



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

Lught-Reill Shirveishyn Argidoil Ellan Vannin

Consultation Paper

Insurance Regulations 2024

CP24-03

Issue Date: 03 April 2024

Closing Date: 17 May 2024

Consultation Paper – CP24-03

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

The purpose of the consultation is to obtain views in relation to the Authority's proposals to update and integrate the Insurance Regulations 2021 with simplified elements of the Insurance (Special Purpose Vehicles) Regulations 2015 and Guidance Notes for Insurance Special Purpose Vehicles into a combined single document: the Insurance Regulations 2024.

The consultation also includes additional proposals relating to fast-track authorisation, regulatory sandboxing and potential restrictions on activities undertaken alongside regulated insurance activities.

The consultation is relevant to existing Isle of Man authorised insurance special purpose vehicles (ISPVs) or their advisors, insurers subject to an existing form of full funding requirement or their advisors, other authorised insurers or applicants for authorisation or their respective advisors and registered insurance managers.

The closing date for comments is **17 May 2024**.

Please send comments in writing and preferably by email to:

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If you have a query in relation to how this consultation has been carried out, please contact the Authority's Legal & Policy Division by email at Policy@iomfsa.im or by telephone on +44 1624 646000.

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Glossary

Act	The Insurance Act 2008.
Authority	Isle of Man Financial Services Authority.
CGC	Corporate Governance Code of Practice for Insurers 2021.
Class 13	In the current ISPV framework, class 13 is a class of authorisation which represents an ISPV. Under the proposals, class 13 is a supplemental class of authorisation making the holder of that class (including an ISPV) subject to updated full funding requirements under Schedule 2.
Current ISPV framework	The current Insurance (Special Purpose Vehicles) Regulations 2015 and the Guidance Notes for Insurance Special Purpose Vehicles.
Fast-track authorisation	Fast-track authorisation is where, if certain requirements are met, an applicant might be granted an insurance authorisation within accelerated timescales (including potentially highly accelerated timescales or, in very limited circumstances relating to cells within an authorised and established protected cell company, pre-authorisation).
Full funding requirement	Is a requirement under Schedule 2 of the proposals which, in general terms, requires an insurer to have sufficient approved assets to meet its maximum potential liability under its insurance contracts.
ISPV	Is an abbreviation of Insurance Special Purpose Vehicle.
MCR	Minimum Capital Requirement as defined in the Act.
ORSA	Own Risk and Solvency Assessment
Proposals	Proposals for the Insurance Regulations 2024 attached to, and explained in, this Consultation Paper.
Regulatory sandboxing	Regulatory sandboxing refers to the creation of a controlled, temporary regulatory environment within which new or innovative insurance business might be safely tested and developed prior to applying for authorisation outside of that environment.
SCR	Solvency Capital Requirement as defined in the Act.

1. Introduction

1.1 What is the purpose of this Consultation Paper?

The purpose of the consultation is to obtain views in relation to the Authority's proposals to update and integrate the Insurance Regulations 2021 with simplified elements of the Insurance (Special Purpose Vehicles) Regulations 2015 and Guidance Notes for Insurance Special Purpose Vehicles into a combined single document: the Insurance Regulations 2024.

The consultation also includes additional proposals relating to fast-track authorisation, regulatory sandboxing and potential restrictions on activities undertaken alongside regulated insurance activities.

1.2 Who may be affected by this Consultation Paper?

The consultation is relevant to existing Isle of Man authorised ISPVs or their advisors, insurers subject to an existing form of full funding requirement or their advisors, other authorised insurers or applicants for authorisation or their respective advisors and registered insurance managers.

2. Consultation Process

2.1 The Authority's regulatory objectives

The Authority's regulatory objectives are set out in section 2(2) of the Financial Services Act 2008 as —

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

The Authority must consider certain factors when discharging its functions in accordance with paragraph 3 of Schedule 1 to the Financial Services Act 2008. The most relevant factors for this consultation are considered as follows:

No	Factors
1.	The need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden.
2.	The need to use resources in an efficient and economic way.
3.	The desirability of implementing and applying recognised international standards.
4.	The need to safeguard the reputation of the island.
5.	The international character of the financial services, insurance and pensions industries and their markets and the desirability of maintaining the competitive position of the Island.

No	Factors
6.	The desirability of facilitating the development of the financial services, insurance and pensions industries.

2.2 Responding to the Consultation Paper

Open dialogue with stakeholders is an essential element for successful development of the Authority's proposals. Constructive feedback will help the Authority reach an informed decision on the content of the proposals and manner of implementation. Respondents should note the following when responding to this Consultation Paper:

- Submissions received by the closing date of the consultation will be considered but may not necessarily result in a change to the proposals following a review of all responses received.
- Professional bodies, trade associations and other representative groups should provide a summary of the people and organisations they represent when responding to a consultation as well as the methodology used to gain members' input.
- The Authority requests that submissions are not made anonymously as they will not be considered or included in the Feedback Statement.

All responses must include the name of the respondent, the name of the organisation the response is being made on behalf of, and whether we can publish the response in full, anonymously or not at all.

