions on the part of an Employee, who is not a partner (whether salaried or non - salaried) of the Insured which were committed or omitted, as the case may be,

- a with the intention of making an improper financial gain for themselves or their accomplices; or
- b in the awareness that such acts or omissions would actually or potentially cause a financial loss to a third party for which loss the Insured could (should such acts or omissions subsequently be discovered, and result in a third party Claim) incur a legal liability to said third party; or
- c with the intent to cause any third party to sustain a loss.

If a series of third party Claims shall result from any single **Dishonest or Fraudulent or Malicious Act or Omission** (or related series of Dishonest, Fraudulent or Malicious Acts or Omissions) then, irrespective of the total number of Claims, all such third party Claims shall be considered to be a single Claim for the purposes of the application of the Limits of Indemnity and the Deductible.

<p><b>7</b> "Employee" or "Employees"</p>	<p>Shall mean:</p> <ul style="list-style-type: none"> <li><b>a</b> The Insured's officers and other full and part-time staff (whether past, present or who may at any time during the policy period and/or the ERP become such) compensated by salary or wages and whom the Insured has the right to govern and direct in the performance of their duties (including a Director of the Insured who is employed as a salaried officer or Employee) while acting in the course of their employment by the Insured, Members of the Investment committee, Members of the credit committee and review committees</li> <li><b>b</b> A Director of the Insured (other than one who is employed as a salaried officer or Employee) (whether past, present or who may at any time during the policy period and/or the ERP become such) but only while performing acts coming within the scope of the usual duties of an Employee by resolution of the Board of Directors of the Insured.</li> <li><b>c</b> Guest students while pursuing studies or duties at any of the Premises of the Insured.</li> <li><b>d</b> A person provided by an employment agency to perform Employee duties for the Insured under the Insured's supervision (whether past, present or who may at any time during the policy period and/or the ERP become such),, at or from any of the Premises of the Insured, excluding, however, any person employed as or to perform the duties of a data processor, programmer, software contractor or person performing similar duties.</li> </ul>
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<p><b>8</b> Insured</p>	<p>The "Insured" means:</p> <ul style="list-style-type: none"> <li><b>a</b> The person or persons or partnership, firm or company and/or any partnership, corporation, trust or fund or any subsidiary named in the Schedule; or</li> <li><b>b</b> Partner, director in the past, present or who may at any time during the policy period become as such.</li> <li><b>c</b> The estate or such personal representatives, trustee or assignee in the bankruptcy or death of such person.</li> </ul>
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## IV | Exclusions

The Insurer shall not indemnify the Insured or anyone acting in his name or on his behalf or for whom the Insured may be responsible, in respect of any loss arising out of any Claim or Claims:

<p><b>1</b></p>	<p>Resulting from any circumstance or occurrence which is either</p> <ul style="list-style-type: none"> <li><b>i</b> known to the Insured at the inception of this policy and likely to give rise to a claim under this Policy.</li> <li><b>ii</b> which has been notified under any other insurance effective prior to the inception of this Policy.</li> </ul>
<p><b>2</b></p>	<p>In respect of which the Insured is entitled to indemnity under any other policy effected by the Insured, however, this exclusion does not apply if the Insured is not actually indemnified by such other insurance.</p>
<p><b>3</b></p>	<p>In respect of any Dishonest, fraudulent, criminal or malicious act or omission of the Insured's subcontractor or agent of the Insured. This exclusion shall not apply in case that the court will determine that the subcontractor or agents are deemed to be the Insured's Employees. This exclusion shall also not apply in respect to the vicarious liability of the Insured.</p>

