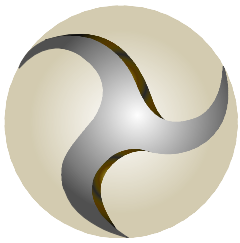

ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

Lught-Reill Shirveishyn Argidoil Ellan Vannin

Consultation Response

CORPORATE GOVERNANCE CODE OF PRACTICE FOR INSURERS

CR21-05

Issue Date: 25 May 2021

Contents

Glossary

Authority	Isle of Man Financial Services Authority and "we" shall be construed accordingly
CGC	The proposed Corporate Governance Code of Practice for Insurers (or, where specified, its similarly named predecessor codes of 2010 or 2019 – as applicable)

1. Background

This Consultation Response is issued by the Isle of Man Financial Services Authority following Consultation Paper CP19-10/T11.

The purpose of that consultation was to obtain views and evidence in relation to changes proposed to be made to the current CGC in respect of commercial insurers (which came into operation on 1 January 2019), including extending it on a proportionate basis to all Isle of Man authorised insurers (it is currently applicable only to long-term insurers and a small number of commercial non long-term insurers).

2. Responses to the consultation and the Authority's further comments

A table of the detailed responses received during the consultation, together with the Authority's further comments, is attached at Appendix B.

3. Changes and potential changes to the Proposals

The CGC, and changes to the CGC indicated in this document, are applicable to all sizes of firms (including small firms) on a proportionate basis in accordance with the classes of authorisation. Those classes impose a reduced level of regulation to lower risk insurers and a higher level of regulation to higher risk insurers. The classes are based on the insurer's risk profile where size is one factor together with the nature and complexity of the insurer and its business.

A summary list of the post-consultation changes and potential changes to the proposals is attached at Appendix C.

This list is limited to changes identified in connection with the consultation. It does not contain any changes as may arise out of further review and finalisation of the CGC by the Authority.

4. Next Steps

Following the publication of this paper the Authority will amend the CGC as indicated in Appendix C. The amended CGC is expected to be made available to interested parties prior to 30 June 2021.

In case of any query, please contact the undersigned —

Mr Alan Rowe
Isle of Man Financial Services Authority
PO Box 58, Finch Hill House, Bucks Road, Douglas Isle of Man, IM99 1DT
Email: alan.rowe@iomfsa.im
Telephone: +44 (0) 1624 646004

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

- Isle of Man Captive Association
- Manx Insurance Association

Appendix B – Table of detailed consultation responses and the Authority's further comments

Note in respect of column headed "Comments received":

- **Any typographical errors are as received**
- **Case-specific information has been deleted, as indicated in square brackets**

Note in respect of column headed "The Authority's response":

- **To avoid any doubt, should any of the comments of the Authority be inconsistent with the requirements of the updated CGC (which would be unintentional), the updated CGC shall apply**

OUR QUESTION (where applicable).		Comment received	The Authority's response
General	1	In general we support the approach that the requirements of the CGC should apply to all entities that hold permits in the Isle of Man, subject to a number of exemptions where other jurisdictions have equivalent requirements. In respect of the arrangements for insurance managers we feel that it would be appropriate to clearly indicate that the overall responsibility for compliance to the CGC for the insurance business is with the authorised insurer. This will help to avoid situations where the responsibilities are split between the parties.	Noted. We believe that overall responsibility is already clear under section 17A of the Insurance Act 2008 and, for example, paragraphs 5, 7, 26, 41, 42 and 43 of the draft CGC. To summarise: section 17A and the CGC both apply to the insurer. Implementation of corporate governance measures which comply with the CGC is the responsibility of the insurer's board of directors and senior management (including any outsourced senior management). The board has ultimate responsibility for the affairs of the insurer. Delegation by the board to management does not absolve the board of its duties or responsibilities in relation to the insurer. In turn, management is responsible for matters pursuant to its role.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	2	[Name deleted] understands and is supportive of the rationale for the proposed changes in relation to lower risk Insurers and the Enterprise Risk Management Framework.	Noted.
	3	Overall, we are supportive of the Authority's intention to extend the existing Corporate Code of Practice for Commercial Insurers to all Isle of Man insurers on a proportionate basis. We also welcome the amendments made, particularly around the positioning and embedding of the Enterprise Risk Management Framework and the proposed requirements for Recovery Planning, which will enhance our existing recovery arrangements.	Noted.
Question 1: Do readers agree or disagree with any of— (a) the application of the updated CGC to all Isle of Man insurers; (b) the exemption given to UK/EU-based permit holders; or (c) the application of the updated CGC to non UK/EU-based permit holders, and/or the Authority's scope to exercise discretion in applying the CGC to non UK/EU-based permit holders?	4	Agree. Corporate governance requirements should apply to all regulated entities operating in, or from the Isle of Man, in a way that is proportionate to the complexity of the business(es) concerned. Exemptions should be available for companies regulated in other jurisdictions where the 'Home State' regulator has equivalent requirements.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	5	[Name deleted] agrees with each of these:- (a) for consistency (b) UK/EU home state CG requirements should be broadly equivalent, on that basis the main regulator should be the home state regulator, the exemption proposed is agreeable (c) It would depend on the quality of home state regulations therefore the code should apply unless Authority assessment as equivalent regulation.	Noted.
	6	Agree On point (b) should UK/EU based permit holders be given an exemption or should they be treated the same as non UK/EU based permit holders. Exemptions to UK / EU could be granted by written approval from the Authority.	Noted. The Authority has taken a view that UK/EU (and third country equivalents of EU rules) are equivalent to the Island's insurance regulatory framework. This was considered a practicable and proportionate approach which avoids unnecessary processes for the majority of the Island's inward, cross border insurance providers.
	7	a) yes, all insurers should be covered, with proportionality applying for smaller or lower risk insurers b) yes, it is appropriate for the home regulator to be supervising c) yes, in case the Authority has any issue with the home regulator's approach	Noted.
	8	Agree - The proposals appear reasonable and proportionate.	Noted.
	9	We agree with and support these proposals. Further clarification is requested regarding non-UK/EU permit holders and whether the Authority's assessment would be:	Noted. The basis would be a jurisdictional assessment of equivalence with the CGC requirements. No, this does not align with the CoB exemptions (which, of course, represent