This Consultation Paper has been published on the Authority's website and the Isle of Man Government's Consultation Hub¹. A list of specific representative groups to which this Consultation Paper has been sent is shown in Appendix A.

The Authority has included a number of questions in this document; however, readers are not limited to responding only to those questions.

3. Proposals

3.1 Draft Insurance Regulations 2024

A copy of the draft Insurance Regulations 2024 is included in Appendix B. The Authority has endeavoured to highlight changes made in the draft (compared to the current Insurance Regulations 2021) by using **blue text** (deletions are not shown) – and a full track changes mark-up is available on request. The changes, where considered necessary, are explained below.

3.2 Executive summary

The purpose of the consultation is to obtain views in relation to the Authority's –

- proposals to update and integrate the –
 - Insurance Regulations 2021; with

¹ <https://consult.gov.im/>

- simplified elements of the –
 - Insurance (Special Purpose Vehicles) Regulations 2015; and
 - Guidance Notes for Insurance Special Purpose Vehicles,
 into a combined single document: the Insurance Regulations 2024; and
- additional proposals relating to –
 - fast-track authorisation;
 - regulatory sandboxing; and
 - potential restrictions on activities undertaken alongside regulated insurance activities.

The intention is to revoke the existing –

- Insurance Regulations 2021;
- Insurance (Special Purpose Vehicles) Regulations 2015;
- Guidance Notes for Insurance Special Purpose Vehicles; and
- Insurance (Miscellaneous Amendments) Regulations 2015,

and replace them with the Insurance Regulations 2024.

In due course, the Authority anticipates revising supporting general guidance and information under section 34 of the Act in relation to the proposed Insurance Regulations 2024.

In summary, in respect of key proposed changes, the update –

- takes advantage of changes made to the wider insurance regulatory framework since 2015 (and the updated ‘full funding’ requirement – see below) to support a simplification of requirements relating to ISPVs;
- provides an updated ‘full funding’ requirement (still under class 13 but with more prudent default requirements) to be utilised alongside other class(es);
- provides for the establishment of ‘fast-track authorisation’ processes where, if certain requirements are met, an applicant might be granted an insurance authorisation within accelerated timescales (including potentially highly accelerated timescales or, in very limited circumstances relating to cells within an authorised and established protected cell company (‘PCC’), pre-authorisation);
- provides for the establishment of ‘insurance regulatory sandboxes’ which involve the creation of a controlled, temporary regulatory environment within which new or innovative insurance business might be safely tested and developed prior to applying for authorisation outside of that environment (this is supplemental to the Authority’s general sandbox approach²);

² The Authority’s general sandbox approach may be found on its website at: <https://www.iomfsa.im/innovation/the-sandbox-approach/>

- formalises a licencing approach already followed by the Authority by setting out the combination of classes of authorisation which may be held by an insurer;
- introduces specific provisions through which the Authority may limit the activities an authorised insurer or registered insurance manager may undertake alongside its regulated insurance activities (if the additional activities do not arise directly from the regulated activities);
- introduces specific provisions through which the Authority may clarify where arrangements between insurers (including insurers not located in the Island) and insurance managers constitute insurance management services, and where such services may lead to the insurer involved (if it is an insurer not located in the Island) being required to hold a permit under section 22 of the Act;
- allows the Authority to vary the frequency of regulatory reporting in the intervening period between annual reporting times (i.e. the ability to vary 'quarterly' and 'bi-annual' reporting requirements where proportionate);
- clarifies that actuarial reports and board reports (as applicable) accompanying annual returns must correspond to the accounting year and year end in question;
- amends the class 12 definition to more clearly specify that the class 12 qualifying criteria apply to all persons insured, and gives the Authority more scope to adapt class 12 for new or unforeseen circumstances; and
- clarifies that, in relation to an authorised PCC, provisions within sections 12A to 13 and regulation 5 in relation to dividend restrictions and breach of solvency apply separately to its core and individual cells where appropriate.

3.3 Introduction to integrating the ISPV framework

Readers will see that the current ISPV Framework has been significantly simplified in the proposed integration with the Insurance Regulations 2021. The following is a short Q&A-style explanation in that regard.

- **Are ISPVs still catered for?** Yes, an ISPV may be authorised under Schedule 2 of the proposals.
- **Can funding mechanisms such as insurance-linked securities (ILSs) still be approved to fund an ISPV's insurance obligations?** Yes, the Authority retains the ability (and adaptability) to approve ILSs and other funding mechanisms in relation to an ISPV.
- **Is ISPV-business still restricted to reinsurance?** No, ISPVs are no longer restricted to reinsurance as the integrated framework's more prudent default requirements support both direct and reinsurance business.
- **Are fast authorisation times still possible?** Yes, and especially under a fast-track authorisation process (see comments in relation to proposed Schedule 3) which could match or exceed the current ISPV Framework in that regard.
- **Are pre-application discussions still allowed?** Yes, and encouraged where helpful.

