

**The Actuarial Profession**  
making financial sense of the future

Conference title – CILA 16 May 2012  
Speaker names – Kevin Arnott and Andrew Burke



## PS12/04 – Business as Usual?

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## Roadmap

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- The story so far
- CP11/05 key proposals
- Those implemented in PS12/04
- ... and those not
- What next for with-profits?
- Questions

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## The story so far...

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- FSA Thematic Review
- CP11/05 (February 2011)
- PS12/04 (March 2012)

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## CP11/05 Key Proposals

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- Ownership of estate
- Strengthened with-profits governance
- Criteria for new business profitability
- Charges to with-profits funds
- Reconsideration of whether a fund is open or closed
- Other matters – MVRs, strategic investments etc

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## Changes implemented by PS12/04

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- With-Profits Governance
- New Business Profitability
- Open or Closed?
- Other provisions

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## With-Profits Governance Arrangements

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- With-Profits Committee preferred but With-Profits Advisory arrangements still permitted
- “Majority” of independent members
- Potentially increased scope
- Terms of reference to be published
- FSA notified of material differences of opinion between the With-profits Committee and the Board
- Annual review of the WPA

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## Impact of Changes

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- Does this change the balance of power in the company?
- Strengthened position of With-Profits Committee
- Weakened position of With-Profits Actuary?

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## New Business Profitability

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- COB 20.2.28 R (1) “....demonstrate no adverse effect on with-profits policyholders’ interests...”
- COB 20.2.28 R (2) “....carried out or obtained appropriate analysis...”
- Judgement required in assessment of “appropriate analysis” and “no adverse impact”
- Increased burden of proof
- Comes fully into effect on 1 July 2012

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## Open or Closed?

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- Early interaction and discussions with FSA
- “...sustained and substantial...” test so significant judgement is necessary
- Run-off plans for all
  - Particular requirements for assets which are not “readily realisable and non-profit business written in a with-profits fund
- Twilight world between open and closed

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## Other Provisions

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- Strategic investments
- Reattribution of the Estate
- MVRs

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## ...And what has not

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The FSA have not made rules on the following:

- Clarifying the required percentage (e.g. 90:10 or 100:10)
- Profits from intra group transactions with with-profits funds
- Introducing fair distribution and management plans
- Requiring all larger funds to have a WPC

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## Required %

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- FSA proposed required percentage be defined (e.g. 100:0 or 90:10)
- To be based on established practice
- Firms to justify conclusions on established practice to FSA
- FSA intend to re-consult in relation to the mutual sector

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## Required % (Continued)

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- Concern expressed that proposals could override the interests of other policyholders and members
- FSA view is that the interests of with-profits policyholders are more extensive than the narrow interpretation currently taken in some cases
- New guidance states that with-profits policyholders have an interest in the whole and in every part of the with-profits fund

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## Intra Group Charges to a WP Fund

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- FSA proposed that intra-group companies could not make profits from dealings with WP funds
- This would have covered in-house service companies and in-house investment managers
- However, there will now be further consultation
- Shareholders and NP funds might not accept additional risk unless there is a margin to compensate for that risk
- The orderly run-off of closed funds could be hampered if in-house risk transfer arrangements were discouraged

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## Distribution and management plans

- FSA not proceeding in recognition of overlap with ICA and additional costs
- Firms are, however, required to initiate discussions with FSA if there is a substantial and sustained fall in new business volumes

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## COBS 20.2.1

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“A firm must take reasonable care to ensure that all aspects of its operating practice are fair to the interests of its with-profits policyholders and do not lead to an **undisclosed or otherwise unfair** benefit to shareholders or to other persons with an interest in the with-profits fund (COBS 20.2.1 A R)”.

“For the purposes of COBS 20.2.1 AR the FSA expects a firm to be able to demonstrate that it has taken reasonable care to ensure its operating practices are fair, including being able to produce appropriate evidence to show that it has followed the relevant governance procedures (COBS 20.2.1 D G)”

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## COBS 20.2.1

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“We note the point made by some respondents that a benefit that is fair but which has not been disclosed does not become unfair simply through that lack of transparency. However, undisclosed benefits, even when being capable of being fair if disclosed, may not be consistent with the principle of communicating with customers in a way that is clear, fair and not misleading.” (FSA response to points made in the CP11/05 consultation process).

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## What Next for With Profits?

- Are there any new products or structures that could reinvigorate the with-profits market?
- Will firms “disaggregate” closed with-profits funds by unitisation or conversion to non-profit?
- How will the split of FSA between conduct and prudential affect with-profits business?

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## FSA Plans

The FSA 2012/13 business plan contains several references to with-profits business:

- take forward the work on with-profits issues in mutual insurers
- update COBS 20 to allow for Solvency 2
- continue to engage with firms to establish that with-profits policyholders and members are treated fairly
- Ensure that firms manage any conflicts of interest with their with-profits funds appropriately

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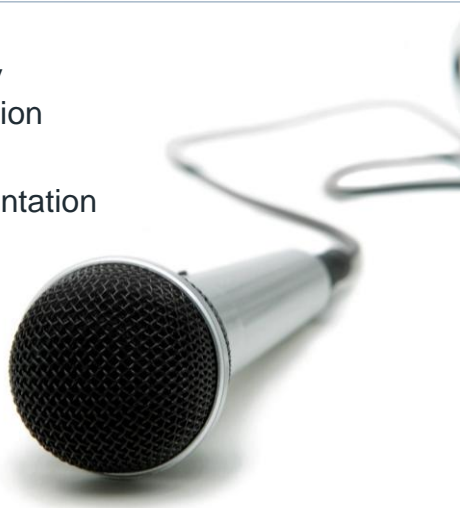
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## Questions or comments?

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