

Application Instructions

These instructions will help your firm complete the PLF's Excess Program Application, and any applicable supplemental applications. All information will remain confidential. If you have any questions, concerning this Application or the Excess Program, please call us at (503) 639-6911 or email us at excess@osbplf.org.

Section A - The Firm

Question A.3: The Excess Program communicates primary via email. Please list a contact email for the firm who will be available to respond to inquiries during the underwriting process. Note: If sending documents to us via email, documents requiring a signature must be signed, printed and scanned before submitting to the PLF. The email address is excess@osbplf.org.

Question A.6: Include in the number of "Attorneys" all partners, shareholders, members, professional corporations, associates, and of counsel attorneys who work for the firm.

Question A.9: Indicate the date you wish coverage to begin. For applications received after January 1st, the assessment will be pro-rated.

Question A.10: The PLF's Excess Program coverage is in addition to the PLF's mandatory, primary coverage (\$300,000 per claim/\$300,000 aggregate, with an additional \$50,000 claim expense allowance). The PLF's primary coverage is purchased on an individual basis, excess coverage is offered on a firm basis.

Section B - Predecessor Firms

Question B.1: The Claims Made Excess Plan provides coverage for your present firm and firm attorneys, but only with respect to claims arising out of covered activities which are rendered on behalf of the present firm or a qualifying predecessor firm that are specifically listed on the application.

"Predecessor Firm" means any prior firm, which was a sole practitioner, partnership, professional corporation, or other entity in Oregon and which meets all of the following criteria: (1) the prior firm has undergone dissolution, and (2) at least 50 percent of the attorneys in the prior firm are still affiliated with the present firm. List only predecessor firms in this section that meet these criteria.

It may be possible for a former firm, which does not meet this definition to be added as a predecessor firm by special endorsement. If you wish to seek such an endorsement, please list those former firms and attach additional information including (a) the name and address of the former firm, (b) the years in existence, (c) the attorneys who worked for the former firm, (d) the reasons why the former firm does not meet the definition of predecessor firm, and (e) the reasons why the former firm should be added as a predecessor firm by special endorsement.

If any firm attorney wishes to have excess coverage for his or her activities at a prior firm, which does not meet the definition of a predecessor firm, and which cannot be added by special endorsement, the attorney should obtain extended reporting coverage ("tail" coverage) from the previous excess carrier for that firm or confirm that the prior firm continues to maintain excess coverage that protects the attorney's work at that firm.

If other names have ever been used for the firm, for a predecessor firm, or for any other former firm, which you are seeking to add as a predecessor firm, by special endorsement, please list the names and explain by separate attachment. Include the dates when the other names were used. If appropriate, we will include the additional names for coverage.

Section C - Firm Attorneys & Former Attorneys

Question C.1: List **all** attorneys presently working for or associated with the firm, including partners, shareholders, P.C.s, associates, of counsel, and out-of-state firm members. Please indicate the year in which each attorney first started working for the firm or a listed predecessor firm. **If an attorney is not listed in this section, there will be no excess coverage for claims made against the firm or the omitted attorney arising from the omitted attorney's activities.**

New attorneys joining the firm will **not** have coverage under your firm's excess plan for their activities while at a prior firm. As explained in Question B.1 above, your firm's excess Plan provides coverage only for activities rendered (1) on behalf of the present firm listed at Section A.1 which is seeking excess coverage and (2) on behalf of qualifying predecessor firms listed at Question B.1. For this reason, new attorneys who join the firm should make certain their prior firms continue their excess coverage or obtain extended reporting or "tail" coverage from their previous excess carriers.

Question C.2: The PLF will offer excess coverage only to firms whose members all carry primary PLF coverage. For firms with out-of-state branches, see Question C.5.

Question C.3: The most important underwriting criterion for a firm is its prior claims experience. It is essential for us to consider the claims record of not only present firm attorneys but also former firm attorneys (as the present firm may be vicariously liable for mistakes of former firm attorneys).

