

Zurich OPPI®

Frequently Asked Questions (FAQ)

1. What is owner's protective professional indemnity coverage (OPPI)?

OPPI provides a construction project owner insurance protection when the design professional's coverage is not available or is insufficient. It indemnifies an owner for first party losses resulting from the design professional's negligence in performing professional services that cause economic loss such as delays in the project schedule, re-design or re-work. It also provides insurance protection from third party claims made against an owner for negligent professional services performed by the design professionals on the owner's project.

The OPPI policy is intended to indemnify an owner for damages incurred as a result of negligence of the design professional, where those damages are in excess of the insurance proceeds available under the design professional's insurance policy.

2. Why is OPPI coverage needed?

The most common way for an owner to help mitigate the professional liability risk on their project is to require the primary design professional to maintain annual practice policies. These policies provide professional liability coverage with limits that an owner deems adequate to cover claims that might arise on the project.

Coverage under the design professional's policy is in the name of the design professional and does not provide any protection directly to an owner. Claims made on projects unrelated to an owner's project may erode or exhaust the limits of liability available under the design professional's policy. Renewal of the annual policy by the design professional is not guaranteed and an owner could potentially be left with an uninsured design professional and no source of recovery. In contrast, as the named insured under the OPPI policy, an owner has control over the policy and receives coverage instead of the design professional.

In addition to providing coverage for an owner in excess of what can be recovered from the design professional's policy, OPPI provides coverage against third party claims against an owner arising out of the design professional's negligent performance of services.

3. What are the benefits of OPPI coverage?

OPPI helps protect an owner's assets and provides limits dedicated to an owner's project. It is typically less expensive in comparison to a design professional's project-specific policy.

Furthermore, it supplements, rather than replaces, the design professional's annual practice policy, thereby helping improve an owner's overall chance for recovery.

OPPI has the potential for broader coverage since an owner determines the terms and conditions of the policy with their carrier, instead of relying upon their design professional to obtain terms and conditions that they deem appropriate for the project.

4. What is not covered under OPPI?

Coverage does not extend to the design professionals and any costs associated with an owner bringing a claim against their design professionals. Unlike the design professional's annual practice policy, OPPI is written for the entire length of the project. No renewal is needed.

5. What does an owner have to do if there is a claim?

OPPI requires that an owner notify Zurich of a design claim at the same time the owner brings the claim against the design professional. The policy is triggered when the design professional's limits are exhausted.

For a third party claim, Zurich requires an owner to provide prompt written notice when the notice of a claim from a third party is received. This notice of the third party claim triggers coverage.

6. How is the covered loss amount determined?

Loss can be determined by a decision rendered in litigation or arbitration. It may also be determined through settlement between an owner and the design professionals and agreed upon by Zurich.

7. What is Self-Insured Retention (SIR)?

Self-Insured Retention is the amount an owner is obligated to pay before the OPPI policy will respond to loss.

8. Does an owner pay a self-insured retention if there are limits available on the design professional's insurance?

If there are any limits of the design professional's insurance policy available to cover an owner's claim against the design professional, OPPI will respond over the remaining limits with no SIR. If the design professional's limits are exhausted through payment of unrelated claims, the SIR will apply.

9. How does the self-insured retention work with third party claims?

The SIR must be satisfied before the policy responds to any third party claim.

10. What is the minimum insurance requirement for OPPI and why is it needed?

The Minimum Insurance Requirement (MIR) is the minimum limit of liability the design professional is required to carry during the policy term while under contract to an owner.

OPPI is primarily an excess policy and the premium is calculated on the excess over a specific amount of potentially collectable professional liability insurance.

11. What happens if the design professional discontinues insurance?

If the design professional fails to maintain professional liability limits or discontinues professional liability insurance, then OPPI will be in excess of the SIR.

12. If the design professional's policy does not pay because of an exclusion, will the claim be excluded under OPPI?

If there is a valid exclusion in the design professional's policy that is not included in OPPI, the policy will drop down, excess of the SIR, and provide coverage for the claim.