OUR QUESTION (where applicable).		Comment received	The Authority's response
		(i) made on a case-by-case (both jurisdictional and permit holder) basis; or, (ii) determined according to a jurisdictional assessment made by the Authority, similar to that performed for the introduction of the Conduct of Business Code (CoB). If so, would this broadly align with the existing jurisdictional exemptions granted under CoB?	only one element of corporate governance). However, it does not prevent the same jurisdiction from being determined as equivalent under both assessment processes.
	10	We agree with each of (a), (b) and (c). We agree with the proposed application of the CGC to various types of insurers. A single CGC document provides clear and simple guidance and avoids the possibility of confusion or the need to keep multiple codes in sync with potential future changes. In particular, with reference to (b) and (c) above, we feel the proposed approach facilitates the straightforward setup of Isle of Man branches of foreign insurers. We also believe documented regulated codes benefit the stated Authority's regulatory objectives for "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". In our experience, an appropriate, transparent, explicit and prescribed regulatory regime leads to a more stable and predictable regulated industry.	Noted.
	11	Agree with all of the above points.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	12	We agree with the above; subject to the following comments. (a) As long as it continues to be applied, subject to proportionality (b) & (c) would it not be easier to have only "other jurisdictions acceptable to the authority" (i.e. Not include UK/EU in the Code) and publish a single list including UK/EU + other acceptable jurisdictions. (What if the EU admits a new Member state, with a significant transition plan regarding Corporate Governance of insurers in that State, the Authority would currently be tied to accepting that State as having an appropriate Corporate Governance framework for insurers.)	Proportionality continues to apply throughout the CGC, subject to some specified minimums. The CGC follows a practical and proportional approach shared with various regulations of the Authority in exempting permit holders whose home jurisdiction is an EU member state. However, your suggestion is one we may consider going forwards when that general approach comes up for review.
Question 2: Do readers agree or disagree with any of— (a) the application of the updated CGC to Isle of Man insurance managers (i.e. where it is limited to the services and responsibilities the insurance manager has adopted by way of outsourced arrangements); and/or (b) the interim continuation of the requirements of SD 0880/10 otherwise in respect of insurance managers until	13	Option (b) is preferred as it will allow companies to assess the proposed governance arrangements.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
such time as more tailored governance requirements are introduced in respect of the manager's own internal arrangements?			
	14	The CGC applies to the insurer who retains oversight for the services outsourced to the Insurance Manager. Whilst we agree, it may be beneficial to undertake the proposed full review prior to including the Insurance Manager (in respect of the services supplied) under the Insurers Code. This would give clarity on the impact and benefits while giving more time to ensure that no conflict arises out of following both Codes. [deleted case specific text]	The Authority will, as indicated, review the requirements for a bespoke governance code for insurance managers to replace the 2010 CGC. In the interim, we do not see any current conflict of codes and do not anticipate any conflict going forwards with the new proposals.
	15	Agree No Comments	Noted.
	16	We think this is an appropriate measure for the time being.	Noted.
	17	Agree with (a). [Deleted case specifics] [we may wish to] base our Compliance arrangements in accordance with just the updated CGC, than have to also cross reference to another CGC for Insurance Managers.	Noted. We do not propose to provide an elective option for insurance managers to apply the updated CGC (although compliance with the updated CGC would be expected to cover compliance with the 2010 CGC). In due course managers are anticipated to have a dedicated CGC but in the meantime it is considered appropriate and consistent to maintain the requirements of the 2010 CGC.
	18	We have no objection to these proposals.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		The circumstances when insurance managers are not required to comply with the updated Corporate Governance Code (CGC) requires further clarity please ie whether or not the exemption is only applicable for insurance managers acting in an outsourced capacity for a commercial / general insurer.	The updated CGC (which is an insurer-only code) will apply to any significant outsourced activity or function of an insurer, including insurance management. The 2010 CGC will (until replaced) continue to apply as a manager-only code to an insurance manager's own arrangements as a regulated entity in its own right.
	19	We have no comments on this question.	Noted.
	20	If Insurance Manager's are brought into scope, the requirements need to be proportionate if within the same Group of companies due to existing corp gov framework to avoid unnecessary duplication.	Insurance managers are not being newly brought into scope. The CGC 2010 has always applied to Insurance managers. Intra-group outsourcing is subject to the CGC the same as outsourcing to third parties. The CGC's proportionality provisions apply equally to both. We do not see where there would be unnecessary duplication.
	21	(a) 5 (2) states that "Where an insurer has appointed a person registered as an insurance manager under section 25 of the Act to manage its business, the CGC, in respect of the services provided, applies to the insurance manager as an outsourced significant activity or function of the insurer and as part or all of the insurer's executive management (as applicable)." This must be read in conjunction with Parts 5 & 6. Part 5 imposes responsibilities on senior management and as insurance managers, by way of the definition of "senior management" are senior management, therefore	It must be read in conjunction with every relevant part of the CGC. We disagree.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		we agree it is appropriate that Part 5 applies to insurance managers. However, Part 6 imposes responsibilities on the insurer therefore we disagree that Part 6 should apply to insurance managers.	From the perspective of an insurer, Part 6 applies to any outsourced significant function of that insurer, including insurance management. Again from the perspective of an insurer, an outsourced insurance manager may be required by the insurer make arrangement in respect of other outsourcing for the insurer. In which case, Part 6 will apply to the manager's activities on behalf of the insurer. From the perspective of the insurance manager, as a regulated entity in its own right, if it outsources one of its significant functions the CGC 2010 requirements in respect of outsourcing will continue to apply.
		(b) We agree that SD0880/10 should remain in force until such time as more tailored governance requirements can be considered.	Noted.
Question 3: Do readers agree or disagree with the requirement for insurers to evaluate their risks and options (and intentions where appropriate) in hypothetical recovery scenarios?	22	Agree. As part of the risk management evaluation conducted by companies they should consider situations where there may be a significant negative impact on the solvency level maintained by the company. From this situation the companies need to identify the practical steps they can take to recover / manage the situation.	Noted.
	23	[Name deleted] agree with the requirement for insurers to evaluate their risks and options in	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		hypothetical recovery scenarios	
	24	Agree Suggest that the Authority should prescribe a list of the plausible scenarios as well as hypothetical scenarios which an insurer at the minimum should be considering for their ongoing [deleted abbreviation] and thereby by can demonstrate recovery options as part of their resilience strategy as seen with other regulators. This is to ensure that the insurers in the minimum cover the list of prescribed scenarios and that could also be assessed on a uniform basis at an industry level which would be useful for the authority to see at consolidated industry level.	Noted. The Authority does not propose to set out mandatory scenarios in the CGC at this time as the risks and options available to individual insurers may vary significantly. However, we will consider whether further guidance in this area would be appropriate. The Authority will continue to follow this as a developing regulatory matter and will consider the best way to approach it in terms what regulatory parameters are necessary in guiding insurers' individual assessments of their recovery plans.
	25	We agree it is appropriate for insurers to consider recovery scenarios. The ORSA is the natural place to consider these issues and it would be appropriate to explicitly state there that these are recovery scenarios.	We agree that there is a potential overlap between ORSA and recovery scenarios. However, risks and options in a recovery scenario could be a step beyond what might normally be considered (or mandatorily required) in an ORSA. There is, of course, nothing preventing an insurer from considering recovery scenarios together with its ORSA process.
	26	Agree - The proposals appear reasonable and proportionate.	Noted.
	27	We have no objection to these proposals because [Deleted cases specifics].	Noted.
	28	We agree with this requirement and note that it is consistent with the development of prudential regulatory regimes in other jurisdictions, in particular with proposed EIOPA guidelines on recovery and resolution requirements applying to EU insurance entities.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		However, we believe that further public guidance on this and other governance issues may be desirable in order to educate insurers as to the Authority's expectations and to satisfy the application of proportionality. If new requirements become a "check-box" exercise, the requirements should describe "minimum" compliance requirements. If the requirements seek to identify and communicate key risks to the Board and Authority (with risk mitigation and/or management in mind), a more principles based approach may be required with the consequential scope for differing interpretations and differing levels of engagement. There are a number of avenues open to the Authority and the industry to assist insurers in interpretation of regulations, either through mandatory or non-mandatory guidance from the Authority, or through standards/codes of conduct from trade or professional bodies, i.e. the MIA or the MAS. Ultimately the Authority is seeking to influence behaviour within entities once authorised, and such influence can be exercised in a varied of complementary ways over time. With the core elements of the new regulatory framework now in place for some time, we suggest the timing is right to introduce a co-ordinated approach to guidance/interpretation.	The Authority is aware of the different forms of requirements. As you will be aware, the CGC is largely principles based. Concerning a "check-box exercise" (if you mean a perfunctory approach), this would not be an adequate, appropriate or effective way to implement an authorised insurer's governance arrangements (including ERM). Such an approach would not represent the individual or cultural attitudes and commitment required to properly manage risk. The Authority considers the CGC to be sufficient for the time being. The Authority has regular interaction with relevant trade and professional bodies and additional guidance or practice notes may be something which industry or the Authority may feel are appropriate to develop going forwards. The Authority anticipates increasing its engagement with insurers on governance matters, including through thematic exercises with feedback to industry. There is a balance to be struck to ensure that there is sufficient clarity as to what are the necessary outcomes to be achieved in relation to regulatory requirements without mandating overly granular rules or guidance. The Authority has already issued responses to thematic reviews which

OUR QUESTION (where applicable).		Comment received	The Authority's response
			outline its expectations in relation to aspects of the new regulatory framework. The Authority will keep under consideration whether further guidance is required for aspects of the framework and what form this should take.
	29	Agree.	Noted.
	30	We agree with the requirement for insurers to evaluate their risks and options (and intentions where appropriate) in hypothetical recovery scenarios, however we believe that: • in relation to Recovery scenarios, this may include recovery to solvent closure of the Company (i.e. not further business underwritten). • It should be acknowledged that if the recovery scenarios are hypothetical, the risks, options and intentions should also be allowed to be hypothetical. (i.e. noting that in a recovery scenario the Company would ask its shareholder for additional capital, rather than having additional capital already requested and approved by the Shareholder (prior to a hypothetical recovery).	Noted. This might be an option where appropriate. Whilst the events leading to recovery may be hypothetical, recovery options must be realistic. If, as you indicate, the recovery option is for the insurer's parent group to provide additional capital then the insurer must consider how realistic this is in stressed scenarios. Those considerations need to take account of relevant factors, such as what formal commitment has been given and what legal right has the insurer to receive the additional capital? Would a plausible recovery scenario also mean that the insurer's parent group would be in financial distress? If so then additional capital may not be reliable unless steps have been taken beforehand to secure access to it.

