



**ISLE OF MAN
FINANCIAL SERVICES AUTHORITY**

Lught-Reill Shirveishyn Argidoil Ellan Vannin

An overview of policyholder protection and the regulation of Isle of Man authorised long-term insurers.

This document is intended to provide a general overview of the statutory protection measures in place designed to provide protection for policyholders of Isle of Man authorised insurers writing long term business (“insurers”). In particular this guide describes the protection afforded to policyholders under the Isle of Man’s regulatory capital regime, and its policyholder protection scheme established under the Life Assurance (Compensation of Policyholders) Regulations 1991 (“the Compensation Scheme Regulations”). This document is not, however, a substitute for specific professional advice.

The Isle of Man Financial Services Authority (“the Authority”)

The Authority is responsible for the regulation and supervision of financial services business, including insurance carried on in or from the Isle of Man. The Authority’s regulatory objectives are—

1. securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;
2. the reduction of financial crime; and
3. 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.

Q: Which insurers are regulated by the Authority?

A: All insurers carrying on insurance business in or from the Isle of Man are required to be authorised under the Insurance Act 2008 (“the Act”) and as such are regulated by the Authority.

A list of authorised insurers can be found [here](#).

Q: How does the Authority seek to provide protection for policyholders of insurers?

A: The Act provides the Authority with the legislative framework to ensure that senior management and the controlling parties of insurers are fit and proper, conduct their business in a prudent manner that pays due regard to the interest of policyholders and requires insurers to be financially sound.

This guide focusses specifically on the last of those elements, the financial protection afforded to policyholders of insurers writing long term business.

Q: What is 'long term business' and why is it important?

A: It is important to determine whether a contract is considered to be long term as policyholders of insurers carrying on long term business benefit from specific levels of policyholder protection. Long term business is defined in the Insurance Regulations 2018, made under the Act. Under regulation 4, long term business is defined as contracts of insurance that must provide cover for at least 5 years and in normal circumstances cannot be terminated by the insurer before the expiry of that 5 year period. This could include contracts of the following descriptions:

- life;
- annuity;
- linked long-term;
- permanent health;
- tontines; and
- capital redemption

Q: What if my contract has a term of less than 5 years?

A: All contracts that would fall within the definition of long term business except for the fact that the term is less than 5 years, are treated as falling within that definition if the insurer concerned has provided written notice to the Authority that it intends to treat all contracts within that description as long term business.

Q: What if my contract has other benefits which are not long term?

A: As long as the principal objective of your insurance contract is long term business, then it is classed as a long-term business contract, even if it contains additional insurance provisions which do not fit with the definition of long-term business above.

To be certain if your contract qualifies as long term in these circumstances you should contact the insurance company that issued your policy.

Q: How does the Authority manage the financial standing of authorised insurers?

A: The Isle of Man's regulatory framework includes requirements for insurers to manage their financial resources prudently to ensure that liabilities to policyholders can be met. In particular the Act requires that:

- All insurers are required to determine the value of their insurance obligations to policyholders or their "technical provisions". An insurer's technical provisions represent the total amount of funds it must set aside in order to meet its insurance obligations both now and in the future. Importantly, in order to protect policyholders, insurers must hold assets equal to their technical provisions, and these assets can only be used to meet their insurance obligations to policyholders and **not for any other purpose**.
- All authorised long term insurers must in addition hold sufficient assets in excess of their technical provisions ("capital resources") to meet two tiers of capital requirement prescribed in Regulations. The purpose of these capital requirements is to require insurers to hold money in excess of their insurance obligations, so that they can continue to meet their obligations even in adverse circumstances. The two tiered

approach provides an early warning system for the Authority and a 'ladder' of supervisory intervention that enables the Authority to take action to ensure insurers can continue to meet their insurance obligations to policyholders. The capital requirements are:

- a higher Solvency Capital Requirement, ("SCR") which represents an early warning system which requires an insurer to take remedial action; and
- a Minimum Capital Requirement ("MCR"), which represents an absolute minimum requirement below which more serious regulatory intervention can be taken.