- **Are post-authorisation deliverables still allowed?** Yes, they would form part of full applications under a fast-track authorisation process or, where appropriate, conditions or requirements applicable in a particular case.
- **Is the simple solvency requirement to have assets match or exceed liabilities being retained?** Solvency standards will be maintained, albeit by different means. On the face of it the minimum solvency floor in the current ISPV framework (due to being net of mandatory limited recourse arrangements) appears potentially low. However, in practice, if a proposal for an ISPV did not provide an appropriate level of collateral security to the parties it insures, it would be required to do so in order to be granted authorisation. Under the proposals, more prudent default safeguards will now be provided by the updated full funding requirement and associated requirements. Also, those safeguards help support other simplifications in relation to contract terms and sophistication of participants (see below).
- **Will there still be mandatory contract terms?** There will no longer be ISPV-specific mandatory contract terms (such as limited recourse arrangements), instead the appropriate inclusion of special contract terms (including the likes of 'limited recourse' and 'pay-as-paid' clauses) will fall under corporate governance and conduct of business requirements. However, certain requirements (such as subordination of funding mechanisms) will still be applied through the eligibility of own-fund items for SCR and full funding purposes.
- **Are insureds still required to be sophisticated and notified of certain matters?** The current proposal is to remove ISPV-specific general requirements in this regard. The reason for this is twofold –
 - the proposals have enhanced default prudential requirements in place to protect policyholders; and
 - the matching of appropriate insurance to appropriate customers, and any other matters related to treating customers fairly, fall under corporate governance and conduct of business requirements.

And, in any event, depending on the case in question, the Authority may (re)impose general requirements if necessary.

- **Is there still exemption from the CGC?** No. The CGC is based on the proportionate application of corporate governance principles and outcomes that (where relevant) are appropriate for any insurer. The Authority therefore does not propose to exempt ISPVs from the entire CGC going forward. However, the Authority does anticipate providing partial exemptions and modifications for proportionality (for example, a fully funded insurer's risk-based needs in relation to ORSA may be very different to an insurer operating with a significant underwriting risk gap or with lower quality/un-rated counterparties).

3.4 Regulations 1 and 2 – Title and Commencement

Only incidental changes, no significant change.

3.5 Regulation 3 – Interpretation

Regulation 3(1): has been updated to provide –

- definitions for the new terms: ‘fast-track authorisation’ and ‘regulatory sandboxing’; and
- other consequential and minor changes.

Regulation 3(2)(b): clarifies the extent to which class 9 (non long-term business) can be included within a long-term business authorisation (also see comments in relation to regulation 3(4)(c) below).

Regulation 3(3): specifies that the definitions of the classes of insurance (notably class 12 and 13) do not limit Regulation 4A, and provides a definition of the new class 13 (fully funded).

Regulation 3(4)(c): clarifies when a long-term insurer wishing to write class 9 business needs to be separately authorised for non long-term business (also see comments in relation to regulation 3(2)(b) above).

3.6 Regulation 4 – Application of these Regulations and Schedules

Regulation 4: has been updated and reordered to include new Schedules 2 to 4 in respect of full funding, fast-track authorisation and regulatory sandboxing. Schedule 8 contains details of the Authority’s statutory registers (containing information which was previously spread over three schedules).

3.7 Regulation 4A – Combinations of classes of authorisation

Regulation 4A: is new and formalises an approach already used by the Authority in relation to new authorisations or changes to existing authorisations.

Question 1

Do readers have any comments or questions in relation to the combinations of classes of authorisation allowed or disallowed under Regulation 4A?

3.8 Regulation 4B – Restrictions and clarifications on regulated activities

Regulation 4B(1) and (2):

- Regulation 4B (1) and (2) are new and have been included to provide the Authority with a specific means of controlling its regulatory perimeter (i.e. the distinction between those activities which are regulated and overseen by the Authority under the Act and those which are not). For example, it appears possible that an authorised insurer or registered insurance manager which in addition to its insurance business or insurance management activities (as the case may be), could

also simultaneously undertake a large amount of other activity by way of section 16 or 23(2)(a) of the Act (i.e. activity which is, or is argued as being, 'connected with' or 'for the purpose of' its insurance business or insurance management). This additional activity could bring potentially wide ranging or complex activities within the scope and remit of the Authority's supervision and regulatory oversight which otherwise might sit outside of the framework established pursuant to the Act.

- Consequently, the Authority may wish to control the boundaries of such additional activity undertaken by an insurer or manager. For example, any restrictions would serve to prevent the Authority from being required to supervise or oversee business outside of its areas of expertise or for which it may not have capacity or adequate funding base. In addition, such restrictions may help ensure that an insurer or manager would not be required to become subject to additional regulation and oversight other than that of the Authority in respect of its insurance business or management. Also, the restrictions may prevent any additional activity undertaken by an insurer or manager from appearing to be endorsed by the Authority by virtue of it appearing to fall within the Authority's regulatory framework which may not have been established to regulate such activity.
- It should be noted that this Regulation is currently expected to be considered from a new authorisation perspective in the event that a new application for authorisation included relevant additional activities. Any use in respect of existing authorised insurers (for example, if an existing business was to change significantly to include relevant additional activities) would involve prior discussions with those affected and consideration of any significant associated impact.

Regulation 4B(3) and (4): provide the Authority with a specific means of clarifying where arrangements between insurers (including insurers not located in the Island) and insurance managers constitute insurance management services, and where such services may lead to the insurer involved (if it is an insurer not located in the Island) being required to hold a permit under section 22 of the Act.