OUR QUESTION (where applicable).		Comment received	The Authority's response
Question 4: Do readers agree or disagree with the prohibition of combining the roles of Chairperson and CEO in relation to insurers?	31	Agree, the Chairman should be free to ensure that the views of all directors are taken into account and appropriate governance arrangements are in place.	Noted.
	32	[Name deleted] are supportive of removing the potential for conflict between the two roles and therefore, agree with the proposed.	Noted.
	33	Agree Roles should not be combined to ensure greater independence and objectivity for its Board committees. The requirements for the Board chairperson to be specifically disclosed (as to skillset and type of Independent non-executive Board member). Further, the Code should also clearly stipulate guidance on the CEO and Chairperson role separately for smaller companies and those in run-off one (in such scenarios the requirements may become too onerous for these arrangements.)	Noted. The Authority does not propose to further specify the skillset or independence required to be a CEO or chairperson. The CGC already requires individuals to have the requisite integrity, competence, experience, qualifications and commitment for their roles (including any CEO or chairperson respectively). It also requires a board to be able to exercise objective oversight and judgement. In that regard, an independent non-executive director as chairperson is important to the governance process to deliver that objectivity, especially for commercial insurers. The Authority does not at this time propose to mandatorily require appointments to CEO and chairperson roles, or to set out a specific template for the carrying out of those roles. However, each insurer must apply the CGC, including governance structures and responsibilities that are adequate, appropriate and effective for the insurer's circumstances. As such, an insurer's board and senior management structures must address the need for

OUR QUESTION (where applicable).		Comment received	The Authority's response
			leadership in its management and oversight functions in a suitable manner. This may necessitate the appointment of a CEO and chairperson, especially in respect of commercial insurers. We will change the CGC throughout to refer to "chairperson". Thank you for raising this.
		The reference to the word "Chairman" should be replaced with "Chairperson" throughout the document.	
	34	Yes, agreed this is best practice.	Noted.
	35	Agree - The proposals appear reasonable and proportionate.	Noted.
	36	We have no objection to this proposal because [deleted case specifics].	Noted.
	37	On balance we agree with the prohibition as to combine the roles may create a conflict of interest in certain entities at certain times. Without the prohibition, some other mechanism would be required to address possible conflicts of interests in a combined role. We note that there is no explicit requirement for either role and suggest that appointment of these separate roles should be mandatory for commercial insurer Boards and furthermore that the appointments should be disclosed publically.	The CGC 2010 and 2019 already address conflicts of interest in a combined CEO and chairperson role. Going forwards the combined role will be prohibited. It should be noted that, even though the Authority does not mandatorily require CEO and chairperson appointments, an insurer is still required to be soundly and prudently managed from an operational and oversight perspective. For larger or more complex insurers this may necessitate the appointment of a CEO and chairperson. In addition, the nature of the insurer's business should be taken into account. For example, where an insurer is providing insurance to third parties (and especially if these are members of the general public), the appointment of an

OUR QUESTION (where applicable).		Comment received	The Authority's response
			effective chairperson is important (amongst other things) to ensuring objective direction and oversight over the fair treatment of policyholders. The topic of public disclosure will be addressed in a dedicated future update to the insurance regulatory framework.
	38	Agree with this proposal [deleted case specifics].	Noted.
	39	In principle, we agree with the prohibition of combining the roles of Chairperson and CEO in relation to insurers. Insurers that we manage don't appoint CEO or in most instances permanent Chairperson.	Please refer to our relevant comments against item 37. In addition, in the case of non-permanent (frequently rotated) chairpersons, the board still needs to consistently ensure that the insurer is properly directed and overseen, and has governance arrangements to support this.
Question 5: Do readers agree or disagree with capital and liquidity adequacy policies being added as additional examples of risk strategies and significant risk policies which should be subject to regular board review?	40	Agree, capital and liquidity are significant policies that form part of the overall risk management framework for companies.	Noted.
	41	[Name deleted] agree with the proposal to add additional examples of risk strategies and significant risk policy and that they should be subject to regular board review.	Noted.
	42	Agree No Comments	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	43	Yes, for active insurers these are key policies and it is hard to see how risk could be well understood without reference to these policies by the Board.	Noted.
	44	Agree- The proposals appear reasonable and proportionate.	Noted.
	45	We broadly agree with this proposal [case specifics deleted].	Noted.
	46	We agree with this approach – we believe these policies are important to the proper Board oversight of insurers' risk management frameworks. However we believe the principle of proportionality should be permitted within the detail required for each policy as some entities may have a relatively straightforward risk profile and strategy for the management of capital and/or liquidity risk and others may have either more complex risk profile or more complex risk mitigation strategies. In all cases, we believe the ownership and involvement of the Board in risk strategies and risk policies is key in their responsibility for the effective control and oversight of the entity.	Noted. Proportionate application of the CGC has been the minimum standard required since its introduction in 2010. The CGC is already clear on the role of the board in respect of strategies, risk policies and enterprise-wide responsibilities.
	47	Agree.	Noted.
	48	We agree with further clarity as to what the Authority expects to see, however given the nature, scale and complexity of some insurers (especially class 12) it may	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		be appropriate for them to have a single risk strategy document to encompass all areas, rather than the need for multiple separate documents/policies.	There is no reason why a single document cannot address multiple risk areas and corresponding strategies and policies. This is especially the case for a less complex insurer.
Question 6: Do readers agree or disagree with the inclusion of consideration of hypothetical recovery scenarios within board responsibilities?	49	Agree, see question 3.	Noted. See the Authority's responses in relation to question 3.
	50	[Name deleted] agree with the proposal to include within board responsibilities	Noted.
	51	Agree With increase in the VUCA (volatility, uncertainty, complexity and ambiguity) in global markets the insurer should show that they are well positioned to be resilient to onerous hypothetical scenarios. The Board should play an active role in scenario selection and review of the outcome of the plausible and hypothetical scenarios.	Noted.
	52	Yes, it is appropriate to include these. As stated in Qn 3, we see the ORSA as the place to deal with this matter. It should be up to the Board to define what its recovery scenarios should be, rather than these being prescribed.	Noted.
	53	Agree - The proposals appear reasonable and proportionate.	Noted.
	54	Linked with 3 and 5 above, we agree with this proposal because [case specifics deleted].	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	55	We agree that recovery planning should be a Board responsibility, include their input and their review of the output but note they can delegate the analysis and documentation to management.	Noted.
	56	Agree.	Noted.
	57	Agree – subject to answers given in Question 3.	Noted. See the Authority's responses in relation to question 3.
Question 7: Do readers agree or disagree with any of— (a) the continuation of actuarial resource requirements in relation to long-term business insurers; (b) the application of actuarial resource requirements in relation to non long-term business insurers with discretion given to the Authority to vary requirements; and/or (c) the exclusion of class 12 insurers provided they can obtain actuarial advice if they need it?	58	Agree with the suggested approach that companies need to maintain, or have access to actuarial resources to meet their requirements. These arrangements need to be flexible to be able to change with the needs of individual companies and their changing needs over time.	Noted.
	59	No comment to add.	Noted.
	60	Agree We agree with the existing arrangements which are sensible and measured.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	61	a) Yes, actuarial resource is essential for long-term business in our view. b) We have no comment. c) Yes, this is appropriate [deleted case specifics].	Noted.
	62	Agree with (a) in our particular case.	Noted.
	63	These proposals do not directly impact our Group.	Noted.
	64	We agree with this tiered approach with the Authority granting exemptions in certain cases. For (b), we agree that "discretion to vary" is a preferred approach rather than exclusion since it provides for the default position being actuarial review of non long-term business with the ability to vary. For (c), the approach is a proportionate approach to regulation of captives. However ultimately the Authority has a regulatory objective in "securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity". By leaving discretion to the Boards of captives on whether they "need" actuarial advice means (all things being equal) that captives may be less financially secure than entities with prescribed actuarial resource requirements. The Authority may want to consider how such entities publically describe or disclose financial security for the Isle of Man entity.	Noted. Captives insure 'related parties' and therefore have a reduced risk customer profile from a regulatory perspective. As such they are subject to reduced range of regulatory requirements (including reduced capital, reduced actuarial and reduced market conduct requirements). This is considered to be an appropriate approach by the Authority. The topic of public disclosure will be addressed in a dedicated future update to the insurance regulatory framework.
	65	Agree with points (a-b), whilst point (c) is not applicable to [deleted name].	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	66	We agree with (44 (5)) discretion given to the Authority to vary requirements to the application of Part 7 Actuarial Function to non long-term business insurers (classes 3 to 9 or 11).	Noted.
		We would like to make the distinction between "Actuarial Function" and "Actuarial Services" (or Function and Activity as used in Part 6).	Please refer to our relevant comments against item 159.
		We are seeing "Actuarial Function" as being (44) (3) and all parts of 44 (4) (a) – (d) with a formal appointment to the position (noting that under the current Insurance Act 2008 (19) the appointment of an Actuary subject to notification/approval to the FSA, which we would hope is not the intent under the CGC Code).	Section 18 (not 19) of the Insurance Act 2008 does not apply to non long-term insurers. Also, regulations under section 18(15) are required to extend section 18 to non long-term insurers (the CGC is binding guidance, not regulation).
		Various references are made to "technical provisions" (no definition given), "technical provisions" could be either based on the definition of "insurance provisions" or as detailed in the Technical Specifications. The "provisions for claims" do not involve an Actuary (Actuarial Function or Actuarial Service), "provisions for claims" are provided by loss adjusters, claims handlers or lawyers.	A definition of "technical provisions" was omitted from the CGC consultation as this was intended to appear in the consultation for the Insurance Regulations 2021 (and did so). We will now include a cross reference to that definition, in its final form, for use in respect of the CGC. We note your statement: *"The "provisions for claims" do not involve an Actuary (Actuarial Function or Actuarial Service), "provisions for claims" are provided by loss adjusters, claims handlers or lawyers."*

