



**ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY**

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*Lught-Reill Shirveishyn Argidoil Ellan Vannin*

**Consultation Paper**

**Auditor Confirmations in Applications for  
Insurance Authorisation by Protected Cell  
Companies and Limited Partnerships**

**CP19-06/T17**

**Issue Date: 15 November 2019**

**Closing Date: 03 January 2020**

## Consultation Paper – CP19-06/T17

This Consultation Paper is issued by the Isle of Man Financial Services Authority, which is the regulatory body for financial services in the Isle of Man.

The purpose of the consultation is to obtain views and evidence in relation to the removal of auditor confirmations in the insurance authorisation application process in respect of protected cell companies (PCCs) and limited partnerships (LPs).

The consultation is relevant to the boards, senior management and auditors of existing and prospective insurance companies in the Isle of Man which are, or are proposed to be, a PCC, a cell of a PCC or an LP.

The closing date for comments is **03 January 2020**.

Please send comments in writing and preferably by email to:

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If you have a query in relation to how this consultation has been carried out, please contact the Authority's Policy and Authorisations Division by email at [Policy@iomfsa.im](mailto:Policy@iomfsa.im) or by telephone on +44 (0) 1624 646000.

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## Glossary

<b>Authority</b>	Isle of Man Financial Services Authority
<b>Cell</b>	In relation to a PCC, means a cell of the PCC in accordance with the Protected Cell Companies Act 2004 or Companies Act 2006 (as applicable)
<b>Conventional company</b>	A company incorporated under the Isle of Man Companies Acts 1931-2004, or 2006, which is not a protected cell company
<b>Limited partnership</b>	A limited partnership formed under the Isle of Man Partnership Act 1909
<b>LP</b>	A limited partnership
<b>PCC</b>	A protected cell company

<b>Protected cell company</b>	A company incorporated as, or converted to, a protected cell company under the Isle of Man Protected Cell Companies Act 2004 or Companies Act 2006 (as applicable)
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## 1. Executive Summary

### 1.1 Overview

As part of the Authority's ongoing engagement with industry in respect of the changes to the insurance regulatory framework it was highlighted that there was a disparity between the insurance authorisation application processes of conventional companies as compared to PCCs and LPs. The disparity being that conventional company applicants did not need to obtain certain auditor confirmations in respect of their application business plan whilst PCCs and LP applicants did need to obtain auditor confirmations.

It is already the Authority's intention to update the overall regulatory requirements in respect of PCCs and LPs (currently planned for implementation within the updated Insurance Regulations on 1 July 2020).

However, in the interim, the disparity between conventional companies increases the relative cost and potentially the time required for PCCs and LPs to make an application.

The Authority considers it appropriate therefore to accelerate the removal of the requirement for auditor confirmations in respect of PCCs and LPs in order to make the framework more consistent across all insurance authorisations, and proposes to bring into effect the necessary changes before the end of this year.

### 1.2 What is the purpose of this Consultation Paper?

The purpose of the consultation is to obtain views and evidence in relation to the removal of auditor confirmations in the insurance authorisation application process in respect of PCCs and LPs.

### 1.3 Who may be affected by this Consultation Paper?

Parties likely to be effected by the proposals in this consultation paper are the boards, senior management and auditors of existing and prospective insurance companies in the Isle of Man which are, or are proposed to be, a PCC, a cell of a PCC or an LP.

## 2. Consultation Process

### 2.1 The Authority's regulatory objectives

The Authority's regulatory objectives are set out in section 2(2) of the FSA08 as —

- (a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;
- (b) the reduction of financial crime; and
- (c) the maintenance of confidence in the Island's financial services, insurance and pensions industries through effective regulation, thereby supporting the Island's economy and its development as an international financial centre.

The Authority is required to give consideration to certain factors when discharging its functions in accordance with paragraph 3 of Schedule 1 to the FSA08. The most relevant factors for this consultation are considered as follows:

Factor	Information
The need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden.	This proposal expedites the removal of a regulatory requirement to make consistent the insurance authorisation application process for all legal forms of applicant.
The desirability of facilitating the development of the financial services, insurance and pensions industries.	This change will reduce the cost and potentially speed up the submission of applications for insurance authorisation by PCCs and LPs whilst (because of the Authority's processes in respect of application business plans) ensuring an appropriate level of protection for policyholders.

## 2.2 Responding to the Consultation Paper

Open dialogue with stakeholders is an essential element for successful development of the Authority's proposals and constructive feedback will help the Authority reach an informed decision on the content of the proposals and manner of implementation.

As responses to the consultation may be subject to publication or disclosure in accordance with access to information regimes, respondents should state if they wish their response to remain confidential and, if so, the reasons for this.

Submissions received by the closing date of the consultation will be considered but may not necessarily result in a change to the proposals following a review of all responses received.

Professional bodies, trade associations and other representative groups are asked to provide a summary of the people and organisations that they represent when responding to a consultation as well as the methodology used to gain members' input.

The Authority requests that submissions are not made anonymously as they will not be considered or included in the Consultation Response.

This Consultation Paper has been published on the Authority's website and the Isle of Man Government's Consultation Hub<sup>1</sup>. A list of specific representative groups to which this Consultation Paper has been sent is shown in Appendix A.

### **3. Draft Insurance (Protected Cell Companies and Limited Partnerships) Amendment Regulations 2019**

Attached as Appendix B are the draft regulations which give effect to the changes described in this paper. These are the proposed Insurance (Protected Cell Companies and Limited Partnerships) Amendment Regulations 2019.