Question 2

Do readers agree or disagree with the Authority having available to it the mechanisms under Regulation 4B to control its regulatory perimeter? And why?

3.9 Regulation 5 – Dividends and distributions relating to MCR, SCR and section 12A of the Act

Regulation 5: has been re-worded for clarity.

3.10 Regulation 6 – Audited accounts and accounting standards

Regulation 6: has been re-worded for clarity.

3.11 Regulation 10 – Registers

Regulation 10: has been amended to reflect that provisions for all registers are now contained within one schedule (Schedule 8).

3.12 Regulation 13A – Actuary (non long-term business)

Regulation 13A: has been included to apply section 18 of the Act to non long-term insurers that are required to have a head of actuarial function. This refines and formalises a requirement already applied by way of the Authority's ['Regulatory Guidance – Fitness and Propriety'](#).

Question 3

Do readers have any comments or questions in relation to the Authority applying section 18 of the Act to non long-term insurers that are required to have a head of actuarial function?

3.13 Regulations 15 and 16 – Application of the Act, these Regulations and other specified regulations to permit holders

Regulation 15 and 16: have been refined and expanded for clarification.

Regulation 16(4)(d): includes the specific inclusion (within fitness and propriety checks) of a head of actuarial function where such post is applicable to a permit holder. Also, it has been clarified that, if section 12 of the Act does not apply to a permit holder, then section 12A (which is dependent on section 12) does not apply either.

3.14 Regulation 17 – Annual and other periodic regulatory returns for authorised insurers

Regulation 17(1)(b) and (c): have been updated to apply bi-annual reporting requirements to class 13 insurers.

Regulation 17(5): is new and allows the Authority to vary the frequency of regulatory reporting in the intervening period between annual reporting times (i.e. the ability to vary 'quarterly' and 'bi-annual' reporting requirements where the Authority considers it proportionate to do so).

Regulation 17(6)(a)(i): has been amended to take accounting balance sheet information relevant to a class 13 SCR calculation.

Regulation 17(6)(c): has been amended to recognise in regulations a previously agreed class 12 exclusion from annual Auditor's Report requirements (this is currently provided for in paragraph 4.11 of the Authority's published ['Guidance Notes and Information Concerning](#)

[Various Insurance Regulations and the CGC'](#)). This has also been extended to an insurer holding classes 12 and 13.

Regulation 17(6)(d) and (e): have been amended to clarify that actuarial reports and board reports (as applicable) accompanying annual returns must correspond to the accounting year and year end in question. In addition, they have been amended to exclude class 13 insurers as they are exempted from actuarial report and board report requirements under paragraph 4(1)(b) of Schedule 2 (as applicable).

Question 4

Do readers have any comments or questions in relation to the changes made to Regulation 17 (regulatory reporting)?

3.15 Regulation 18 – Standby (previously dormant) authorised insurers

Regulation 18: has been amended so that a dormant authorised insurer is now called a “standby authorised insurer”. This better reflects that such an insurer is not simply inactive, but may play an important part in providing, for example, fast-to-market captive insurance options. Standby authorised insurers (whether standalone or PCC cells) may therefore feature in fast-track authorisation processes – see comments in relation to Schedule 3 (fast-track authorisation).

Regulation 18(2)(b): has been added so that the Authority’s approval is required for an insurer to qualify as a standby authorised insurer. This provides more control for the Authority and a confirmed basis for potentially reduced fees under Regulation 18(5).

Regulation 18(3): has been amended to include any other information (other than simply a business plan) the Authority may require to support a decision.

Regulation 18(5): has been added to provides the Authority with discretion over its regulatory requirements and fees in respect of standby insurers. In respect of fees, for example, the Authority can reduce application and annual fees whilst the insurer is in a holding position awaiting a business opportunity with which to commence its insurance activity. This supports proportionality and the competitiveness of the Island when facilitating cost-effective preparedness for speed to market.

Question 5

Do readers agree or disagree with the Authority having discretion, in respect of standby authorised insurers, to reduce regulatory fees whilst awaiting commencement of business? And why?

3.16 Regulation 22 – Revocations etc.

Regulation 22: has been updated for the secondary legislation being revoked or withdrawn (as applicable) and replaced by the proposed Insurance Regulations 2024. (Note: The Insurance (Miscellaneous Amendments) Regulations 2015 are being revoked as the only remaining operational element of those regulations relates to the current ISPV framework which, itself, is being revoked.)

3.17 Regulation 23 – Transitional and run-off arrangements

Regulations 23(3) and (4): have been reworded for clarity.

Regulation 23(7): has been added to allow the Authority to approve a (retro)ceding insurer under class 12 for the purposes of transition from the current Insurance (Special Purpose Vehicles) Regulations 2015.

3.18 Schedule 1 – Class 12 insurers

Paragraph 1(2)(a) and 1(2)(b)(i): have been amended to recognise in regulations a requirement which is currently provided for in paragraph 4.2 of the Authority’s published ‘Guidance Notes and Information Concerning Various Insurance Regulations and the CGC’.