OUR QUESTION (where applicable).		Comment received	The Authority's response
			In setting its technical provisions an insurer will need to consider the adequacy of case estimates, how these will develop in the future and the extent of incurred but not reported etc. The specified responsibilities of its actuarial function does not include setting case estimates, however the basis used to set case estimates and how these may have changed over time are critical consideration for the actuarial function holder in setting incurred but not reported / incurred but not enough reported provisions. The responsibilities of the actuarial function are set out in the CGC. In respect of functions vs services/activities, please refer to our relevant comments against item 159.
Question 8: Do readers agree or disagree with the inclusion (or any of the content) of the additional wording clarifying that insurers, where appropriate, may schedule their internal audit work over more than one year?	67	Agree.	Noted.
	68	[Name deleted] agree that the proposal adds clarity.	Noted.
	69	Agree [Case specifics deleted].	Noted.
	70	Yes and [name deleted] has been operating on this principle since the CGC was implemented. To review all risks every year would not be a risk-based approach. We	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		believe it is appropriate to allow all areas to be covered on a multi-year cycle, with the Board able to adjust in accordance with how they see risk in the insurer.	
	71	Agree - The proposal appears reasonable and proportionate.	Noted.
	72	We agree that the new wording provides clarity to support our existing practices.	Noted.
	73	We have no comment on this question.	Noted.
	74	Agree with these proposals as they are in line with [name deleted] Internal Audit current approach. It allows for appropriately detailed coverage of key risks at proportionate intervals. A requirement to complete all audit work annually would result in a significantly enlarged audit function, and strain on the business operational activities / delivery of business processes and objectives.	Noted.
	75	We agree, please refer to our comments on "Appointed Function v Activities required (by a Function)".	In respect of functions vs services/activities, please refer to our relevant comments against item 159.
Question 9: Do readers agree or disagree with the removal, in respect of class 12 insurers, of the minimum annual frequency of internal audit function reports to the board?	76	Agree, internal audit requirements should be co-ordinated at a group level and applied as required.	Whilst we understand that an insurer's group may wish to (and in many cases should) coordinate internal audit requirements at group level, the CGC applies to each insurer as a standalone entity authorised in its own right. Internal audit coverage and resourcing needs to be suitable for each insurer and each insurer's board must ensure that is the case. For example, risk focus and materiality approach may be very different at group vs individual entity level. Therefore, the group approach may not (to a greater or lesser extent) be suitably focussed for the insurer's practical needs.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	77	No comment to add.	Noted.
	78	Disagree May impact [case specifics deleted, but they related to non class 12 circumstances].	The proposal was to remove the minimum annual frequency of internal audit function reports to the board only in respect of class 12 insurers, not other insurers.
	79	[Deleted case specifics] we have no comment.	Noted.
	80	n/a to our business model.	Noted.
	81	This proposal does not apply to our Group.	Noted.
	82	We have no comment on this question.	Noted.
	83	Not applicable to [name deleted].	Noted.
	84	We agree, however we note that 50 (1) removes the minimum frequency of the report to the Board, but not the appointment of an internal audit function – please refer to our comments on "Appointed Function v Activities required (by a Function)"	In respect of functions vs services/activities, please refer to our relevant comments against item 159.
Question 10: Do readers agree or disagree with the CGC highlighting a need to manage potential conflicts if an insurance manager's (or its group's) internal audit resources are to be relied upon by the manager's client insurers?	85	Agree, any potential conflict needs to be highlighted and the arrangements established are transparent to clients of the insurance manager.	Noted.
	86	No comment to add	Noted.
	87	Agree	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		Internal Audit is provided by the Group Internal Audit Function.	Please refer to our comments against item 76.
	88	We think this is self-evident but that it does no harm to state this.	Noted.
	89	Agree.	Noted.
	90	This proposal does not apply to our Group.	Noted.
	91	We have no comment on this question.	Noted.
	92	The risk / challenge raised does seems sensible, however, in [name deleted] case, as the Internal Audit resource is provided by the Group function, we believe that this risk is minimal.	Noted. Please also refer to our comments against item 76.
	93	We agree that the need to manage potential conflicts of the internal audit resources (including that of the insurance manager). We acknowledge that it would not be appropriate for a Director to provide all activities required under the internal audit function, however we feel that in some activities any potential conflict, in using a Director of the insurer in certain areas of internal audit work could be managed, (i.e. checking the effectiveness of the controls).	Noted. The role of an insurer's board is to ultimately direct and oversee the insurer's internal audit function, not carry it out. In your example, we believe that you are referring to an independent non-executive director. In such a case the director would be performing an operational activity of the insurer (a control function) which is an executive rather than non-executive role, and in doing so would call into question their independence.
Question 11: Do readers agree or disagree with any or all of the various changes in Part 11?	94	Agree.	Noted.
	95	[Name deleted] are supportive of the proposed amendments to clause 60(e)	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	96	Agree Embed within the ERM framework the qualitative underlying aspect on the risk culture and suggest approach/practices that can be adopted by the insurers in further strengthening the risk culture in the organisation.	Noted.
	97	We think this is helpful and support the changes.	Noted.
	98	Agree –proposals appear reasonable.	Noted.
	99	We agree with the proposed changes because they better reflect the integrated nature of the Enterprise Risk Management framework.	Noted.
	100	We are supportive of the proposed changes. We believe these changes are a useful clarification of the Authority's expectations regarding the governance of enterprise risk. Our view is that this highlights the need for further guidance on corporate governance and conduct.	Noted.
	101	Agree with the changes, the proposals seem reasonable.	Noted.
	102	We agree that the various changes in Part 11 provide greater clarity of the Authority's expectations.	Noted.
Question 12: Do readers agree or disagree with the conduct exemptions given to class 12 insurer in respect of their dealings with related parties and/or other insurers?	103	Agree.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	104	No comment to add.	Noted.
	105	Disagree. Whilst it is understood that many of the requirements under Part 14 would be in the best interests of related parties and would have reduced risk due to the policyholder being an expert party, it is still felt that class 12 insurers should have policies, procedures and internal controls in place to manage, at a minimum, points 73 (2) (a), (d)(ii), (f) and (g). It is also noted that there is only a reduced risk therefore there is some risk, which raises the question whether any exemption would be prudent.	The Authority has sought to apply Part 14 (more detailed requirements in relation to the fair treatment of policyholders) in a manner which captures direct commercial business and not reduced-risk business (please refer to our comments against item 111). However, an insurer that is excluded from Part 14 is still required to comply with the principle of fair treatment of policyholders as set out in the CGC outside of Part 14. In order to emphasise this, and to avoid any doubt, we will include clarifying provisions in paragraph 72 and potentially in other paragraphs linked to the fair treatment of policyholders.
	106	Yes, we think this is appropriate for the sophisticated and connected parties for such insurers.	Noted.
	107	n/a to our business model but happy to agree.	Noted.
	108	This proposal does not apply to our Group.	Noted.
	109	We have no comment on this question.	Noted.
	110	Not applicable to [name deleted].	Noted.
	111	We believe that the definition of related parties in this exemption should be as detailed in paragraphs 1 and 2 of Schedule 1 of the draft insurance regulations 2020 under consultation paper CP19-04/T04 (taking in to account our responses). We believe that the conduct exemption given to class 12 insurers should also apply in respect of where "informed consent" is given as defined in paragraphs 3 of Schedule 1 of the draft insurance regulations 2020 under consultation paper CP19-04/T04 (taking in to account our responses).	For greater consistency across regulatory requirements, paragraph 72 will be amended to use an approach that is similar to the Insurance (Conduct of Business)(Non Long Term Business) Code 2018. Accordingly, part 14 (Fair Treatment of Policyholders) will only be applied only to class 1-9 business written on a direct basis (and not to classes 10 to 12). It should again be noted that an insurer that is excluded from Part 14 is still required to comply with the principle of

OUR QUESTION (where applicable).		Comment received	The Authority's response
		The insurance (conduct of business)(non long term business) code 2018 allows an exemption where the principal policyholder is a related party and we believe that this exemption should be maintained, especially in respect of non individuals. We note that some of the requirements of Part 14 are dealt with under other legislation i.e. 73(2)(f) protection of data and GDPR.	fair treatment of policyholders as set out in the CGC outside of Part 14 (please refer to our comments against item 105).
Question 13: Do readers agree or disagree with any of the changes to underwriting and/or investment guidance to specifically promote certain integration of elements within the ERM framework?	112	Agree.	Noted.
	113	[Name deleted] agree with this proposal to make inclusion in paragraph 2 and paragraph 4 of the Schedule 1 (Risks).	Noted.
	114	Agree No Comments	Noted.
	115	We support these changes.	Noted.
	116	Agree.	Noted.
	117	We agree with the proposed changes because they promote the integration of the Enterprise Risk Management framework.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	118	We are supportive of the proposed changes. We believe these changes are sensible and provide further guidance for insurers.	Noted.
	119	Agree with the changes, the proposals seem reasonable.	Noted.
	120	Underwriting In respect of a Class 12 insurers, and/or where underwriting authority remains with the Board, we feel it may be impractical for an insurer to maintain the specific detailed requirements requested in elements of Schedule 1 (Risks) 2 Underwriting risk, as given the nature of these insurers, the type of insurance risk considered may be varied (Property, Casualty, Employee Benefits etc.) where relevant expert advice would be taken at the time of considering.	Governance applies to an insurer's actions irrespective of whether those actions are delegated by its board or not. This includes having an appropriate documented approach to key risk taking activities (which may, of course, differ as appropriate to accommodate delegation by the board or retention of power by the board). The taking of expert advice where appropriate can certainly be built into such an approach (and any advice obtained should be adequately documented to support decisions taken). The changes to which you refer are the requirements for an insurer's strategic underwriting and pricing policies (as part of its ERM framework) to address the — (a) insurer's underwriting risk according to the insurer's risk appetite framework including its relevant component risk limits structure; [in other words, the insurer must manage and control its risk profile by limiting its exposures to the type and level of risks it wants to take on, and can manage and afford, in a way that is proportionate to its circumstances] (b) nature of the risks to be undertaken by the insurer; and