Under the terms of the Excess Plan, coverage is provided for claims arising from covered activities of firm attorneys listed in Section C.1 of the application, and **former** firm attorneys listed (either former attorneys with the present firm or with a listed predecessor firm at any time during the last five years) in Section C.4 of the application. **The firm will not have excess coverage for attorneys not listed.** It is not necessary to list any former attorney who departed more than five years ago. The firm will have coverage automatically for the work performed by firm attorneys on behalf of the firm or a listed predecessor firm earlier than the five-year period.

Question C.5: If your firm now has or previously had any non-Oregon attorneys or out-of-state branch offices, please complete the grid at Question C.5, including the exact date each non-Oregon or out-of-state attorney began working for the firm and (if appropriate) the date each non-Oregon or out-of-state attorney stopped working for the firm. Please also complete a Non-Oregon Attorney Supplemental Application for each current or former attorney who was either a non-Oregon attorney or worked at an out-of-state branch office at any time.

In limited cases, the PLF Excess Program can provide "drop-down" coverage to your firm for non-Oregon attorneys whose principal office is in Oregon and for out-of-state attorneys in branch offices. We cannot offer excess coverage to any firm if the total number of out-of-state attorneys in the firm is greater than approximately 30 percent of the total number of attorneys in the firm.

The "drop-down" coverage provides the firm with a single additional aggregate coverage limit for claims arising from the activities of the out-of-state attorneys of \$300,000 (inclusive of

defense costs), **subject to a \$5,000 deductible per claim.** Unlike the PLF Primary Plan, “drop-down” coverage does not include an additional \$50,000 expense allowance.

Section D - Claims Experience

The questions in Section D of the Excess Program Application relate to claims and potential claims, which have **not yet been reported to the PLF**, as well as past paid claims, which have exceeded PLF primary limits.

In answering these questions, we ask you to consider all claims, potential claims, suspense matters, and incidents (including acts, errors, or omissions, which may result in a claim) involving any current attorney with the firm or involving any **former** attorney with the firm or a predecessor firm. For help in answering this question accurately, you should check with all current attorneys with the firm, either by circulating the Application or by sending a Firm Attorney Questionnaire to each attorney. **However, it is not necessary to contact former attorneys who worked for the firm or a predecessor firm to obtain this information.** Simply answer the questions in Section D to the best of your present knowledge and the knowledge of the other attorneys currently with the firm.

Question D.4: Under the terms of the Claims Made Excess Plan, “innocent partner” coverage will be extended to a firm attorney who was unaware of a potential claim at the time this Application was completed, even though another firm attorney knew of the potential claim and failed to reveal it to us in the Application. However, this “innocent partner” coverage is available **only** if this Application or a Firm Attorney Questionnaire was circulated for verification among all firm attorneys. See the language at Section IV.1.c. of the Claims Made Excess Plan and the related Examples for the exact terms of this coverage.

For this reason, you should circulate this Application or a Firm Attorney Questionnaire for verification among all firm attorneys (particularly as to potential claims), and **retain a written record in your files** that you have done so. It is **not** necessary to have all firm attorneys sign this Application, or to submit the Firm Attorney Questionnaires or any written verification to us at this time.

If any firm attorney is presently on leave or on an extended vacation, you can wait until the attorney returns to seek the attorney's verification of the Application or Firm Attorney Questionnaire if necessary.

Section E - Type of Practice

Question E.1: The Excess Program has special definitions for “Real Estate Law,” “Securities Law,” and “Taxation Law.” These definitions are as follows:

Real Estate Law (excluding syndications) is defined as all real estate law excluding real estate syndications or real estate investment securities as defined in the Securities Law definition below.

Securities Law includes common and preferred stock, bonds, limited liability company membership interests, limited partnership interests, limited liability partnership interests, real estate syndications, tenancy-in-common interests, franchises, business opportunities, investment contracts and all other securities as defined by law.