Insurers have a duty at all times under the Act to notify the Authority if their capital resources fall below, or are expected to fall below, the capital requirements.

Q: How does an insurer determine the value of its technical provisions, SCR and MCR?

A: An insurer is required to determine the value of its technical provisions, SCR and MCR in accordance with the Insurance (Long-Term Business Valuation and Solvency) Regulations 2018.

Q: Do the SCR and MCR take account of the risks of the insurer?

A: In line with other sophisticated, well-regulated insurance jurisdictions, the Isle of Man has recently updated its capital requirements to be consistent with modern regulatory standards. As such, the requirements are risk-based and more sophisticated than in the past, thus enabling the capital requirements to better protect policyholders against the risks faced by insurers carrying out long-term business in the Isle of Man.

Q: What happens if an insurer breaches its SCR?

A: Where an insurer's capital resources nears or falls below the SCR the Authority can take preventative steps or require an insurer to submit a remedial plan to the Authority to restore its capital resources above the SCR in a timely manner.

Insurers are not permitted to pay dividends where capital resources fall below the SCR and the Authority may also withdraw an insurer's authorisation to write new business

Q: What happens if an insurer breaches its MCR?

A: Where an insurer breaches its MCR it must submit a remedial scheme to the Authority to restore compliance with the MCR and SCR. Where an insurer submits a scheme that the Authority considers to be inadequate it can require it to be modified.

Where a scheme is accepted by the Authority, the insurer must give effect to that scheme.

In situations where an insurer is unable or fails to submit a remedial scheme which is acceptable to the Authority, the Authority may petition for the insurer to be wound up. In this situation the insurer is considered to be insolvent under the Isle of Man Companies Acts for the purpose of allowing the Authority to petition the Court for the insurer to be wound up.

Q: What happens if the Authority petitions the Court for an insurer to be wound up?

A: In the event of the Authority petitioning for the insurer to be wound up, the Act requires the liquidator (the person appointed when a company is being wound up) to carry on the long term business of the company with a view to it being transferred as a going concern to another insurer, unless the Court orders otherwise. This statutory measure is designed to provide continuity to policyholders.

Q: What if the insurer's long-term business insurance obligations can't be transferred as a going concern and the insurer has insufficient assets to meet its technical provisions?

A: In this situation, affected policyholders may be entitled to claim compensation from the Isle of Man statutory protection scheme ('the scheme') established under the Compensation Scheme Regulations, if their policy meets the definition of a protected contract.

A protected contract is a long term contract effected by an authorised insurer on or after 1 February 1991, the date on which the Compensation Scheme Regulations came into force.

Q: My contract was effected before 1 February 1991 does this mean I'm not covered?

A: Not necessarily. Certain companies were members of an earlier voluntary policyholder protection scheme in the Isle of Man whose conditions are also laid out in the Compensation Scheme Regulations. To check whether your contract qualifies you will need to contact your insurer.

Q: Does a policyholder have to be resident on the Isle of Man to be able to apply for compensation under the scheme?

A: No - there are no requirements for the policyholder to be resident in the Isle of Man in order to be able to apply for compensation under the scheme.

Q: How much compensation is the scheme designed to provide?

A: Where an insurer does not have sufficient assets to meet its insurance obligations, the scheme will pay compensation up to a maximum of 90% of the shortfall.

Q: Does the scheme protect against financial losses other than an insurer becoming insolvent, for example where the value of my policy is linked to the performance of underlying assets?

A: The scheme is designed to protect against an insurer becoming insolvent and would not ordinarily cover investment losses arising where benefits under a policy are "linked" to assets outside of the insurer's control.

It is important that you refer to the terms and conditions of your individual contract to determine who bears the risk of investment performance or failure. Alternatively you can contact your insurer or independent financial advisor to help you determine this.

Q: Is the Isle of Man's regulatory framework up to date and consistent with international standards?

A: The Isle of Man has developed its regulatory framework to be in line with the existing

international guidelines in this area as agreed by the International Association of Insurance Supervisors (IAIS). Additionally, the framework has been substantially based around the principles and detailed requirements of Solvency II, the solvency and policyholder protection standards adopted across the EU.