



**ISLE OF MAN
FINANCIAL SERVICES AUTHORITY**

Lught-Reill Shirveishyn Argidoil Ellan Vannin

Consultation Paper
Minimum Capital Requirements
for Non Long-Term Business PCCs and ICCs

CP20-01/T04

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Consultation Paper – CP20-01/T04

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

The purpose of the consultation is to obtain views in relation to the proposed minimum capital requirements for PCCs and ICCs. The consultation is relevant to all authorised insurers, registered insurance managers and auditors. It may also be of more general relevance to other parties with an interest in the Isle of Man insurance sector, including the legal profession.

The closing date for comments is **22 May 2020**.

Please send comments in writing and preferably by email to:

Sian Eltman

Isle of Man Financial Services Authority

PO Box 58, Finch Hill House, Bucks Road, Douglas Isle of Man, IM99 1DT

Email: sian.eltman@iomfsa.im

Telephone: +44 (0) 1624 [646000](tel:4401624646000)

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

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Glossary

Authorised insurer	An insurer authorised under section 8 of the Insurance Act 2008 to carry on insurance business
Authority	Isle of Man Financial Services Authority
Cell	Cellular part of a PCC
Core	Non-cellular part of a PCC
IC	Incorporated Cell of an ICC
ICC	Incorporated Cell Company
IAIS	International Association of Insurance Supervisors
ICPs	Insurance Core Principles (of the IAIS)
MCR	Minimum Capital Requirement
PCC	Protected Cell Company
QIS	Quantitative Impact Study
SCR	Solvency Capital Requirement

1. Executive Summary

1.1 Overview

In June 2013 the Authority published its Roadmap and through that document set out its objective to establish a project to implement a framework for the regulation and supervision of insurers, insurance managers and general insurance intermediaries that would establish a high level of observance in respect of the updated ICPs issued by the IAIS, and remain appropriate and proportionate to the risks of the different parts of the insurance industry that operate in and from the Isle of Man.

This continues to be the objective of the Authority and this consultation is part of that project.

1.2 What is the purpose of this Consultation Paper?

An important element of the project to update the regulatory framework for insurance business is the development of a risk-based capital framework.

As part of the development of the capital framework for non long-term business, consideration has been given to developing an approach for PCC and ICC business.

Late in 2019, an initial approach for the valuation and solvency framework for PCC's was consulted on in CP19-04 Insurance (Non Long-Term Valuation and Solvency) Regulations 2020. The results of this consultation have been considered and the proposed approach for the minimum capital requirement revised. The proposed changes are summarised in this paper.

In addition, it is proposed to extend the Insurance (Non Long-Term Valuation and Solvency) Regulations 2020 to also cover ICCs.

The purpose of this consultation is to obtain stakeholders' views on the Authority's proposals and to move nearer to implementation of an enhanced regulatory framework for insurance business.

This consultation is in respect of PCC's and ICC's authorised to carry out non long-term business only.

1.3 Who may be affected by this Consultation Paper?

This consultation is relevant to all authorised non-long term business insurers, registered insurance managers, and auditors. It may also be of more general relevance to other parties with an interest in the Isle of Man insurance sector, including the legal profession.

2. Consultation Process

2.1 The Authority's regulatory objectives

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

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

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

Factor	Information
The desirability of implementing and applying recognised international standards.	The primary purpose of the ICP Project is to update the Island's insurance regulatory framework in a manner that is appropriate to the Island's insurance sector and consistent with international standards.
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.	The update to the Island's insurance regulatory framework is part of the Island maintaining its position as a reputable and responsible international financial centre.
The impact of its decision on the stability of the financial system of the Island.	Financial stability is a core purpose of the ICPs internationally and the principles established by the ICPs are also relevant to the Island on a local level. Implementation of a regulatory framework consistent with ICPs, and in a proportionate manner to the Island, is considered appropriate to promote continued and enhanced financial stability in the Island's insurance market.

2.2 Responding to the Consultation Paper

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

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

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

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

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

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

3. Proposals

3.1 Proposed amendments to the Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2020 for PCCs

Readers will note that the proposals below allow for the core of a PCC to be authorised to carry on a class of insurance business or not authorised to carry on a class of insurance business (i.e. a 'supporting core'). When preparing these proposals, we have taken into account changes proposed in the upcoming consultation on the Insurance Regulations 2020, due to be consulted on later this year, which enable a core and cells to be authorised to carry on different classes of business.