OUR QUESTION (where applicable).		Comment received	The Authority's response
			[for example, a class 12 insurer can only take on insurance risks it is licenced to carry] (c) interaction of the underwriting strategy with the insurer's reinsurance strategy (and any other risk transfer mechanism of the insurer) and the pricing of its insurance products [risk capacity (as a risk appetite constraint) is clearly linked to any risk transfer arrangements and premium levels, and vice versa] We do not accept that these are "impracticable" considerations for strategic underwriting and pricing policies. Rather they are fundamentals which should still be addressed in broad terms if detail is unavailable for valid reasons (for example, if a captive has limits on how much forward planning it can meaningfully undertake due to reliance on potentially short-notice and varied insurance opportunities available to it from its group). Proportionality applies to the implementation measures each insurer adopts. Even a reactive underwriting policy can, and should, be articulated to reflect the insurer's intentions and key considerations given its circumstances (and, clearly, actual decisions taken will need to be adequately documented and supported).

OUR QUESTION (where applicable).		Comment received	The Authority's response
		Class 12 insurers do not usually underwrite volume business and their Boards do not usually delegate the underwriting authority to others. **Investment** We agree a link between the Investment Risk and the Asset-Liability Management.	Risk management applies to all insurance business (not just "volume business") and applies to all material decision making regardless of delegation. Noted.
Question 14: Do readers agree or disagree with any of the following changes to Schedule 2 in relation to reducing requirements for class 12 insurers: (a) not requiring an analysis of differences between own assessments verses general regulatory solvency specifications; (b) allowing for a reduced forecast time horizon where the minimum 3 years is not suitable; and/or (c) not mandatorily requiring actuarial input? Do readers agree or disagree with any of the following: (d) the use by the Authority of a summary ORSA	121	No comment, does not apply to [name deleted].	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
submission in respect of class 12 insurers for the purpose of facilitating a risk-based focus of regulatory attention; and/or (e) any of the requirements in the proposed summary ORSA submission (Schedule 4)?			
	122	No comment to add.	Noted.
	123	Agree No Comments	Noted.
	124	We have no comment.	Noted.
	125	n/a to our business model but happy to agree.	Noted.
	126	This proposal does not apply to our Group.	Noted.
	127	We agree with points (a) to (c) which recognise the different risk profiles and operational realities of captive insurers. With regard to (d) and (e), we believe that a cut-down ORSA report can be appropriate for captives. However, we note that captives will still be required to go through the full ORSA process (apart from the exceptions noted above) so there is a limited application of proportionality to the ORSA work that captives will need to do.	Yes, paragraphs (a) to (c) provide some reduced requirements for captives. Yes, the proposed summary ORSA submission referred to in paragraphs (d) and (e) does not provide reduced requirements for captives.
	128	Points (a-d) are not applicable to [name deleted], however, point (e) seems reasonable	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	129	We agree with the reduced requirements for class 12 insurers, however in some instances we would question the revised minimum time horizon being in excess of 12 months, given the possible narrow exposure to a single insured and a single policy, as the Board on expiry of the policy will take into account the up to date information/position, rather than a 12 month old forecast.	The forecast time horizon of an ORSA (how far its looks ahead) should not be mixed up with the frequency with which an ORSA should be performed. Just because an ORSA looks ahead, say, 24 months does not prevent another ORSA from being carried out during that time to support decision making with up to date information. Of course the board should take into account the up to date information/position when taking material decisions and document this. This is why the CGC does not prescribe exactly when an ORSA is to be carried out, but instead requires a frequency of appropriate intervals based on what is adequate and appropriate to the nature, scale and complexity of the insurer, its activities and the risks to which it is or may be exposed. The forecast period itself is not the gap to the next ORSA. The gap to the next ORSA is based on risk management and information needs. The forecast period is what is appropriate to properly assess the insurer's current and anticipated future position so that current decisions can be made having regard to matters such as ongoing capital and liquidity adequacy, and ongoing regulatory capital and solvency compliance. The forecast period is likely, for example, to be longer for long tail business (perhaps 3 to 5 years) and shorter for short tail business (perhaps 18 to 24 months). We do not see how the CGC can be construed to require insurers to base material decisions on out-of-date

OUR QUESTION (where applicable).		Comment received	The Authority's response
		We agree in no mandatory actuarial input.	information. The CGC requires an insurer to be forward looking. Noted.
Question 15: Do readers agree or disagree with any of the 'other changes' proposed?	130	Agree.	Noted.
	131	No comment to add.	Noted.
	132	Agree No comment	Noted.
	133	We have no objections to the proposed changes.	Noted.
	134	Agree.	Noted.
	135	We agree with the proposed changes because they provide further clarity.	Noted.
	136	We have no comments on the other changes in this section.	Noted.
	137	We have no objections to the "other" proposed changes.	Noted.
	138	We have not comment to make on the 'other changes'	Noted.
Question 16: Do readers agree or disagree with the timing requirement for the first ORSA submissions in respect of insurers that were	139	Agree.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
not previously required to submit ORSA information?			
	140	No comment to add.	Noted.
	141	Agree Agree with the timing requirement for initial ORSA submission. However, subsequent ORSA timelines could be provided in the CGC.	Noted. The Authority does not currently propose to be more specific as ORSA timings must address the particular risk/information needs in each case. The Authority expects each insurer to submit ORSAs (or, if class 12, summary ORSAs) as they are prepared (i.e. at appropriate intervals depending on its risk management approach and information needs). For insurers subject to the 2019 CGC, the ORSA reporting timelines in the new CGC are a continuation of those in the 2019 CGC. For insurers subject to the 2010 CGC, the insurer is expected at a minimum to provide an ORSA before 31 December 2021 (and thereafter at least one ORSA submission within each calendar year). The exact timing depends on when is best suited to its risk/information needs.
	142	We have no comment.	Noted.
	143	n/a to our business model – already applicable.	Noted.
	144	Please provide clarity on the timeframes for subsequent (year 2) ORSA submissions.	Please refer to our response against item 141.
	145	We agree with this requirement and consider it a useful clarification.	Noted.

OUR QUESTION (where applicable).		Comment received	The Authority's response
	146	Not applicable to [deleted case specifics].	Noted.
	147	We agree with the proposed timeframe for the submission of the first ORSA.	Noted.
Question 17: Do readers agree or disagree: (a) that the Authority should set out further detail of matters in respect of which it would require notification; and/or (b) that the sorts of matters indicated in this paper should be included?	148	A) Disagree, we believe general themes would be appropriate. B) Disagree.	Most respondents indicate that it would be helpful for examples of reportable matters to be set out in some form.
	149	[Name deleted] agrees that the Authority should set out further details of matters in respect of which it would require notification and that the sorts of matters indicated in this paper should be included. [Name deleted] would prefer that these are set out in non-binding guidance in a separate standalone note published by the Authority.	Examples of reportable matters will be set out in a non-exhaustive list published on the Authority's website, and thereafter amended from time to time.
	150	Agree No Comment	Noted.
	151	We are supportive of this additional requirements, though we note that some items are subjective.	Where materiality or a precise definition of the matter in question is subjective, reasonable judgement should be used.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		We think the materiality of legal proceedings and operational disruption and data loss should be as defined by the Board of the insurer. Disrepute is very hard to define and should perhaps be omitted.	Yes, in the absence of specifics, the board will need to determine what is reasonable and appropriate to consider as material in the context of the requirement. The Authority will consider whether this matter will be included on the list referred to against item 149.
	152	Broadly we feel that guidance in this area is helpful and that the matters referred to are reasonable, however the list could become quite broad and we feel therefore that this should be issued as stand-alone Guidance rather than included within the body of the Code itself.	Please refer to our comments against item 149.
	153	Further clarity on matters requiring notification to the Authority, as well as the Authority's definition of materiality would be appreciated.	Please refer to our relevant comments against item 149. The Authority does not propose at this time to define what 'material' means under the general requirement of Part 15.
	154	We have no comment on this question.	Noted.
	155	Agree with option (a) and (b) as it is thorough and sensible from a consistency perspective, however, on how this is to be published, we would prefer option (f) in form of non-binding guidance that sits on the Authority's website.	Please refer to our relevant comments against item 149.
	156	We understand the Authority's and Insurers need for clarity of what is expected to be reported to the Authority, where there is a material change to the insurer, however this should be restricted to where the change could be reasonably expected to affect the insurers ability to meet its regulatory requirements. We have made short comments below on the list provided:	We disagree. A number of the notifiable matters are information relevant to regulatory supervision that will not necessarily prevent an insurer from meeting its regulatory responsibilities. Therefore, we do not propose to limit the requirements as you suggest.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		- Non commencement of authorised activity after a specified period following authorisation of the insurer – Agreed but this could be achieved when a licence is issued.	Yes it could, but we may also elect to include it as a general requirement. This helps inform expectations and allows more specific requirements to be imposed on a case by case basis (by exception) if needed.
		- Change of annual reporting date of the insurer – Already required	It is not required in all cases.
		- Change of reporting currency of the insurer – could be to achieve better ALM	That may be the case. However, an example rationale for the change does not alter the need for its notification.
		- Inability to make financial returns to the Authority - Agreed	Noted.
		- Existence of misleading financial returns to the Authority - Agreed	Noted.
		- Creation of charge in respect of the insurer's assets – only where any such charge restricts the insurers ability to meet its capital and solvency requirements	We disagree. Charges over assets have other potential impacts, such as limiting the availability of assets to creditors other than those benefiting from the charge.
		- The insurer making financial commitments outside of its ordinary course of business - only where any such charge restricts the insurers ability to meet its capital and solvency requirements	We disagree. Financial commitments outside of the normal course of insurance business is a matter relevant to supervision as it may significantly change the risk profile of the insurer.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		- Audit report qualification in respect of the insurer – would be in the Financial Statements and IAS260	Yes but we will still consider if a shorter notification timeline is appropriate for prospective audit report qualifications.
		- Change of name or address of the insurer - Agreed	Noted.
		- Change of insurer's legal form or location – Agreed	Noted.
		- Material disposals in relation to the insurer's business – What is meant by Material Disposal ? insurance business, a subsidiary ?	Material disposal in relation to the insurer's business would include, for example, novation or commutation etc. of business. Disposal of a subsidiary would not necessarily fall under this heading but would still be a notifiable matter where it materially impacts the risk profile of the insurer.
		- Mergers, takeovers, acquisitions and business purchases in relation to the insurer – F&P process already	The F&P process will not necessarily capture all instances.
		- Capital alterations in respect of the insurer – agreed, but would be in the Financial Statements	Yes but a shorter notification timeline is appropriate.
		- Share options in respect of the insurer – F&P process already	It depends on the circumstances.
		- Matters affecting fitness or propriety of persons relevant to the insurer Agreed but if an insurer believe F&P was affected, they would remove that individual and then F&P process.	We disagree. The F&P process will not necessarily be triggered (for example if the person was for any reason not removed or, if removed, not replaced).

