



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

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Consultation Response
Insurance (Non Long-Term Valuation and
Solvency) Regulations 2020

CR20-03/T04

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Glossary

Act	Insurance Act 2008
Authority	Isle of Man Financial Services Authority
CGC	Corporate Governance Code of Practice for Insurers
ICC	Incorporated Cell Company
MCR	Minimum Capital Requirement
PCC	Protected Cell Company
Regulations	The draft Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2020
SCR	Solvency Capital Requirement

1. Background

This Feedback Statement is issued by the Isle of Man Financial Services Authority following Consultation Paper CP19-05/T04¹.

The purpose of the Consultation Paper was to obtain views and evidence in relation to the draft Insurance (Non Long-Term Valuation and Solvency) Regulations 2020.

2. Summary of Responses

We received 3 responses welcoming and supporting the draft regulations. A summary of the Authority's responses to the responses can be found in Appendix B.

3. Changes to the Proposals

Following the consultation the proposed MCR for PCCs has been reconsidered and the regulations have been extended to include capital and solvency requirements for ICCs.

These changes are due to be consulted on by the end of March 2020, ahead of the launch of the new capital and solvency regime for non long-term business insurers in December 2020.

More detail of the existing MCR requirements is set out in CP19-05/T04.

4. Next Steps

Subject to the responses received to the abovementioned PCC and ICC consultation, the Authority will progress to make the Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2020.

In case of any query, please contact the undersigned —

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¹ <https://consult.gov.im/financial-services-authority/cp19-05-t04-insurance-non-long-term-business-valua/>

Appendix A – List of Representative Groups to which this Consultation Response has been sent

- Isle of Man Captive Association

Appendix B – Table of responses

Our Question (where applicable)	Ref	Comment received	Our response
General Comments	N/A	In general we welcome the approach proposed by the Authority but wish to make the following comments... <i>(set out later in this document)</i>	Thank you for your comments.
	N/A	The regulations run to 130 pages. This is considerably more than say, Guernsey and does not appear to be consistent with the proposed Class 12 “lighter touch”	<p>Noted. It is important to note that the Regulations cover both commercial and Class 12 insurers. The Regulations are by necessity detailed as, inter alia, they codify the basis of the calculation of solvency requirements under the standard formula.</p> <p>We do not necessarily consider a “lighter touch” to be appropriate terminology to describe the regulatory oversight of insurance business under a risk based supervisory framework.</p> <p>The Authority has advocated, within this consultation and the parallel consultation on the topic of criteria Classification of a 12 insurer (CP19-04/T04), that it is appropriate in certain areas to apply a reduced level of regulation for Class 12 insurance business on a risk basis.</p>

Reporting	N/A	We would welcome guidance on the practicalities of completion and submission e.g. frequency, audited or not etc. as soon as possible;	Noted. The Authority will confirm expectations when such requirements are incorporated into the consultation on the Insurance Regulations 2020, due for publication shortly.
	N/A	Will the format of the supplementary information be amended to include Board affirmations on data quality etc.?	We will give consideration to attestations / affirmations in reviewing reporting requirements under the Insurance Regulations 2020.
We request insurers provide comments on the proposed content of the draft Insurance (Non-Long Term Business Valuation and Solvency) Regulations 2020	2.8	Interpretation It is acknowledged that these draft regulations are “non-long” term business, however it would be helpful to have a “class 12” definition consistent with the draft Insurance Regulations 2020.	Noted – it is our intention, post the consultation exercise CP19-04/T04 on criteria for Class 12, to update the definition of Class 12 insurer in these draft regulations on a consistent basis.
		9. Policyholder behaviour In non-long term business, given the nature of indemnity insurance contracts the concept of exercising contractual options is rare, therefore the impact of policyholder behaviour is less likely to impact technical provision and capital requirements.	Noted. Regulation 9 requires an insurer to take sufficient steps to identify policyholder behaviour and make appropriate assumptions. Where an insurer has identified that policyholder behaviours are not a driver of its technical provisions then it should document this in its board report.
		14. Valuation of assets and liabilities (1) (b) It is assumed that the valuation in respect of liabilities “the amount for which could be...settled”, being the estimated reserves claims can be settled with the claimant, can be utilised	The estimated claims reserve for settlement with the claimant is an appropriate measure of an insurance liability.