4	<p>In respect of death, bodily injury, emotional distress or damage to property unless arising from a negligent act, error or omission to perform a professional duty.</p>
5	<p>Caused by or contributed to by or arising from:</p> <ul style="list-style-type: none"> <li data-bbox="352 338 1485 450">i ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or</li> <li data-bbox="352 465 1485 546">ii the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.</li> </ul>
6	<p>For any fines, penalties, punitive or exemplary damages.</p>
7	<p>For any fees Claimed back by a customer of the Insured.</p>
8	<p>In respect of any damages caused by or contributed to by or arising from loss of value due to fluctuations in the capital markets or the stock exchange.</p>
9	<p>In respect of liability arising from guaranty or promise or forecast expressed or implied, in respect of performance of investment.</p>
10	<p>Brought on behalf of the Insured shareholder/s or a shareholder of any of the following: parent, subsidiary, affiliate or controlled company of the Insured</p>
11	<p>Brought on behalf of third party emanating from any actual or attempted:</p> <ul style="list-style-type: none"> <li data-bbox="352 1140 1485 1211">i Merger, purchase or acquisition of another business by the Insured (this shall not apply in underwriting services of the Insured) or</li> <li data-bbox="352 1227 1485 1301">ii Purchase or sale transaction in the shares of the Insured or a parent, subsidiary, affiliate or controlled company of the Insured.</li> </ul>
12	<p>Arising out of or relating directly or indirectly from the insolvency or bankruptcy of the Insured.</p>
13	<p>For loss or damage arising out of or relating directly or indirectly from war, invasion, acts of foreign enemies, acts of terrorism, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion or a popular uprising, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.</p>
14	<p>Brought in any court of the United States of America or Canada.</p>
15	<p>Based on, arising out of, relating to or involving, directly or indirectly any form of investment into any of the securities and/or investments promoted by Madoff Bernard L. and/or Madoff Investment Securities and/or any affiliated entity and/or any related entities subsequently involved as a result of the ongoing SEC investigation and/or any investigation conducted by any other equivalent authority under any other jurisdiction.</p>

**16 MONEY LAUNDERING EXCLUSION**

**a** Any legal liability arising directly or indirectly as a result of or in connection with any act or acts (or alleged act or acts) of Money Laundering or any act or acts (or alleged act or acts) which are in breach of and/or constitute an offence or offences under any money laundering legislation (or any provisions and/or rules or regulations made by any Regulatory Body or Authority thereunder).

The BURDEN OF PROVING that any Claim does not fall within this Money Laundering Exclusion shall be upon the Insured.

**b** For the purpose of this exclusion "Money Laundering" shall mean:

**i** the concealment, or disguise, or conversion, or transfer, or removal of Criminal Property (including concealing or disguising its nature, source, location, disposition, movement or ownership or any rights relating thereto); or

**ii** the entering into or becoming in any way concerned in an arrangement which is known or suspected to facilitate (by whatever means) the acquisition, retention, use or control of Criminal Property by or on behalf of another person; or

**iii** the acquisition, use or possession of Criminal Property; or

**iv** any act which constitutes an attempt, conspiracy or incitement to commit any act or acts mentioned in the foregoing paragraphs (i), (ii) or (iii); or

**v** any act which constitutes aiding, abetting, counseling or procuring the commission of any act or acts mentioned in the foregoing paragraphs (i), (ii) or (iii).

"Criminal Property" means property which constitutes a benefit obtained from or as a result of or in connection with criminal conduct or represents such a benefit (in whole or part and whether directly or indirectly) which the Insured (or any person or entity acting on their behalf) knows or suspects or reasonably should have known or suspected that it constitutes or represents such a benefit.

"Criminal Conduct" means conduct which constitutes (or would constitute) an offence in any part of the world.

**17**

For liability under any contract or agreement except to the extent such liability would have attached to the Insured in the absence of such contract or agreement Subject to Insuring clause 1.(a) – 1.(d) and all other policy terms and conditions this exclusion shall not apply in respect and/or in connection with the following:

**a** Any article of a provident fund, pension fund, study fund and/or central compensation fund.

**b** An agreement for portfolio management services, investment advisory Services and /or investment marketing services.