OUR QUESTION (where applicable).		Comment received	The Authority's response
		- Potential cause for the insurer giving a final warning to an employee of the insurer – Agreed – if in a Controlled Function	This will likely be limited to any person whose appointment is required to be notified to the Authority.
		- Final warning given to an employee of the insurer - Agreed – if in a Controlled Function	This will likely be limited to any person whose appointment is required to be notified to the Authority.
		- Disqualification of a director relevant to the insurer - Agreed but that person would be removed from the Board, then F&P Process	This may be encompassed by matters affecting the fitness and propriety (see above mentioned category).
		- Service of summons/warrant etc. (criminal actions) against the insurer Agreed	Noted.
		- Criminal proceedings against the insurer or its officers/employees Agreed	Noted.
		- Bankruptcy, winding up, arrangements with creditors etc. concerning the insurer Agreed	Noted.
		- Material legal proceedings against the insurer Definition of Material	Please refer to our relevant comments against item 151.
		- The triggering of a compensation scheme in relation to the insurer – Define compensation scheme.	We will limit this to a compensation scheme relevant to the insurer under the Insurance Act 2008.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		- Prospective capital inadequacy or unfair policyholder treatment relevant to the insurer - Agreed	Noted.
		- Insurer bringing itself or the Authority or the Island into disrepute – Agreed but difficult to define	Please refer to our relevant comments in relation to item 151.
		- Breaches of the insurer's regulatory requirements - Fraud or dishonesty relevant to the insurer - Agreed	Noted.
		- Investigation of conduct by professional body relevant to the insurer Agreed	Noted.
		- Material disruption to the insurer's operations Agreed	Noted.
		- Actions by another authority relevant to the insurer - Agreed	Noted.
		- Matters relating to any application for authorisation outside of IOM relevant to the insurer Agreed	Noted.
		- Material loss of data relevant to the insurer – Agreed but already reportable to the ICO	It is also a matter of interest to the Authority.
		- Appeal to tribunal by the insurer in respect of the Authority - ?? Authority would be party to a tribunal	The requirement for notification in the insurance framework is to be similar to that contained in the Financial Services Rule Book.
		- Other…	

OUR QUESTION (where applicable).		Comment received	The Authority's response
Do readers believe that any other matters should be included (please specify)? If in favour, do readers believe that such matters should be: (c) required by regulations (similar to the Rule Book); (d) required by binding guidance under the CGC; (e) required by binding guidance outside of the CGC; and/or (f) set out in non-binding guidance or other publication by the Authority?	157	You have requested feedback of possible changes to Part 15 in respect of the nature of notifications required to be made by insurers to the Authority. We do not feel that a prescribed list of possible events is appropriate. In our view it is not possible to cover all scenarios and we feel that to maintain open dialogue it would be more appropriate to provided general topics and the expected timeframes for notification. This would allow insurers to raise matters quickly and in an informal way, before a more formal notification is made, if required. We suggest that this could be provided as guidance as part of the CGC.	It should be noted that the notifiable matters in question are examples and therefore are non-exhaustive. As such they do not need to cover all scenarios. Part 15 already requires open and honest communication with the Authority. This is not limited by a non-exhaustive list of example matters to be notified. There is nothing preventing an insurer from discussing notifiable matters with the Authority before following up more formally. Indeed it would be encouraged where the matter would benefit from an early alert.
Other/General	158	As the island's new regulatory framework matures, we believe that further guidance from the Authority on a number of matters will be required covering technical prudential matters, conduct matters, and governance matters. We suggest that an ongoing publication series covering these types of non-binding guidance would be hugely useful in setting expectations with licenceholders.	The Authority will be engaging with industry in areas such as ORSA (notably through thematic review) and considering the appropriate format for any resulting practice documents. We will consider additional guidance where appropriate.
	159	Appointed Function v Activities required (by a Function) We believe that clarity is needed around the concept of Function, with specific reference to insurers that	The term 'function' can refer to certain activities or the resources used to carry out certain activities, or both, as the context requires.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		outsource their operations to one or more external companies (Insurance Managers, Claims Handlers, etc.):	Where the CGC refers to 'activities [and/or] functions' this is to avoid doubt that all relevant activities are being referred to and not just those associated with the CGC's specified functions. The Authority may clarify this in the CGC.
		IAIS ICP 8.0.05 envisages that an insurer's Function (whether in the form of a person, unit or department) - given the business model of insurers utilizing the services of insurance managers, may outsource activities, individual elements of Function may be outsourced to different parties, however this outsourcing may not outsource the appointment to a Function. Therefore, the Board (or Committee of the Board, or an individual Director) will need to retain the formally documented appointment of a Function (to co-ordinate the various outsources elements).	Functions can be outsourced. Outsourced functions are often overseen by the board of directors.
		A distinction between Function and Activity is made in Part 6 : Outsourced Significant Activities and Functions.	As indicated above, where the CGC refers to 'activities and/or functions' this is to avoid doubt that all relevant activities are being referred to and not just those associated with the CGC's specified functions
		Example 1 – Internal Audit Function: An insurer outsources the handling of claims to a third-party specialist claims handler, the Board acknowledge that the claim handling activity is subject to several risks. Therefore, the Board instigate an audit (once every three	An insurer can, of course, outsource to specialists as appropriate, including in respect of internal audit. The scope and focus of such outsourced activity is ultimately a matter for the insurer's board in accordance with the CGC which, in

OUR QUESTION (where applicable).		Comment received	The Authority's response
		years) of the claims handling activity, by an appropriately qualified/experienced entity, who is independent of the claim handlers to issue a report to the Board.	general terms, requires an insurer to have an appropriate, risk-based audit plan.
		We are assuming that in this example the auditor of the claim handler, is not the Internal Audit Function, but undertaking an internal audit activity, if this assumption is correct. We believe the internal audit Function is retained by the Board, as the insurer has no other person, unit or department. (which may not be subject to an internal audit activity)	The resource used to audit the claims handler is part of the resources used to carry out the internal audit function of the insurer. The resources used to carry out internal audit activities can be made up from a combination of sources, as indicated in paragraph 51. The Authority does not mandatorily require a dedicated, permanent 'person, unit or department' in respect of internal audit as this would not be proportionate in all cases. (However, it should be noted that, in the particular case of an actuarial function, the nature and scope of the requirements may require the appointment of an individual function holder to oversee the overall actuarial role.)
		The Board also instigates internal audit of other outsourced activities to ensure controls are adequate, appropriate and effective "…in a way that is proportionate to the nature, scale and complexity of the insurer." But (51) (a) states a "suitable resource does not include a director of the insurer".	The Authority believes the role of an insurer's board is to ultimately direct and oversee the insurer's internal audit function, not carry it out. To get the proper context of this quote we need to include the CGC's preceding paragraph as follows (underlining added): " Without limiting any of paragraphs 48 to 50, the insurer's internal audit function may be <u>carried out</u> by one or more resources, including — (a) a suitable resource from within the insurer (a suitable resource does not include a director of the insurer);…"