Securities Law is defined as the following:

1. The preparation of any part of a subscription document, prospectus, offering circular, disclosure statement or tax opinion in connection with the issuance, offer, sale, or transfer of a security.
2. Providing services to a seller or underwriter relating to the offer or sale of a security, which is required to be registered under state or federal law.
3. Providing services to an issuer or other seller relating to the offer or sale of a security, which is exempt from federal or state registration requirements.
4. Providing services relating to the preparation or filing of periodic and special reports (e.g., Form 10-K, 10-Q or 8-K filings) with the Securities and Exchange Commission.
5. Advising clients regarding reporting obligations under the securities laws.
6. Providing advice to clients under the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Investment Advisers Act of 1940.
7. Providing advice to clients on broker-dealer or investment adviser compliance.
8. Advising unregistered broker-dealers (i.e. "finders") on transactions where they receive compensation for assisting with an offering of a security.
9. Acting as bond counsel or special counsel in connection with the issuance of a security.
10. Involvement in the direct sale to an individual purchaser of any security. (This category is intended to measure potential "seller" liability under state and federal securities laws, such as Section 12 of the Securities Act of 1933 or ORS 59.115 (1)).

However, certain activities listed below are **excluded** from the definition of Securities Law. For purposes of this definition, **Securities Law does not include the following:**

1. Isolated non-issuer transfers of securities (e.g., the sale or transfer of stock by one shareholder).
2. The sale or transfer of securities as part of the sale of a business, divorce, or probate.
3. The preparation of routine opinion letters (not including tax opinions) for clients issuing or offering securities (e.g., opinions stating the client is duly organized under Oregon law, etc.).
4. Providing services relating to securities litigation.
5. Transactions involving the formation of single owner entities such as LLCs; and
6. An investment offering of less than \$25,000.00.

Taxation Law (excluding tax opinions) is defined as all other taxation law not including tax opinions included in any prospectus, offering circular, or disclosure statement, which is required, by law in connection with the issuance, sale, or transfer of a security.

Question E.2: Past experience shows that the area of Securities Law represents unusually high risk of excess claims. See the instructions to Question E 1. above for a definition of Securities Law. If any present or former attorney with your firm or a predecessor firm practiced in the last **ten** years in the area of Securities Law as defined above, please complete the Securities Law Supplemental Application for your firm.

If all of your firm's securities law-related work over the past three years fell within categories (1) through (4) of the exemptions to the "Securities Law" definition under Question E.1 above, **you should not complete the supplement application.** Instead, you should answer "no" to Question E.2 of the Application, and show "zero" percent under the practice category "Securities Law" in the schedule at Question E.1 of the Application. Your firm's securities law-related work should be shown under another category at Question E.1 (e.g., "Business").

Question E.4: In 2003, PLF coverage rules were changed regarding attorneys registered with the U.S. Patent and Trademark Office. Formerly, claims related to patent prosecution were excluded from PLF primary and excess coverage and registered patent attorneys were exempt from PLF coverage requirements. Now, patent work is covered under both the PLF Claims Made Plan and Excess Claims Made Plan. In order to underwrite patent attorneys for excess coverage, we need claims history and other information. Please complete a Patent Attorney Supplement for each registered patent attorney currently with the firm or who worked for the firm in the past five years. Once the Patent Attorney Supplements have been filed for firm attorneys, additional Patent Attorney Supplements are needed only when the firm hires new patent attorneys.

Section F - Other Information

Question F.10: Some firms use temporary or contract legal services, or retain attorneys as independent contractors, on behalf of clients of the firm. As a general matter, a temporary attorney must be listed as a Firm Attorney at Section C.1 of the Application (and an additional assessment must be paid) in order for the firm to have excess coverage for any claim arising from errors by the temporary attorney. The opposite is true if the temporary attorney works only as a paralegal or law clerk, if client work is referred to an independent law firm in a specialty area, or if two firms associate as co-counsel on a particular matter.