Paragraph 1(4) and (5): have been reworded for clarity. Also, **paragraph 1(4)(c)** has been amended to recognise in regulations a requirement which is currently provided for in paragraph 4.3 of the Authority’s published ‘Guidance Notes and Information Concerning Various Insurance Regulations and the CGC’.

Paragraph 1(6)(b): has been added to give the Authority greater scope to change and adapt class 12 for new or unforeseen circumstances, or circumstances for which existing provisions appear insufficient.

Question 6

Do readers agree or disagree with the Authority having additional discretion under paragraph 1(6)(b) of Schedule 1 to modify class 12 for new or unforeseen circumstances, or circumstances for which existing provisions appear insufficient? And why?

Paragraph 1(7): in respect of class 12, the definition of “insures only persons” has been amended to more clearly specify that the class 12 qualifying criteria apply to all persons insured, irrespective of how they are included within a relevant contract of insurance. As a consequence, it is acknowledged that the Authority may need to specify additional circumstances in which persons shall be eligible to be insured under class 12 as additional insureds. The Authority anticipates doing this by way of the discretion available to it under the de minimis rule (paragraph 6(1)(a)(C)) or under new paragraph 1(6)(b) as referred to above. The Authority anticipates having detailed prior discussions with industry in this

regard and communicating any new or updated specifications in its published guidance and information.

Question 7

Do readers have any comments or questions in relation to the change to the definition of “insures only persons” within the class 12 requirements in Schedule 1? (Noting that the Authority is intending to address any inappropriate impact in relation to additional insureds.)

Paragraph 3(a): has been amended to recognise in regulations a requirement which is currently provided for in paragraph 4.4 of the Authority’s published Guidance Notes and Information Concerning Various Insurance Regulations and the CGC.

3.19 Schedule 2 – Class 13 (fully funded) insurers

Schedule 2 – which is new and, together with the revised definition of class 13 in

Regulation 3(3): amends class 13 such that it now –

- requires a class 13 insurer, whether through an imposed or elective regulatory process, to be fully funded with high quality assets (gross of any limited recourse);
- does not, in itself, enable a class 13 insurer to carry on any insurance business; and
- must be held with another class or classes of authorisation (which are subject to the combinations of classes allowed under Regulation 4A).

Note: class 13 is flexible and adaptive, which includes being used in respect of:

- ISPVs;
- captive insurance (and notably with insurance manager-sponsored PCC structures, i.e. rent-a-captive cells);
- fast-track authorisations (under Schedule 3);
- regulatory sandboxing (under Schedule 4);
- being a class of authorisation which prospective or existing insurers might elect to apply for in order to take advantage of simplified regulatory requirements; and
- being a potential substitute requirement for insurers already required by the Authority to comply with a similar full funding requirement.

Question 8

Do readers agree or disagree with the approach taken by the Authority to generally simplify the current ISPV framework and replace it with Schedule 2? And why?

In Schedule 2:

- **Paragraph 1:** provides for a number of definitions for terms used in Schedule 2. Within the Schedule, the definitions of ‘approved bank’, and ‘approved outward

reinsurance’, each provide discretionary flexibility for the Authority to develop and adapt its requirements over time. For example, in relation to –

- “approved bank” (under sub-paragraph (b) of that definition): the Authority might consider approving the use of Isle of Man banks that are branches of groups that meet the specified credit quality step requirements, or are unrated Isle of Man incorporated banks as referred to in its credit quality step publication³; and

Question 9

In respect of the approval of assets to count towards full funding requirements, do readers think that a pre-approval of unrated Isle of Man Banks to hold a class 13 insurer’s assets should or should not be given? And why?

- “approved outward reinsurance” (under sub-paragraph (b) of that definition): in relation to a class 13 insurer that is also authorised in respect of any class within 1 to 11, the Authority might consider, for example, approving collateralised outward reinsurance.
(It should be noted that pre-approval of outward reinsurance in respect of class 13 insurers also holding class 12 is already included in the proposals.)

Question 10

In respect of the approval of assets to count towards full funding requirements, do readers agree or disagree with the pre-approval of outward reinsurance in respect of class 13 insurers also holding class 12? And why?

Question 11

In respect of the approval of assets to count towards full funding requirements, do readers think that a pre-approval of outward reinsurance should or should not also be applied in respect of class 13 insurers also holding any of classes 1 to 11? And why?

- **Paragraph 2(1):** sets out the overarching full funding requirement. In summary, a class 13 insurer must have sufficient approved net assets which meet or exceed the insurer’s total aggregate maximum exposures to potential liabilities under its insurance contracts, including any future exposures it has committed to accept.
- **Paragraph 2(2):** sets out the admissible components of, and adjustments applicable to, net assets (which are originally sourced from the insurer’s accounting balance sheet) that are required for full funding purposes –

³ <https://www.iomfsa.im/media/3034/association-of-credit-assessments-with-credit-quality-steps-new.pdf>

Question 12

Do readers agree or disagree with the use of an adjusted accounting balance sheet to calculate full funding in respect of class 13 insurers? And why?