OUR QUESTION (where applicable).		Comment received	The Authority's response
		Example 2 – Actuarial Function An insurer formally appoints an Actuary to provide Insurance provision projections ((44) (4)(c) (i – iv)) in respect of one line of business (the company also underwrites 3 other lines of business that in the Board's opinion would not benefit from an actuarial report). The Actuary does not perform all the activities required by an Actuarial Function (not (44)(4)(vii) & (ix), therefore does not fulfil the Actuarial Function, also unlike to wish to undertake the Regulatory Function. Class 12 insurers should have access to Actuarial Services which may be all or parts of 44 (4) (a) – (d), but that may not constitute the formal appointment of an "Actuarial Function" (as an Actuary undertaking only one aspect of 44 (4) (a) – (d) will not wish to fulfil the Actuarial Function role). "..have access to .."should not require the appointment of an actuarial function on retainer, Actuarial services are freely available, and indeed many Class 12 insurers already uses actuarial services.	A non-class 12 insurer has no such option. It is subject to all of the requirements of paragraph 44(4) across its entire book of business unless the Authority determines otherwise under paragraph 44(5). If you are referring to a class 12 insurer, then the response immediately below applies. Paragraph 44(2) is as follows (underlining and text in square brackets added): "Subject to paragraph (7), a class 12 insurer is exempt from Part 7 [Actuarial Function]." Paragraph 44(7), as referred to in 44(2), is as follows (underlining added): "A class 12 insurer must have, or have access to, an effective actuarial function capable of evaluating and providing advice to the insurer regarding, at a minimum, technical provisions, premium and pricing activities, and compliance with related statutory and regulatory requirements." The underlined elements are the minimum requirements for a class 12 insurer, not the requirements of paragraph 44(4) (because it is exempt under paragraph 44(2)).

OUR QUESTION (where applicable).		Comment received	The Authority's response
			This was explained in the consultation paper which says (underlining added): "paragraph 44(7) requires a class 12 insurer to have "access to" an actuarial function. <u>This is not a requirement for the insurer to keep an actuarial resource on retainer</u>. Instead it is consistent with paragraph 21(c) which requires the board of an insurer to have the powers and resources available to obtain expertise where necessary and appropriate to enable the board to properly discharge its duties and responsibilities and carry out its functions. Paragraph 44(7) is, in effect, an important example of the expert advice an insurance board may need in order to support/inform its decisions (for example, actuarial advice may be appropriate in respect of 'long tail' insurance obligations which may take years to settle)." This is entirely consistent with class 12 insurers electing, where appropriate, to obtain actuarial advice. In short, the CGC already provides for what is being suggested.
	160	1. We would be grateful for some guidance on the steps required for an insurance authorisation reclassification. This is something our clients would like to begin planning for as soon as possible – we envisage there will be cases of both classes 3-9 transferring to class 12 and vice versa. Does the Authority envisage a streamlined process	The Authority carried out a class 12 authorisation compliance test between 1 December 2020 and 26 February 2021 in connection with the draft Insurance Regulations 2021 as recently consulted upon. The results of that test have led to additional work being carried out in respect of the class 12 requirements, and also to the implementation of the non-life framework being deferred until the end of 2021. The process for reclassification (where needed) will be

OUR QUESTION (where applicable).		Comment received	The Authority's response
		given your prior knowledge of the captive operations, its financials and the fact that the various QIS studies have been conducted over the course of this project? What will be the timelines associated with the streamlined process or otherwise?	addressed later this year once the class 12 requirements have been finalised. The Authority anticipates a streamlined process being applied where appropriate (for example under expected new class 12 grandfathering rules). For a minority of companies where compliance with class 12 is not clear then a more in depth process may be required.
		2. Section 2(1)(a) of the draft revised Code states the ERM should address an "insurer's underwriting risk according to the insurer's risk appetite framework including its relevant component risk limits structure". Could we request clarification on this phrase – does it mean aggregate limits per line of business written?	Risk appetite and its component limits are as described in paragraph 64 of the draft CGC. It is for the insurer to suitably group, or separate, the risks it wishes to pursue and accept in controlling its insurance risk profile. Where appropriate, this includes, for example, controls placed on aggregate limits, single loss limits or any other appropriate limit; which may be defined by line of business (or across lines if risks are correlated, for example) or any other appropriate control criteria (such as type of policyholder, location of risk, class of asset insured etc.). It depends on the insurer's circumstances and intentions, and what is adequate, appropriate and effective accordingly.
	161	[Deleted case specifics]. It is important to highlight some of the key features of the run-off model, the most important being the policy holders whose biggest interest is extending a company's life, and thus their ability to claim under the insurance policy they have with it, for as long as possible. Two key factors in being able to extend a company's life are: - Creating further income	The Authority, of course, supports appropriate protection given to policyholder interests.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		- Minimising costs 1. Creating further income There is little a company can do to influence this when in run-off.	Whilst an insurer which is in, or is approaching, run-off may not be able to influence its position in having no further insurance income, it may have access to additional capital and can prevent non-insurance outgoings (distributions) to protect its assets in the interests of its policyholders. From an additional capital perspective, for example, an insurer in run off may still obtain additional capital from its shareholders if its shareholders are willing to financially support the insurer (as may be the case with a captive still within the group it has insured). From a capital retention perspective, an appropriate capital retention policy is needed in planning and effecting run-offs, which takes account of the lack of insurance business income and the (un)availability of additional capital. As part of this, the cost of compliance is, of course, an element in maintaining resources to meet insurance obligations. Regulation should not be overly burdensome, which is why the Authority promotes a proportionate regulatory framework.
		There is no new premium coming in and investment returns (without taking significant risks) are [deleted case specifics] negligible. The ability to lend funds to Group on improved interest terms [deleted case specifics] provides	Any benefits of intra-group lending must also be balanced against group counterparty risk and risks arising out of conflicts of interest (and especially if the insurer has policyholders that are unrelated to its owners/controllers).

OUR QUESTION (where applicable).		Comment received	The Authority's response
		some important flexibility to the company and can help improve returns, but other than this there is little else a company can do. 2. Minimising costs There is, however, an opportunity to do something about this. One of the key costs in run-off is the compliance role. Under the present proposals, run-off companies will fall outside the new class 12 requirements for CGC and therefore would be classified as a commercial insurer. The impact of this will be significant additional time and costs which will only result in earlier closure of a company due to running out of funds. We are in no way suggesting that compliance should be ignored and we note the Authority's assertion on page 7 of the consultation document as follows "A key element of the updates to the CGC proposed in this paper is to allow for its proportionate application as it is being extended to apply to lower risk insurers" – We support this. We strongly believe that run-off companies should fall under the definition of lower risk insurers for at least the following reasons:	The risks associated with inter-group lending are reflected in the increased capital requirement arising from such lending. Proportionate application of the CGC is important in order to avoid unnecessary cost. The Authority has had some discussions with industry in respect of run-off companies but recognises that further discussion is appropriate.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		Run-off companies by their very definition are closed to new business therefore are not taking on any additional risks that haven't already been incurred. There are no new policies/risks being considered by the companies, so all the considerations and controls around these fall away. As the run-off proceeds and the time since the last policy was written increases, the probability of new claims being reported reduces. The Board's main focus moves to the controlled settlement of outstanding claims and having a claims process in place is therefore a key factor for run-off. The more effective this process is the greater the benefit to policyholders.	
		[Deleted case specifics] we strongly believe that applying the proposed new CGC requirements for commercial companies to run-off companies would be both punitive and not in the best interests of policyholders.	Whilst we understand the points you have made we would also comment that an insurer in run off may have a higher risk profile than an insurer that is not in run off. So low risk cannot be simply assumed. However, the Authority believes that the proposed CGC, when implemented proportionately by insurers in run-off (i.e. according to their actual risk profile), should not be punitive.
		Having given this a great deal of thought we do not think there is any need for some form of carve out for run-off companies, but rather the company simply retains the class of licence its holds on entering run-off. The logic	As we have stated previously, where a captive insurer is sold to a third party for run-off, this severs its ties to its sponsor group. The new owner is less likely to be willing to financially support the insurer going forwards. Therefore,

