Institute and Faculty of Actuaries

FS14/1: Feedback Statement on FSA CP12/13 Solvency II – COBS rule changes

Consultation response to the Financial Conduct Authority

22 December 2014

About the Institute and Faculty of Actuaries

The Institute and Faculty of Actuaries is the chartered professional body for actuaries in the United Kingdom. A rigorous examination system is supported by a programme of continuous professional development and a professional code of conduct supports high standards, reflecting the significant role of the Profession in society.

Actuaries' training is founded on mathematical and statistical techniques used in insurance, pension fund management and investment and then builds the management skills associated with the application of these techniques. The training includes the derivation and application of 'mortality tables' used to assess probabilities of death or survival. It also includes the financial mathematics of interest and risk associated with different investment vehicles – from simple deposits through to complex stock market derivatives.

Actuaries provide commercial, financial and prudential advice on the management of a business' assets and liabilities, especially where long term management and planning are critical to the success of any business venture. A majority of actuaries work for insurance companies or pension funds – either as their direct employees or in firms which undertake work on a consultancy basis – but they also advise individuals and offer comment on social and public interest issues. Members of the profession have a statutory role in the supervision of pension funds and life insurance companies as well as a statutory role to provide actuarial opinions for managing agents at Lloyd's.

Institute and Faculty of Actuaries

Stuart Hicks
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Financial Conduct Authority
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22 December 2014

Dear Stuart

IFoA response to FS14/1: Feedback Statement on FSA CP12/13 Solvency II – COBS rule changes

1. The Institute and Faculty of Actuaries (IFoA) welcomes the opportunity to respond to the FCA on the Feedback Statement on FSA CP12/13 Solvency II – COBS rule changes (FS14/1). This response has been drafted by members of the IFoA's Life Standards and Consultations Committee. We have focused our response on specific elements of the Feedback Statement, where we either endorse the proposed approach or have specific query or comment.

Conditions relevant to distributions

2. We would question the assertion in the consultation document that the risk margin does not exist in the Solvency I regime (FS14/1, para. 2). It is our understanding that this is included in the requirement to calculate reserves on a prudent basis. We, therefore, do not agree that the risk margin should be excluded from the definition of liabilities; rather, for the purposes of consistency, we believe that the risk margin should be embedded in the definition of technical provisions.

3. We note the new wording of COBS20.2.18. We are not convinced that a scenario would arise where a firm could be "not a Solvency II firm and a realistic basis life firm". We would welcome clarification on this and suggest that, if this is unlikely to occur, the FCA consider deleting this Rule.

Requirements relating to the distribution of an excess surplus, connected persons and contingent loans

4. We support the FCA's proposed approach as set out in the consultation.

Other Rules and guidance on the conduct of with-profits business

5. We support the FCA's proposed approach as set out in the consultation.

Ceasing to effect new contracts of insurance

6. We support the FCA's proposed approach as set out in the consultation.

Distributions

7. We broadly agree with the intention to update the method of notification; however, we would suggest that the requirement to give four months advance notice to the FCA and three months notice to policyholders may be unduly onerous. Instead we suggest that two months for the FCA and one month notice to policyholders would be sufficient, provided that if a significant number of policyholders object, or else the FCA has or receives objections which it

considers are material and relevant, the proposed distribution could be limited until FCA has approved it.

8. As already highlighted in para. 2 above, we do not believe the risk margin should be excluded from the calculation and would suggest it be included in the calculation of technical provisions.

Principles and Practices of Financial Management

9. We agree with the intention to ensure that support arrangements are shown in the PPFM.

Governance and Responsibilities for With-profits committees

10. We agree with the proposals to require incoming EEA firms to provide similar information to UK firms. Furthermore, we support the proposition that the existence of sub funds and support arrangements should be within the scope of matters considered by the with-profits advisory arrangement.

Capital Instruments and Internal Contagion Risk

11. We support the FCA's proposed approach as set out in the consultation.

Glossary definitions

12. We endorse the revised definition of "with-profits policy"; however, whilst we appreciate that efforts have been made to simplify the definition of "with-profits fund", we believe it remains overly complicated. We would suggest that the definition of "with-profits assets" should not require the inclusion of the capital requirements for non-profit insurance business but should permit them.

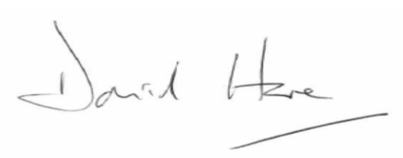
13. As stated earlier, we note that the definition of "excess surplus" allows for a firm which is "not a Solvency II firm but is a realistic basis firm" and we would question whether this combination could realistically occur within a decade and probably longer. In the light of this, we suggest a lighter touch is appropriate, and the SII / non-SII regime is sufficient. Similarly, the definition of "inherited estate" requires a "realistic value of liabilities" for a firm which is not a Solvency II firm; we are not convinced that this will be a reasonable requirement for very small firms, which fall outside the jurisdiction of Solvency II.

Amendment of existing transitional provisions

14. We support the FCA's decision not to proceed with these proposals.

If you wish to discuss further any of the points raised in this response, please contact our Head of Policy, Amy Tarr (amy.tarr@actuaries.org.uk / 07860 954 074), in the first instance.

Yours sincerely,



David Hare
Immediate Past President, Institute and Faculty of Actuaries