**18**

Excluding all Claims or regulatory investigations based on, arising out of, relating to or involving, directly or indirectly, in consequence of or in any way involving any actual or alleged breach or infringement of any Anti-Trust law and regulations or anti-trust activities between the Insured and a non-Insured entity. However, this exclusion shall not apply to any Claim relating to or involving Dishonest or fraudulent act or omission by any Employee or former Employee of the Insured

or an Employee of anyone acting on the Insureds behalf or for whom the Insured may be responsible. The Insurers shall not indemnify any Insured person committing, making having knowledge or condoning in fact any Dishonest or fraudulent act or omission.

## V | Extensions

<p><b>1 Notice of a Claim</b></p>	<p>If during the period of this policy as stated in the schedule the Insured shall give the Insurer notice in writing of any Claim made against him and/or Employee or of any circumstances which may subsequently give rise to a Claim including the reasons for anticipating a Claim, with full particulars as to dates and persons involved, then any such Claim or Claims arising out of notified circumstances, as specified above, shall be deemed for the purpose of this policy as having been made during the period of this policy and/or ERP.</p>
<p><b>2 Extended Reporting Period (ERP)</b></p>	<p>In case this policy will not be renewed, this policy shall cover Claims first made, during a period of 12 months following the termination date of this Policy resulting from an event committed after the retroactive date stated in the Schedule (if any) and prior to the termination date of this policy.</p> <p>The additional premium for the ERP is 100% of the full annual premium. The premium to be paid within 30 days of the termination date of this policy.</p> <p>The additional premium is not refundable and the extended reporting period is not cancellable. This condition shall not be deemed to extend the Limit of Liability of this policy. In order to invoke this ERP the client must notify the Insurer in writing within 30 days of expiry of the policy; failure to do so shall render the offer void.</p> <p>The Insured shall be entitled to a 30 days extended reporting period at no additional premium if this policy is not renewed or replaced by either the insurer or the Insured. If the Insured elects to purchase an ERP than these 30 days ERP period shall be part of and not in addition to the purchased ERP</p>
<p><b>3 Joint Venture</b></p>	<p>Subject to prior notification and acceptance the Insurer will indemnify the Insured in respect of any liability for work undertaken by any firm, company or individual with whom the Insured is operating jointly and any joint venture and/or consortium which includes the Insured but in respect of the Insured's liability only.</p>
<p><b>4 Joint Property Liability</b></p>	<p>This policy shall cover loss arising from any Claim made against the lawful spouse (whether that status is derived by reason of the statutory law, common law or otherwise of any applicable jurisdiction in the world) of an Insured for any Claim arising out of his or her status as the spouse of an Insured including any Claim that seeks damages recoverable from marital community property or property jointly held by the Insured and the spouse; provided, however, that this extension shall not afford cover for any Claim for liability of the spouse and that this policy shall apply only to the liability of an Insured.</p>
<p><b>5 Criminal Litigation</b></p>	<p>This policy shall cover the cost of litigation and representation of the Insured in criminal proceedings including any expenses associated therewith, in connection with any act or omission connected to the performance or non performance of the Insured's business, subject to the Insured being found innocent, and up to a limit of \$ 250,000 per Claim and for the period.</p>

6	<b>Vicarious Liability</b>	Subject always to the terms, exclusions and conditions of the Policy and without thereby extending the cover granted, nor increasing the limits of liability of the Insurer, this policy is extended to indemnify any entity or person in respect of whom the Insured undertook in writing to extend this Insurance to indemnify such entity or person, to the extent they be found liable for any act or omission of the Insured for which indemnity is provided under this policy.
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## VI | Conditions