- **paragraph 2(2)(a)** sets out the default quality of on-balance sheet assets required, and provides discretionary flexibility for the Authority to develop and adapt those requirements over time. For example, (under **paragraph 2(2)(a)(iii)**) the Authority might consider approving on-balance sheet assets such as irrevocable letters of credit ('LOCs') provided by a regulated bank, or similar security from another financial institution, with a high credit rating;

Question 13

In respect of the approval of assets to count towards full funding requirements, do readers think that a pre-approval of LOCs should or should not be given in respect of class 13 insurers? And why?

*[Note: responses to questions 13 to 15 in relation to on-balance sheet assets, unless the respondent specifies otherwise, shall be assumed to also apply to off-balance sheet assets as referred to below in relation to **paragraph 2(2)(c)(ii)** of Schedule 2.]*

Question 14

If the answer to question 13 is yes, what combination of classes including class 13 should the pre-approval apply to or not apply to? And why?

Question 15

Are there any other specific types of asset readers think should be pre-approved by the Authority for the purposes of full funding of class 13 insurers? And why?

- **paragraph 2(2)(b)** requires on-balance sheet liabilities to be shown gross. It also provides the Authority with discretion (under **paragraph 2(2)(b)(ii)**) to exclude liabilities from the net asset calculation. However, this is only envisaged in exceptional circumstances, such as in the unlikely event that permitted accounting treatments classify an item as a liability and the Authority would accept it as an own-fund item;
- **paragraph 2(2)(c)** allows certain off-balance sheet assets to be added to net assets for full funding purposes, and provides discretionary flexibility for the Authority to develop and adapt those requirements over time [see the note in question 13 in respect of **paragraph 2(2)(c)(ii)**].
- **Paragraph 2(3):** for full funding purposes, excludes any–
 - assets subject to a security interest which may not be available; and
 - otherwise 'ring-fenced' assets that are not available, to meet all of a class 13 insurer's insurance obligations.

- **Paragraph 2(4):** in relation to calculating full funding in respect of a class 13 insurer, provides for the whole calculation to be determined in a consistent currency (the insurer's reporting currency).
- **Paragraph 2(5):** establishes the required form of contractual aggregate limits of liability to be used in calculating a class 13 insurer's total insurance exposures that are required to be fully funded, and provides discretionary flexibility for the Authority to develop and adapt that requirement over time. The Authority, for example, may look to ensure that any approved basis can reliably predetermine the insurer's exposures for full funding purposes.
- **Paragraph 2(6):** sets out certain matters to comprehensively capture, and prevent double counting when calculating, a class 13 insurer's residual maximum exposures which are required to be fully funded (subject to paragraph 7 below) gross of limited recourse⁴.

Question 16

Do readers agree or disagree with the requirement that a class 13 insurer must fully fund its exposures gross of limited recourse? And why?

- **Paragraphs 3(1) to 3(3):** apply the CGC to a class 13 insurer, and provide the Authority with discretion to alter the requirements of the CGC where proportionate. For example, a class 13 insurer, given its fully funded profile, might be made subject to a greatly simplified requirement, or granted an exemption, in relation to ORSA.

Question 17

Do readers agree or disagree with the discretion given to the Authority to modify the CGC in respect of class 13 insurers? And why?

- **Paragraph 3(4) and 3(5):** provide for the funding of costs and expenses lying outside of a class 13 insurer's above-mentioned fully funded exposures (e.g. operational costs). This reflects that full funding is an ongoing requirement which must be complied with at all times. Therefore, the funding of any costs and expenses lying outside of the full funding requirement must be provided for over and above the full funding requirement in order to prevent them causing a breach of that requirement. Paragraph 3(5) specifically allows the Authority to agree or specify a minimum amount of resources which must be held by a class 13 insurer to meet its costs and expenses lying outside of its fully funded exposures.

⁴ Limited recourse will not be mandatorily required nor prohibited, but it is not a substitute for funding exposures. The default requirement to fund exposures gross of limited recourse serves to protect policyholders and enables the relaxation of sophisticated participant requirements on the buyer-end of transactions.

Question 18

Do readers agree or disagree with the approach to costs and expenses of class 13 insurers lying outside of the full funding requirement? And why?

- **Paragraph 4:**
 - **Paragraphs 4(1)** exempts a class 13 insurer from the conventional SCR and MCR applicable to its other class(es) (i.e. those it holds within classes 1 to 12, as applicable), and replaces it with a simplified SCR and MCR as follows –
 - the simplified class 13 SCR is the same as the full funding requirement; and
 - the class 13 MCR is currently set at the lowest MCR under the relevant solvency regulations that would apply to the insurer’s other class(es) (i.e. those it holds within classes 1 to 12, as applicable). It also includes discretionary flexibility for the Authority to specify a different MCR amount if, for example, its residual maximum exposures were less than the MCR that would otherwise be applicable.)
 - Requires 100% Tier 1 own-fund items for SCR purposes, but **paragraph 4(2)** also provides discretionary flexibility for the Authority to modify the eligibility of Tier 1 own-fund items over time for full funding purposes (this might, for example, be used to provide for greater eligibility of subordinated liabilities to allow funding by way of insurance linked securities whose duration is matched to the duration of short tail insurance exposures).
 - **Paragraph 4(3)** requires those Tier 1 own-fund items to be consistent with ensuring compliance with the full funding requirement.

