Condition to be applied to insurers writing long-term business

The requirements imposed by these conditions apply (subject to such exemptions as the Commission may lawfully determine) to all insurance entities, whether structured as a company, a protected cell company or a branch of a non-Bailiwick insurer.

The licensed insurer shall appoint a Guernsey based trustee who shall be responsible for safeguarding the insurer's assets.

The licensed insurer's assets representing at least 90% of policyholder liabilities must be held in trust.

The insurer must require that a trustee appointed pursuant to this condition reports full details of the assets held by it to the Commission at least quarterly and also informs the Commission if the insurer instructs a withdrawal of more than 5% of the market value of the assets held within any one period of one month.

The insurer must require that a trustee appointed pursuant to this condition shall comply with the following requirements:

A. The trustees must be Guernsey based, independent of the insurer or licensed insurance manager and approved by the Commission.

B. The trustee is responsible for safeguarding the insurers assets and may:

    1. hold securities directly in its name or with an appointed nominee.
    2. appoint a custodian or custodians to hold its assets.

C. The trustee may only appoint custodians after satisfying itself that they are fit and proper and competent to perform the role.

D. The trustee shall be able to demand of the custodian the immediate withdrawal of assets from the custodian to another custodian. Where the custodian requires a period of notice this period of notice shall be as short as possible

The insurer must advise the Commission in its business plan of the custodians it intends to use.

The custodians must be independent of the insurer or insurance manager unless the Commission has confirmed otherwise in writing.

The trustee is not responsible for the investment management of policyholder funds.

The trustee agreement between the insurer and the trustee should contain the following provisions:

1. Assets representing at least 90% of policyholders' liabilities must be held in trust.

2. The assets must be held on trust to meet the obligations of the company to the policyholders and shall not be available to meet any other obligations of the company, such as those to general creditors, except in accordance with the terms of the policies to meet expenses of the insurer.

3. Payments from the trust can either be:

   (a) to the policyholder directly;

   (b) to the insurer so it can pay policyholders;

   (c) to the insurer for named items (management expenses etc.) required in the normal course of business.

4 The trustee must report to the Commission if the insurer instructs that 5% or more of the market value of the assets held are to be paid out within one calendar month. The approval of the Commission must then be obtained before the trustee makes further payments within the calendar month.

5 The Commission will be allowed access to relevant trustee records for enquiries and for inspection.

6 Notice of termination by either party must be given to the Commission.

7 On termination the trustee must only transfer the assets either to another approved trustee or to the insurer on express approval of the Commission.

8 The trustee must report to the insurer at least quarterly giving full details of asset movements.

9. The trustee must send a certificate of assets held to the Commission and the insurer at least quarterly.

10. The trustee may be removed at the Commission's request.

The Commission may accept alternative structures, such as reinsurance, security agreements and guarantees, in place of assets, on the proviso that such structures are in favour of the trustee and a legal opinion relating to those structures is made available to the Commission.

The insurer must explain the policyholder protection regime in their marketing literature in a format agreed with the Commission.