1	<b>Applicability of Law</b>	The interpretation of this policy is subject to the law of the state of Israel expressly including the <b>Insurance Contract Law, 1981</b> , as applicable, and any dispute between the Insured and the Insurer is subject to the exclusive jurisdiction of the courts of Israel.
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2	<b>Limit of Liability</b>	<p>The liability of the Insurer in respect of all Claims during the Period of Insurance shall not exceed the limit of Indemnity stated in the Schedule. Insurer shall only be made liable for that part of any Claim that exceeds the Deductible stated in the Schedule.</p> <p>The limit of liability covered under the policy in respect of coverage for mutual funds, provident funds and pension funds shall be allocated in accordance with article 4 (b) to Mutual Investment In Trust (own capital, insurance for manager of a fund and trustee and the precedent conditions for directors and members of the investment committee) 1995 regulations, as follows: 30% of the limit of liability shall be allocated to Infidelity of Employee as per clause II 1.(d) to the policy and 70% of the Limit of liability shall be allocated to the professional indemnity cover as per clauses II 1.(a) – (c) to the policy.</p>
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3	<b>Deposit as Substitute to Insurance</b>	This Policy shall not take precedence over any deposit or security of the Insured allowed as substitute to an insurance cover under Israeli Law. Such security or deposit and the policy shall contribute to the cover proportionately according to the level of deposit/security and the limit of liability of the policy.
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4	<b>Cancellation</b>	<p>The Insured may cancel this Policy at any time by providing a written notice, not less than 30 days in advance. If this Policy is cancelled by the Insured - the premium due will be calculated based on the insurer's short rate tariff: for an insurance period of up to seven days prior to cancellation, or if the insurance period has not commenced - 5% of the annual premium; for any period exceeding the seven days in which the policy was in force - 5% of the annual premium and an additional premium of 0.3% per day for any day the policy was in force starting from the 8th day.</p> <p>The Insurer may cancel this policy by providing a written notice not less than 45 days before cancellation to the Insured at its last known address. In the event of the Insurer cancelling this Policy, the Insurer shall retain the pro-rated proportion of the premium hereon.</p>
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5	<b>Claims Handling</b>	<p>a No admission, offer, promise, payment or indemnity shall be made or given by the Insured without the written consent of the Insurer who shall be entitled to take over and conduct in the name of the Insured for its own benefit any Claim and shall have discretion in the conduct of any proceedings and in the settlement of any Claim in accordance with the instructions of Section 68 of the Insurance Contract Law - 1981. While handling a Claim, the Insurer will do its best to act in cooperation and in coordinate with the Insured in order not to damage the reputation and the legitimate interests of the Insured.</p>
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- b** Should the settlement of a liability Claim required by the Insurer fail due to the unreasonable opposition of the Insured, the Insurer shall not bear the additional expenditure for damages, interest and costs arising after the date of such objection.  
Notwithstanding the ab of the suggested settlement by the Insurer, the Insurer shall cover reasonable Defence costs of the Insured in accordance with Section 66 of the Insurance Contract Law.
- c** The Insured shall give the Insurer such information, co-operation and assistance as the Insurer may reasonably require and shall not disclose to anyone the existence of this policy without the Insurer's consent in writing.
- d** The Insurer may at any time pay to the Insured, in connection with any Claim or series of Claims under this policy, the Limit of Liability (less any sums already paid), and upon such payment the Insurer shall not have any further liability in respect of such Claims, except for any costs and expenses incurred prior to such payment or in connection to payment of Defence costs as specified in clause 2 of the Insuring Clause.

**6 Subrogation**

If any payment is made under this policy in respect of a Claim, the Insurer shall be subrogated to all the Insured's rights of recovery. The Insurer agrees to waive all rights of subrogation against the Insured , its subsidiaries or affiliated companies or any other company or corporation associated with the Insured through ownership or management or any Employee or anyone acting on the Insured's behalf or for whom the Insured may be responsible unless the Claim has been brought about or contributed to by the Dishonest, fraudulent, criminal or malicious act or omission.

**7 Material Change**

Should there be any material change in the circumstances or nature of the risks, which are the basis of this policy, the Insured shall give immediate notice to the Insurer upon becoming aware of such change.

**8 Notices**

Any notice to the Insured or to the Insurer shall be given in writing to the last Known address.

**9 Regulatory Licensing Requirement**

It is a condition of this insurance that the Insured maintains the current relevant license without restriction from the host regulator for the activities described in the proposal form or information presented to and accepted by the Insurers.