Question 19

Do readers agree or disagree with an SCR based simply on full funding in respect of class 13 insurers? And why?

Question 20

Do readers agree or disagree with the discretion given to the Authority to reduce MCR in respect of class 13 insurers? And why?

Question 21

Do readers agree or disagree with the discretion given to the Authority to modify the eligibility of Tier 1 own-fund items in respect of class 13 insurers? And why?

- **Paragraph 5:** exempts a class 13 insurer from the requirement to appoint an actuary under the Act (as applicable), as full funding reduces the need for actuarial input.

Question 22

Do readers agree or disagree with a class 13 insurer's exemption from the requirement to appoint an actuary under the Act? And why?

- **Paragraph 6:** provides for class 13 restrictions which may be applied, for example, to ensure that a class 13 insurer's compliance with this schedule can be readily identified, monitored, controlled and reported. It also allows the Authority to set out its approach to ISPVs. For example, in the case of an ISPV funded by way of proceeds from the issue of insurance linked security(ies) ('ILS'), such as a CAT bond, the ISPV might expect to be limited to funding a single insurance contract it has written (or more than one contract with the same policyholder). In the context of an ISPV funded by way of an ILS, this paragraph is in some ways linked to **paragraph 4(3)** and the requirement for a class 13 insurer to prevent any of its own-fund items from being redeemed or repaid before the exposures they are funding have been fully terminated (for example, this may be relevant to an ILS instrument when establishing arrangements governing its maturity). Also, an ISPV funded by an ILS might expect to be required to be fully funded only by way of the paid-up proceeds of the ILS issue.

Question 23

Do readers agree or disagree with the discretion given to the Authority to impose limits on the business and activities of a class 13 insurer? And why?

- **Paragraph 7:** prohibits the surrender of class 13 authorisation without the Authority's approval. This, for example, prevents a class 13 insurer in breach of the full funding requirement from unilaterally altering the basis of its authorisation (and SCR) by surrendering its class 13 authorisation.

Question 24

Do readers agree or disagree with the requirement for a class 13 insurer to obtain the Authority's approval in order to surrender class 13? And why?

- **Paragraph 8:** provides transitional provisions in relation to insurers required by the Authority to be authorised in respect of class 13 under the Insurance Regulations 2024.

3.20 Schedule 3 – Fast-track authorisation

New Schedule 3: provides enabling provisions under which the Authority intends to establish or modify arrangements for fast-track authorisation.

Fast-track authorisation is where, if certain requirements are met, an applicant might be granted an insurance authorisation within accelerated timescales, and potentially highly accelerated timescales. Fast-track will involve establishing new or modified regulatory requirements to streamline the authorisation of vetted, lower risk (including captive and other special purpose) insurers. Fast-track may also be used, for example, with already vetted standby authorised insurers, or the creation of quickly authorised, or even pre-authorised, cells within an authorised (and therefore already vetted) PCC structure.

Schedule 3 –

- facilitates the development and publication of fast-track authorisation requirements which the Authority expects to establish and maintain in collaboration with the Island’s insurance market; and
- highlights and supports the Authority’s role as part of the Island’s competitive offering in relation to captive and special purpose insurance.

Question 25

Do readers agree or disagree with the Authority’s intended approach, in respect of reduced risk insurers (such as class 12 and 13), to provide competitive fast-track authorisation using Schedule 3 and any other relevant powers available to it? And why?

3.21 Schedule 4 – Regulatory sandboxing

New Schedule 4: provides enabling provisions under which the Authority intends to establish or modify arrangements for regulatory sandboxing in respect of insurance business.

Insurance regulatory sandboxing involves adjusting the Authority’s regulatory framework to create a safe environment in which to test and develop new or innovative insurance business. Schedule 4 facilitates the Authority in establishing a regulatory sandbox and provides the Authority with considerable discretion over its regulatory requirements and fees for sandboxing purposes.

Schedule 4 –

- is supplemental to the Authority’s general sandbox approach;
- facilitates the development and publication of insurance regulatory sandboxing requirements which the Authority expects to establish and maintain in collaboration with the Island’s insurance market and innovation initiatives; and
- highlights and supports the Authority’s role in encouraging insurance innovation and development in the Island.

Question 26

Do readers agree or disagree with the Authority’s intended approach to provide insurance regulatory sandboxing using Schedule 4 and any other relevant powers available to it? And why?

3.22 Schedule 5 to 7 – Insurers that are PCCs, ICCs, ICs or LPs

Schedules 5 to 7: have been updated to take account of relevant changes in the Regulations.

Schedule 5: clarifies that, in relation to an authorised PCC, provisions within sections 12A to 13 and Regulation 5 in relation to dividend restrictions and any breach of solvency apply, or may be applied by the Authority, separately to its core and/or individual cells where appropriate.

3.23 Schedule 8 – Registers

Schedule 8: see comments above in Section 3.11.