The 2019 consultation proposed the following treatment for PCCs:

- The SCR and MCR for the core and cells to be calculated as if it is a standalone insurer.
- The PCC SCR to be the sum of the SCR for the core and the cells.
- The PCC MCR to be the sum of the MCR for the core and the cells, subject to a minimum MCR floor applied at PCC level.
- The minimum MCR floor to be £100,000 for a class 12 PCC and £500,000 for a non-class 12 PCC.
- Excess own-funds of a cell cannot be used to fund the capital requirement of another cell or the core.
- Where a cell has legitimate recourse to its core's assets (in the form of secondary liability), own-funds of the core can be used to notionally fund the capital requirements of a cell, subject to:

¹ <https://consult.gov.im/>

- the core still being able to meet its own capital requirements after the allocation; and
- the quality of the notionally allocated capital being of the level required by the cell.

Following the consultation, the Authority has reconsidered the approach of applying the MCR minimum floor at PCC level.

The Authority has reassessed practice under the 'rent a captive' model of PCC, often promoted through registered insurance managers on the Island, where cells are typically established to not have recourse to the assets of the core (i.e. a liability of a cell is the liability solely of that cell and there is no secondary liability to the assets of the core).

When the minimum MCR floor is applied at PCC level, rather than at underlying cell level, if the cell has no recourse to the assets of the core, should that cell get into difficulty it has no access to the assets held to meet the minimum requirement and therefore no benefit of the protection the minimum floor aims to provide within the PCC.

For non-class 12 business, the Authority does not view this as acceptable and is proposing that the minimum MCR floor applies at cell level, as well as at core level.

Therefore, it is proposed that the minimum MCR floor should take into account the authorisation of the cell/core as follows:

Authorisation/ PCC component	Class 12	Non-Class 12	Not authorised to carry on insurance business
Cell	No minimum	£500,000	N/A
Core	£100,000	£500,000	£100,000

Where a core is not authorised to carry on a class of insurance business, the Authority's view is that it is appropriate for the core to hold sufficient capital to meet its expense risk as well as reputational, fraud and mis-management risk. The minimum MCR floor proposed is £100,000.

For a non-class 12 cell/core the minimum MCR floor proposed is £500,000, commensurate with that of a standalone non-class 12 insurer.

For a class 12 cell, the Authority views the risk to the cell as reduced due to the reduced risk of that type of business and that fact that, despite it potentially not having recourse to the capital of its core, the core still provides operational support and hence takes on that risk.

Therefore, the minimum MCR floor proposed is nil at cell level and £100,000 at core level. The cell will still be required to meet its SCR at all times.

Finally, it is proposed that for the purpose of the valuation and solvency regulations only, an insurer must apply the regulations to a core that is not authorised to carry on insurance business as though it is a class 12 insurer. This means that the Class 12 SCR template should be used to determine the capital requirements of the core.

3.2 Proposed amendments to the Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2020 for ICCs

The Authority plans to extend the scope of the Insurance (Non Long-Term Valuation and Solvency) Regulations 2020 to cover ICCs.

It is proposed that valuation and solvency requirements will apply to an ICC and its ICs in the same way they apply to a standalone authorised insurer.

Similarly to a PCC, an ICC that is not authorised to carry on insurance business will also have its own capital and solvency requirements and the insurer must deem it to be a class 12 insurer for the purpose of complying with the valuation and solvency regulations only.

Given each IC is a separate legal entity, excess own-funds of the ICC cannot be used to fund the capital requirements of an IC.

It is proposed that the minimum MCR floor should take into account the authorisation of the IC/ICC as follows:

Authorisation/ ICC component	Class 12	Non-Class 12	Not authorised to carry on insurance business
IC	£100,000	£500,000	N/A
ICC	£100,000	£500,000	£100,000

Given that an IC is a separate legal entity to the core, the Authority views the risk profile of a class 12 IC to be the same as a standalone class 12 insurer, therefore the proposed minimum MCR is £100,000. Otherwise the proposed minimum floors are the same as for a PCC.

4. Impact Assessment

These changes relate to valuation and solvency requirements for PCCs and ICCs licenced to carry out non-long term business, arising out of changes to the capital and solvency framework. The capital and solvency framework has been informed by three Quantitative Impact Studies which have taken place between 2016 and 2018.

5. Questions

The Authority invites general feedback on the proposals set out in this consultation paper.

6. Next Steps

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

Subject to those responses, the Authority will proceed to make the Insurance (Non Long-Term Business Valuation and Solvency) Regulations for implementation on 31 December 2020.