Question F.11: Under the terms of the Claims Made Excess Plan, claims arising from circumstances where a Firm, Firm Attorney, or Firm Attorney's spouse or immediate family member has an ownership interest in a Firm business entity are excluded from coverage unless the cumulative ownership interest is 10% or less of the business entity. Please note that the PLF's Excess and Primary Claims Made Plans require certain disclosures when engaging in business transactions with clients in order to maintain coverage.

Section G – Practice Management

Questions G.7 – G.9: For the purposes of these questions, "engagement" letters are those letters given to potential or new clients indicating that your firm has agreed to represent the client, and describing the nature and scope of the representation and fee arrangement. "Disengagement" letters are those letters sent to clients when an attorney withdraws from representation for any reason. "Non-engagement" letters are those letters sent to potential or new clients stating that your firm has decided not to represent the person and (if appropriate) which refer the client to other counsel and warn of the potential of statute of limitations or other problems which could affect the person's legal rights. Many claims made against attorneys each year are difficult to defend because of the lack of such "engagement," "disengagement," and "non-engagement" letters.

Section H - Assessability

Section H.1: See the Question and Answer sheet for additional information concerning the assessability feature of the 2013 Excess Program.

FIRM ATTORNEY QUESTIONNAIRE

Firms may use the Firm Attorney Questionnaire to seek verification from firm attorneys that all claims, potential claims, suspense matters, and incidents (including acts, errors, and omissions, which may result in a claim) have been reported to the PLF. See Instructions above for Section D and Question D.4 of the Application. Firms are no longer required to circulate the entire Application among all current firm attorneys for verification, but instead may simply provide each attorney with a copy of the attached Questionnaire. **Note:** The firm should retain the

completed Questionnaires in its files for future reference. **Do not send the Firm Attorney Questionnaire with your application.**

SECURITIES LAW SUPPLEMENT

If you answered “yes” to Application Question E.2, you have been asked to complete a single Securities Law Supplement for your firm. For the purposes of this supplemental Application, Securities Law is defined at Question E.1 above. Please note the activities that are excluded from the definition of Securities Law.

We have combined ordinary securities, real estate syndication and investment securities, franchises, and certain tax opinions issued in connection with securities all within the definition of "Securities Law." The additional information on this supplement will help us underwrite your Application.

Question 5.b: For purposes of this question, a "cold review" or "peer review" of Securities Law work done in the firm means an examination or review of the work by another firm attorney not involved in preparation of the offering materials for the purpose of determining compliance with applicable securities laws. The cold review, for example, would look for compliance with firm procedures for securities work, possible material misstatements or omissions, incomplete information, possible questionable information, etc., and would give the reviewer authority to suggest to the firm attorneys working on the offering that changes be made or additional work be done.

Securities Law Activity Report: Please complete this Report only for work done during the past year.

We now ask for additional information about the qualifications and experience of any firm attorney working in the securities area (Securities Law Supplement, Question 2.b). Please provide a brief narrative, resume or other documentation describing each attorney's securities law experience and qualifications.

NON-OREGON ATTORNEY SUPPLEMENT

If you answered yes to Application Question C.5, please complete a Non-Oregon Attorney Supplement for each firm attorney who is **not** a member of the Oregon State Bar or maintains his or her principal office outside of Oregon. Also, for each former firm attorney who worked for or was associated with the firm or a predecessor firm at any time in the past since the firm's inception, and who either maintained his or her principal office outside Oregon or was not a member of the Oregon State Bar. See the Instructions for Question C.5 of the Application for additional information about this coverage.

PATENT ATTORNEY SUPPLEMENT

In 2003, PLF coverage rules were changed regarding attorneys registered with the U.S. Patent and Trademark Office. Formerly, claims related to patent prosecution were excluded from PLF primary and excess coverage and registered patent attorneys were exempt from PLF coverage requirements. Now, patent work done by registered attorneys is covered under both the PLF Primary and Excess Claims Made Plans. In order to underwrite these attorneys for excess coverage, we need claims history and other information. Please complete a Patent Attorney Supplement for any registered patent attorneys with your firm.