4. Impact Assessment

The Authority considers these proposals to –

- be low impact in terms of existing ISPV business, as the transition to the updated framework will be straightforward (although fees will increase compared to existing ISPV fees); and
- have some impact on existing insurers that are subject to an existing form of full funding requirement if the more detailed requirements in these proposals are applied to the insurer instead of previous requirements (in which case, in addition to any changes to those requirements, there will also be a slight reduction in fees as well as simplified solvency calculations and reporting).

Whilst we expect some concern to ensure that action is taken to limit any undue impact arising from the proposed change to class 12 (i.e. the change to the definition of “insures only persons”), the Authority anticipates taking appropriate action after detailed discussion with the relevant industry body.

The Authority expects the Island’s insurance sector to generally view these proposals as positive.

5. Questions (list of the questions as appearing in 3)

Please note that readers may respond on any aspect of the proposals, and are not limited to responding only to these questions.

Question 1

Do readers have any comments or questions in relation to the combinations of classes of authorisation allowed or disallowed under Regulation 4A?

Question 2

Do readers agree or disagree with the Authority having available to it the mechanisms under Regulation 4B to control its regulatory perimeter? And why?

Question 3

Do readers have any comments or questions in relation to the Authority applying section 18 of the Act to non long-term insurers that are required to have a head of actuarial function?

Question 4

Do readers have any comments or questions in relation to the changes made to Regulation 17 (regulatory reporting)?

Question 5

Do readers agree or disagree with the Authority having discretion, in respect of standby authorised insurers, to reduce regulatory fees whilst awaiting commencement of business? And why?

Question 6

Do readers agree or disagree with the Authority having additional discretion under paragraph 1(6)(b) of Schedule 1 to modify class 12 for new or unforeseen circumstances, or circumstances for which existing provisions appear insufficient? And why?

Question 7

Do readers have any comments or questions in relation to the change to the definition of “insures only persons” within the class 12 requirements in Schedule 1? (Noting that the Authority is intending to address any inappropriate impact in relation to additional insureds.)

Question 8

Do readers agree or disagree with the approach taken by the Authority to generally simplify the current ISPV framework and replace it with Schedule 2? And why?

Question 9

In respect of the approval of assets to count towards full funding requirements, do readers think that a pre-approval of unrated Isle of Man Banks to hold a class 13 insurer’s assets should or should not be given? And why?

Question 10

In respect of the approval of assets to count towards full funding requirements, do readers agree or disagree with the pre-approval of outward reinsurance in respect of class 13 insurers also holding class 12? And why?

Question 11

In respect of the approval of assets to count towards full funding requirements, do readers think that a pre-approval of outward reinsurance should or should not also be applied in respect of class 13 insurers also holding any of classes 1 to 11? And why?

Question 12

Do readers agree or disagree with the use of an adjusted accounting balance sheet to calculate full funding in respect of class 13 insurers? And why?

Question 13

In respect of the approval of assets to count towards full funding requirements, do readers think that a pre-approval of LOCs should or should not be given in respect of class 13 insurers? And why?

*[Note: responses to questions 13 to 15 in relation to on-balance sheet assets, unless the respondent specifies otherwise, shall be assumed to also apply to off-balance sheet assets as referred to in **paragraph 2(2)(c)(ii)** of Schedule 2.]*

Question 14

If the answer to question 13 is yes, what combination of classes including class 13 should the pre-approval apply to or not apply to? And why?

Question 15

Are there any other specific types of asset readers think should be pre-approved by the Authority for the purposes of full funding of class 13 insurers? And why?

Question 16

Do readers agree or disagree with the requirement that a class 13 insurer must fully fund its exposures gross of limited recourse? And why?

Question 17

Do readers agree or disagree with the discretion given to the Authority to modify the CGC in respect of class 13 insurers? And why?

Question 18

Do readers agree or disagree with the approach to costs and expenses of class 13 insurers lying outside of the full funding requirement? And why?

Question 19

Do readers agree or disagree with an SCR based simply on full funding in respect of class 13 insurers? And why?

Question 20

Do readers agree or disagree with the discretion given to the Authority to reduce MCR in respect of class 13 insurers? And why?

Question 21

Do readers agree or disagree with the discretion given to the Authority to modify the eligibility of Tier 1 own-fund items in respect of class 13 insurers? And why?

Question 22

Do readers agree or disagree with a class 13 insurer's exemption from the requirement to appoint an actuary under the Act? And why?

Question 23

Do readers agree or disagree with the discretion given to the Authority to impose limits on the business and activities of a class 13 insurer? And why?

Question 24

Do readers agree or disagree with the requirement for a class 13 insurer to obtain the Authority's approval in order to surrender class 13? And why?

Question 25

Do readers agree or disagree with the Authority's intended approach, in respect of reduced risk insurers (such as class 12 and 13), to provide competitive fast-track authorisation using Schedule 3 and any other relevant powers available to it? And why?

Question 26

Do readers agree or disagree with the Authority's intended approach to provide insurance regulatory sandboxing using Schedule 4 and any other relevant powers available to it? And why?

6. Next Steps

Following closure of the consultation period on **17 May 2024**, the Authority will review the responses received and publish a Feedback Statement on the Authority's website and the Isle of Man Government's Consultation Hub.

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

- Isle of Man Captive Association
- Isle of Man Insurance Association
- Innovation Working Group