



Institute
and Faculty
of Actuaries

Regulations implementing a new regulatory and tax framework for Insurance Linked Securities

IFoA response to HM Treasury

16 January 2017

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.



Insurance Linked Securities Consultation
Insurance and Financial Regulators Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

16 January 2017

Dear Sirs

IFoA response to HM Treasury Consultation: Regulations implementing a new regulatory and tax framework for Insurance Linked Securities

1. The Institute and Faculty of Actuaries (IFoA) welcomes the publication of the draft regulations for Insurance Linked Securities (ILS). Members of the IFoA who work in general insurance have prepared this response. We have limited our response to those areas where our members have specific knowledge and expertise. Where appropriate, we have made reference to the specific paragraph of the Regulations.
2. We also welcome the simultaneous consultation on the draft statements from the PRA and the FCA in respect of their supervision of ILS. We will respond to that consultation in due course.
3. We recognise that regulations can only reflect the current supervisory framework; however, as there may be opportunity to alter that in the future, we would encourage HM Treasury to consider what the ILS regime may look like after the UK leaves the EU.

Multi-arrangement Insurance Special Purpose Vehicles (mISPV)

4. The IFoA supports the approach set out in the consultation paper. As we noted in our response to the initial consultation, a Protected Cell Company (PCC) structure can provide the following benefits:¹
 - Attract ILS business to the UK market;
 - Limiting expense by creating new cells within the PCC (para 38);
 - Ring-fencing assets and liabilities within cells (para 39);
 - Ensuring appropriate protection for cedants (para 41).
5. We understand the proposal for initially limiting the use of cells for other purposes. However, if the market grows as anticipated, we would encourage flexibility within the regulatory regime. Any review of other activities should be regular to identify barriers to market growth. If such barriers did exist, we would support steps taken by HM Treasury to remove them, subject to maintaining protection for cedants.

¹ <https://www.actuaries.org.uk/documents/ifo-a-response-hmt-insurance-linked-securities>

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Directors' Duties

6. As we noted in our previous response, day-to-day operations of a PCC would not be different to any other insurance company. Although the IFoA has no comments on the specific regulations, we consider the general approach set out for Directors as the best approach to take.

Reports and Accounts

7. As with our comments in respect of Directors, we do not foresee any specific reason why a PCC should prepare accounts in a different manner to other companies. The current framework is appropriate for disclosure. We recognise the concerns surrounding disclosure for individual cells; therefore, we would encourage HM Treasury to ensure there would be no unexpected consequences of such disclosure.

Insolvency

8. We are pleased HM Treasury has accepted comments about the need for insolvency arrangements for both the core and cell companies. It is important for the development of the market to allow insolvency of individual cells that has no impact on the activities of other cells. Consequently, treating cells as individual entities for insolvency purposes is a sensible approach.

Taxation

9. The IFoA views the proposed tax arrangement as striking a balance between the need to develop the ILS market and ensuring there is no avoidance of tax.

Should you wish to discuss any of the points raised in further detail please contact Philip Doggart, Technical Policy Manager (Philip.doggart@actuaries.org.uk / 0131 240 1319) in the first instance.

Yours faithfully



Colin Wilson
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