## **4. The proposed changes in more detail**

### **4.1 Existing requirements**

#### **Conventional companies**

Under the Insurance Regulations 2018, conventional insurance companies are not required to obtain auditor confirmations in relation to their business plans as part of an application for authorisation under section 6 of the Insurance Act 2008.

#### **PCCs**

Under—

- (a) paragraph 4(c) of Part II of Schedule 1 to the Insurance (Protected Cell Companies) Regulations 2004, PCCs are required as part of an application for authorisation under section 6 of the Insurance Act 2008 to obtain:

“4. Confirmation by the Auditors that they:-

...(c) consider the information provided in respect of the Business Plan to have been properly prepared on the basis of the assumptions made by the Directors of the company”; and

- (b) paragraph 2 of Part IV of Schedule 1 to the Insurance (Protected Cell Companies) Regulations 2004, a PCC cell is required as part of an application for authorisation under section 6 of the Insurance Act 2008 to obtain:

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<sup>1</sup> <https://consult.gov.im/>

“2. Confirmation by the Auditors of the PCC that they consider the information provided in respect of the Business Plan to have been properly prepared on the basis of the assumptions contained therein.”

## **LPs**

Under paragraph 4(c) of the adaptations and modifications set out under paragraph 5 of Schedule 2 to the Insurance (Limited Partnership) Regulations 2004, LPs are required as part of an application for authorisation under section 6 of the Insurance Act 2008 to obtain:

“4. Confirmation by the Auditors that they:-

...(c) consider the information provided in respect of the Business Plan to have been properly prepared on the basis of the assumptions made by the Partners or Directors of partners of the applicant”.

## **4.2 Existing disparity and proposed change**

As indicated in paragraph 4.1 above, PCCs and LPs are subject to an additional cost and potentially time implication in respect of mandatory auditor confirmations.

In the Insurance Regulations 2018 (which updated the Insurance Regulations 1986) the Authority removed the requirement for mandatory insurance application auditor confirmations. However, the Insurance Regulations 2018 did not replace the Insurance (Protected Cell Companies) Regulations 2004 or the Insurance (Limited Partnership) Regulations 2004. As a result the removal of the auditor confirmation requirement did not extend to PCCs or LPs.

It is already the Authority’s intention, as part of its wider insurance regulatory developments, to update the Insurance Regulations such that changes in respect of PCCs and LPs are included.

In the interim, in order to facilitate more efficient applications for insurance authorisation in line with the process available to conventional companies, the Authority intends to bring forward the removal of the application business plan auditor confirmations in respect of PCCs and LPs.

## **5. Impact Assessment**

The Authority does not anticipate any negative impact arising from the proposals referred to in this paper, including in respect of small firms.



## 6. Questions

### Question

The Authority welcomes any feedback readers may have in relation to the proposals referred to in this document.

## 7. Next Steps

Following closure of the consultation period, the Authority will review the responses received and publish a Consultation Response document on the Authority's website and the Isle of Man Government's Consultation Hub.

As indicated previously, and subject to the completion of all due processes, the Authority intends to give effect to the proposed changes by the end of this year.

## **Appendix A – List of Representative Groups to which this Consultation Paper has been sent**

- Isle of Man Captive Association
- Manx Insurance Association
- Isle of Man Society of Chartered Accountants

## **Appendix B – the proposed Insurance (Protected Cell Companies and Limited Partnerships) Amendment Regulations 2019**

Statutory Document No. 2019/XXXX



*Insurance Act 2008*

# **INSURANCE (PROTECTED CELL COMPANIES AND LIMITED PARTNERSHIPS) AMENDMENT REGULATIONS 2019**

*Laid before Tynwald:*

*Coming into Operation*

*16 December 2019*

The Isle of Man Financial Services Authority makes the following Regulations under section 50 of, and Schedule 7 to, the Insurance Act 2008.

## **1 Title**

These Regulations are the Insurance (Protected Cell Companies and Limited Partnerships) Amendment Regulations 2019.

## **2 Commencement**

These Regulations come into operation on 16 December 2019.

## **3 Deletions in respect of regulations**

Delete the following—

- (a) paragraph 4(c) of Part II of Schedule 1 to the Insurance (Protected Cell Companies) Regulations 2004<sup>1</sup>, including the words:

“(c) consider the information provided in respect of the Business Plan to have been properly prepared on the basis of the assumptions made by the Directors of the company”;

- (b) paragraph 2 of Part IV of Schedule 1 to the Insurance (Protected Cell Companies) Regulations 2004, including the words:

“2. Confirmation by the Auditors of the PCC that they consider the information provided in respect of the Business Plan to have been properly prepared on the basis of the assumptions contained therein.”; and

<sup>1</sup> SD 149/04

- (c) paragraph 4(c) of the modifications set out under paragraph 5 of Schedule 2 to the Insurance (Limited Partnership) Regulations 2004<sup>2</sup>, including the words—

“(c) consider the information provided in respect of the Business Plan to have been properly prepared on the basis of the assumptions made by the Partners or Directors of partners of the applicant”.

**MADE**

**NAME**  
*Position*

**NAME**  
*Position*

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<sup>2</sup> SD 552/04

*EXPLANATORY NOTE*

*(This note is not part of the Regulations)*

These regulations remove the requirement for a protected cell company or limited partnership, which is applying for insurance authorisation under section 6 of the Insurance Act 2008, to obtain certain auditor confirmations in relation to its application business plan.