		rather than price to transfer claims to a third party (Commutation or Novation) (8) Will guidance be given as to what constitutes “material contingent liabilities” or will accounting standards apply?	Accounting standards will apply.
We request Class 12 insurers consider the risk margin requirements and feedback where they have any concerns.	3.8.5.	The Class 12 insurers risk margin is in line with the previous version, therefore we have no comments.	Noted.
We request insurers provide comments on the Authority’s proposed Minimum Capital Requirements.	4.1.7.	We acknowledge that for class 12 insurer the MCR is set at 75% of the SCR to calibrate to 85%. Should 52 (2) (a) read the “higher of - or ...” rather than “and”?	Noted. We will consider this.
We request insurers provide comments on the Authority’s proposal for applying capital add-ons.	4.2.7.	As long as capital add-ons are only used on an insurer specific basis, we do not have any comments to make.	Noted. The Regulations allow for the Authority, in exceptional circumstances, to adjust <u>an insurer’s</u> SCR by way of a capital add-on. We feel that this expresses clearly that a capital add-on would be applicable on an insurer specific basis.
We request insurers provide comments on the Authority’s proposed data quality requirements.	4.3.5.	22 (2) (b) “record and store the non-compliant data before adjustments to remedy limitations are made to it.” We are unsure what this sentence is trying to convey.	The intention here is to require an insurer to retain data separately in its non-complaint form before any adjustments are made to it.

			The Regulations requires the storage of such data to enable an insurer to carry out data assurance exercises such as internal audit review or back testing / maintaining an audit trail of data corrections.
We request insurers provide comments on the Authority's proposed Board Report ² requirements	4.4.4.	In respect of captives, it is worth noting that key assumption (<i>sic</i>) are likely to be discussed with and set by Board, this will be an ongoing process. However we do acknowledge that an annual report to the Board documenting all assumptions etc. (even where the Board has set the assumption) is appropriate.	Noted.
		Will there be any specific guidance on the form of reports to be provided to the Board?	The Authority does not currently propose to develop guidance for this requirement. Regulation 8(2) of the Regulations includes minimum requirements that the report must include. The Authority may provide thematic feedback to industry on areas of best and poor practice once the requirements are introduced.
Counterparty default risk SCR – Offsetting claims against parental loans	3.2	We welcome the proposed offset of claims reserves against asset group loans	Thank you for your comments.

² The text under 4.4.4. in CP19-05/T04 contained a typographical error that has been corrected in this document

Counterparty default risk SCR – ‘Pay-as-paid clauses’	3.3.	Does pay as paid contravene accounting best practise? This may not comply with IFRS17 and therefore may need adjustments to be made from accounting results to complete the SCR calculations;	<p>We understand that the use of such clauses may raise uncertainty as to the degree of risk transfer for accounting purposes.</p> <p>For a definitive answer to this question the Authority suggests that insurers raise the issue with their auditors. As suggested, where accounting treatment differs from a regulatory basis adjustments may be required.</p>
Solvency Capital Requirement	Part 3 of the Regulations	Will the SCR requirement be measured against the calculations as at the previous accounting period end as under the current regime or will this be recalculated regularly during the year?	<p>The SCR will be calculated in accordance with the new regulations and the outgoing (current) calculation of solvency margin for non-life insurers will be replaced entirely.</p> <p>When the new regime goes live, the Insurance Act will require insurers to establish and maintain an MCR and SCR at all times.</p> <p>In between accounting year ends insurers will need to meet the requirements of any relevant intermediate-period regulatory returns (under the Insurance Regulations 2020), or as part of an insurer’s own risk and</p>

			solvency assessment (under the revised CGC).
Requirements for insurers in run-off at 30 June 2020	5.2.1	<p>Clearly this confirms that you will be looking at the revised solvency requirement for run-off separately and therefore the change of class under the consultation paper CP19-04/T04 referring to Class 12 insurance authorisation is not as much of a concern at this stage pending the above.</p> <p>.....At the IOMCA meeting in January, you recognised the importance of the run off market but believed that 'captives bought for run off' needed to be dealt with separately. You also recognised that existing captives of this nature will need transitional arrangements and should not be prejudiced by no longer being classed as captives.</p> <p>I am sure we can work constructively on these revisions going forward.</p>	We intend to engage with the sector on this issue, including the matter of any transitional arrangement for existing companies in run off.