13. When does OPPI not pay for a claim?

The OPPI policy will not pay a claim if:

- The amount of the claim is within the applicable SIR
- The limits of coverage available under the design professional's policy are sufficient to cover the claim
- Coverage is excluded by reason of an exclusion
- The OPPI limits are exhausted

14. If an owner agrees to a limitation of liability provision in a contract with a design professional and there is a claim, how will OPPI respond?

Since OPPI is designed and priced to be excess over the design professional's insurance, it depends on whether the owner notified Zurich of the Limitation of Liability (LoL) prior to the underwriting and pricing of the policy.

If an owner disclosed the LoL during the underwriting process, Zurich can adjust pricing to reflect the lower limits of the design professional's insurance and may approve the use of the LoL provision in the design professional's contract. In that case, OPPI will respond over the design professional's lower limits or the SIR, whichever is greater.

If an owner does not disclose the LoL in the design professional's contract to Zurich, then OPPI will respond in excess of what all available design professional's policies would have paid in the absence of the LoL.

In no event will OPPI respond to claims that fall within the SIR.

15. Can you describe potential claim scenarios and how OPPI responds?

The design professional's practice policy carries limits of \$1,000,000.

OPPI has \$5,000,000 in limits and a \$250,000 SIR.

Hypothetical Number 1:

Assume a \$5,000,000 claim on a project has been resolved through judicial decision.

Scenario A: The design professional's policy will pay the \$1,000,000 in remaining limits and OPPI will pay \$4,000,000. No SIR is required.

Scenario B: The underlying limits of the design professional's policy have been exhausted by other non-related claims. The owner would be responsible for the \$250,000 SIR and OPPI would pay \$4,750,000.

Scenario C: The underlying limits of the design professional's policy have not been totally exhausted, but have been eroded to the point that only \$5,000 remains available under the practice policy. No SIR is required.

Hypothetical Number 2:

A third party claim for \$500,000 is made against the owner based upon allegations of negligence of the design professionals.

If the claim is resolved by litigation, arbitration (or agreed upon settlement) in the amount of \$500,000, Zurich would pay the judgment in excess of the \$250,000 SIR.

16. What are the target markets for OPPI?

Generally construction projects with values of \$50,000,000 or greater.

Zurich tailors their OPPI coverage for public and private owners in the following industry segments:

- Aviation
- Commercial office, retail and warehouses
- Correctional facilities
- Education
- Healthcare
- Hotels, casinos and resorts
- Infrastructure including roads, rail and light rail as well as water, wastewater and sewage
- Manufacturing
- Municipal and judicial facilities
- Sports and recreational

17. Are there any additional coverage options that can be added to OPPI?

Owners can purchase Contractors Pollution Liability (CPL) coverage as an additional coverage. Zurich's CPL coverage will exceed over any other CPL coverage the contractors carry. Similar MIR and SIR requirements will apply.

18. How long has Zurich been writing OPPI coverage?

Zurich was the first company to write OPPI coverage in 1995 and continues to be one of the leading global carriers for OPPI coverage.

19. Why Zurich?

- As one of the largest insurers of construction professional liability in North America, Zurich offers a comprehensive suite of products and services to help our customers manage some of the most challenging and unique risks faced by the construction industry
- We have professionals who specialize in the industry and understand the technical and operational aspects of construction:
 - More than 25 dedicated underwriters, many with construction or design experience, located across North America with knowledge of local jurisdictions
 - Dedicated professional liability claims unit averaging more than 18 years of experience, with lawyers knowledgeable about construction
 - With more than 35 in-house risk services professionals, we are one of the only insurance carriers that offer real-world construction experience to help investigate and facilitate resolution of professional liability claims
- Zurich provides leadership as an active participant in key construction and insurance industry associations
- The first insurer to offer OPPI, Zurich provides insurance to the project owner for losses arising out of the architect or engineer's negligence and first party insurance under Contractor's Protective Professional Indemnity (CPPI)
- Choose from specialized and consultative services such as:
 - Claim lessons learned
 - Program development for managing design-build risks
 - Orientation for staff transitioning from GC/CM at-risk work to CM agency projects
- We have a wide range of domestic and global coverage capabilities
- Zurich's financial strength ratings*: A.M. Best A+/stable; Standard & Poor's AA-/positive; Moody's Aa3/stable

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