OUR QUESTION (where applicable).		Comment received	The Authority's response
		being that if the IOMFSA were happy in its regulatory status before run-off they should be happy afterwards when the risk actually reduces.	the insurer's risk profile from a regulatory perspective changes significantly. We do not agree that it should retain a reduced risk category of classification where a key basis of that reduced risk assumption no longer applies. However, we accept that an insurer which goes into run-off does undergo a change in risk profile. As you say, it ceases taking on new risk and progresses through diminishing tail exposures. A former captive therefore is no longer a captive but a third party insurer in run-off circumstances. Those run-off circumstances affect the insurer's risk profile. Risk profile is the basis of proportionality which is intrinsic to the CGC. As the CGC already has regard to risk-based/proportionate application, we do not propose to grant any additional concessions to an insurer simply because it is in run off.
		The overarching principles of an appropriate and proportionate approach must still be retained. [Deleted case specifics]. [Deleted case specifics] we would wish to seek concessions to the proposed code as follows: 1. [Run off insurers should have] exemption from the proposed mandatory actuarial function requirements. We note the contents in section 3.7 of the consultation paper which states, "The Authority may for example reduce some or all of the actuarial function requirements in relation to an insurer which is deep into	Under paragraph 44(5) the Authority can vary the requirements of Part 7 (Actuarial Function) and will consider this for run off insurers on a case by case basis. In order to clarify that the discretion available to the Authority under paragraph 44(5) is wide enough, the Authority will specify that the discretion applies to "some or all of the

OUR QUESTION (where applicable).		Comment received	The Authority's response
		a stable business run-off position in circumstances where actuarial input or repeated actuarial input is of limited value". [Deleted case specifics.]	requirements of Part 7". The Authority will also extend the discretion to include the requirement for actuarial input into the ORSA process.
		2. Remove the mandatory minimum annual reporting frequency of the internal audit function to the Board. We note the Authorities comments on page 14 3.8 with regard to potential conflicts where an insurer seeks to place reliance on the internal audit function of its appointed insurance manager and are happy to discuss this further with you.	We look forward to further discussion.
		3. Exemptions from the more detailed conduct requirements as set out in the proposals. These need to be proportionate and appropriate [deleted case specifics].	A number of conduct requirements will simply not be applicable to an insurer which has permanently ceased selling insurance. As such, a proportionate approach is very straightforward (i.e. recognising that control over the manner in which insurance is sold is unnecessary if insurance is no longer being sold and there is no prospect of any being sold in the future). However, other conduct requirements are very much applicable to an insurer in run-off (such as dealing with claims and complaints effectively and in a timely and fair manner through an easily understood, well disclosed, easily accessible and equitable process). The Authority does not accept that these requirements should be removed from an insurer, when dealing with third parties, just because the insurer is in run-off.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		4. Solvency/ORM – [Deleted case specifics] we would ask that an "ORSA Light" solution be employed along similar lines to those proposed in the paper for Class 12 insurers. [Case specifics deleted but concern was shown about the admissibility of certain assets]. If these [assets] are heavily discounted, the solvency requirement may lead the companies to be in breach of the Insurance regulations whilst at the same time being able to meet their liabilities as they fall due under the requirements of the Companies Act. This puts the Directors in a difficult position as they would be left with little choice other than to appoint a liquidator under the more restrictive insurance requirements. We do not believe this is the Authority's intention but it is a practical issue.	We do not support a blanket policy of reduced ORSA requirements for insurers in run-off. An insurer in run-off may still have a very significant risk profile. It is an incorrect assumption that a breach of solvency would leave directors with no other choice than to appoint a liquidator. This ignores the solvency rules under sections 12C, 12D and 13 of the Insurance Act 2008. Also, see below in respect of regulatory discretion over MCR level which demonstrates that it is not the intention of the Authority to unnecessarily penalise existing insurers with new solvency requirements. Concerning the inadmissibility of assets (or, rather, capital requirements arising from holding certain assets) for solvency purposes, this can, of course, be reduced by the insurer holding admissible assets instead (i.e. assets attracting less capital requirements).
		Could we suggest that the Authority considers the fall back position of applying the Companies Act requirements to Companies in a run-off situation?	We disagree. Reducing regulatory solvency to zero in excess of Companies Act requirements is inappropriate for an insurer that is subject to insurance risks. The insurance Act 2008 already has sufficient provision to deal with an insurer with a financial position lying below its minimum solvency level but is still able to meet its liabilities as they become due.

OUR QUESTION (where applicable).		Comment received	The Authority's response
		There maybe some form f transitional arrangements in the early days of run-off?	Regulation 26(a) the draft Insurance Regulations 2021, as consulted on recently, includes a provision where the Authority can reduce the MCR applicable to an insurer in run-off. The corresponding consultation paper stated that: "Regulation 26(a) is a transitional provision for insurers in run-off. Its intended use is to regularise longer-standing financial positions unduly impacted by an increase in solvency requirements because of the introduction of the new MCR. It is not intended to regularise any position, for example, which has arisen more recently due to distributions. The main regulatory concern is policyholder interests, which may be served by enabling an insurer that is administering the end of its insurance exposures to continue and provide cover for as long as possible. The Authority will separately consider the circumstances of each insurer wishing to have a reduced MCR. A corresponding provision will be inserted into the Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021 to recognise that the MCR is subject to a reduction under regulation 26(a) of the Insurance Regulations 2021."

OUR QUESTION (where applicable).		Comment received	The Authority's response
		5. ERM. Whilst we support the principle of the ERM approach to risk within the business [deleted case specifics] we would request that the ERM design and implementation recognizes the low risk nature of [deleted case specifics] and does not become over prescriptive adding to costs.	We consider the CGC to have adequate scope for sensible and proportionate application, so look forward to further discussions with industry.
		6. Prohibition of combined Chairperson and Chief Executive (CEO) role – given the relatively small numbers of Directors we would wish to discuss this further with the Authority. I think we can live with this as min two directors anyway	Noted.
		7. Recovery Scenarios – our response is given in point 4 above with regard to the ORSA.	See our corresponding response.
		8. Detailed conduct requirements (part 14). [Deleted case specifics] we note the exemption proposed to be given to Class 12 insurers and [run-off insurers] would wish to be considered along similar lines. We are happy to have a more detailed dialogue with you on these points.	As indicated previously, a number of conduct requirements will simply not be applicable to an insurer which has permanently ceased selling insurance. As such, a proportionate approach is very straightforward (i.e. recognising that control over the manner in which insurance is sold is unnecessary if insurance is not being sold and has no prospect of being sold). However, other conduct requirements are very much applicable to an insurer in run-off (such as dealing with claims and complaints effectively and in a timely and fair manner through an easily understood, well disclosed, easily accessible and equitable process). The Authority does not accept that these

OUR QUESTION (where applicable).		Comment received	The Authority's response
			requirements should be removed from an insurer, when dealing with potentially vulnerable third parties, just because the insurer is in run-off.
		9. Possible changes to part 15. We note the possible changes and in particular those relating to notifications. We would welcome closer integration in principle with the FSRB and note the specific list on page 21 and await any further proposals on this subject. At this time nothing on the list would give us cause for concern.	Noted.
		We note that the Authority believes that any changes can be applied proportionally (including by small insurers) and [deleted case specifics]. Given that this consultation is the conduit via which we are able to make our case for certain concessions as set out above we look forward to an early dialogue with the Authority in order to agree the approach to the implementation of the new requirements in a manner which is both proportionate and appropriate to the current business models of [deleted case specifics].	The Authority also looks forward to further engagement. In the interim, we note that the size of an insurer is mentioned. In that regard (as a general point for all insurers) we would take this opportunity to reiterate that we do not think that the size of an insurer should permit it to have weak governance. Indeed, small size may indicate lack of diversity and a greater risk of being impacted by claims volatility, for example. The CGC requires governance implementation measures proportionate to the nature, scale and complexity of the insurer and its risks. Size is only one factor and does not take precedence over the other factors.

Appendix C – Details of changes and potential changes to the Proposals

In order as appearing in the draft CGC, the changes made post consultation are as follows (some, but not all, of these are also referred to in the table above):

1. The content of **sub-paragraph 2(3)** (changing the 2010 CGC so that it applies only to insurance managers) will be deleted and put through a separate amending statutory document instead. This will prevent the updated CGC from needing to be amended subsequently when a manager-specific code is introduced.

2. The CGC will be changed throughout to refer to "chairperson" instead of chairman.

3. Under **paragraph 44(5)** the Authority can vary the requirements of Part 7 (Actuarial Function). In order to clarify that the discretion available to the Authority under paragraph 44(5) is wide enough, the Authority will specify that the discretion applies to "some or all of the requirements of Part 7". The Authority will also extend the discretion to include the requirement for actuarial input into the ORSA process.

4. For greater consistency across regulatory requirements, **paragraph 72** will be amended to use an approach that is similar to the Insurance (Conduct of Business)(Non Long Term Business) Code 2018. Accordingly, part 14 (Fair Treatment of Policyholders) will be applied only to class 1-9 business written on a direct basis. Classes 10 to 12 will not be subject to part 14; however, other provisions requiring the fair treatment of policyholders will apply as appropriate to the insurer's circumstances.

5. **Paragraph 75** will be amended to make reference to a list of examples of reportable matters (material changes or incidents in respect of which the Authority would expect notice) which will be maintained on the Authority's website and updated from time to time.

6. In **paragraph 76**, the following definitions will be added –
    a. **"function"** (to clarify that this may mean the activities associated with a function or the resources required to carry out the activities of a function, or both, as the context requires); and
    b. **"technical provisions"** (by reference to the definition contained in the Insurance Regulations 2021).

7. Any other changes as may arise out of final review and finalisation by the Authority.