Guernsey Financial Services Commission

Consultation feedback

Protected Cell Company ("PCC") as Pension Service Provider ("PSP")

Issue date 17 December 2024

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1. Introduction

This paper provides feedback on the responses received to the Commission's consultation paper ("CP") on Protected Cell Company ("PCC") as Pension Service Provider ("PSP") which was issued on 16 September 2024 and closed on 11 November 2024.

Whilst the CP was open for comments from any interested stakeholder, it was noted that the proposal was likely to be of particular interest to PSPs.

1.1 Background

The CP proposed that licensed PSPs should be included within the scope of companies permitted to be formed as PCCs and that this should be implemented by a regulation made by the Commission prescribing PSPs as a class of companies for the purposes of s.437(1) of The Companies (Guernsey) Law, 2008 ("The Companies Law").

2. Response

Feedback Summary

All respondents, including the pension sector industry body, were supportive of the proposal to include licensed PSPs as an additional class of companies eligible to be formed as PCCs. It was noted that this would broaden the range of structures available for PSPs and would be likely to be attractive to those offering pension products into civil law jurisdictions.

The use of cells for holding pension assets only

The respondents agreed with the proposal to impose a licence condition on a licensed PSP which is formed as a PCC so as to restrict the use of cells solely for the purpose of holding and segregating pension scheme assets. This was recognised as a flexible approach to achieve this objective.

Prudential requirements

The CP highlighted that the licensed PCC would have to comply with the minimum licensing criteria and that the financial resources requirements rules (Rule 4.2 of the Fiduciary Rules and Guidance, 2021, the "FRR rules") will apply at the PCC Core. Whilst the respondents agreed with the proposal, they requested confirmation that the FRR rules would not extend to the licensed PCC if it holds a secondary fiduciary licence. The Commission would like to clarify that in meeting the FRR Rules licensed PCCs will be subject to the same treatment as other non-cellular licensed fiduciaries i.e. if the licensed PCC (acting as a PSP) holds a primary fiduciary licence, the FRR Rules must be met at the core of the PCC only, but if the licensed PCC holds a secondary fiduciary licence, then similar to other secondary licensees section 4.2 of the Fiduciary Rules is not applicable to them[1].

[1] Secondary licensees present limited prudential risk because they do not trade independently, but simply serve a primary licensee. Secondary licensees are, therefore, not subject to the FRR Rules.

Other

A respondent sought clarification that the proposal includes PSPs which operate gratuity schemes (not just pension schemes). The Commission would like to confirm that regulated activity in respect of gratuity schemes under section 2(1)(e) of the Regulation of Fiduciaries, Administration Businesses, and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 is within scope.

3. Next steps/Conclusion

Regulations prescribing pensions and gratuity service providers as a new class or description of company which can be formed as PCC, for the purposes of s.437(1) of The Companies Law, have been issued by the Commission and will come into effect on 20 December 2024.

The Commission would like to thank all respondents for taking the time to read and respond to the CP.