MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular letter to insurance and reinsurance undertakings relating to the changes to the Personal Injury Discount Rate in the UK ("Ogden Discount Rate")

Introduction

This Circular is relevant to authorised insurance undertakings and authorised reinsurance undertaking carrying on business of insurance in the United Kingdom relating to motor, as well as liability classes of insurance. It may also be relevant to those authorised undertakings which are exposed to U.K. claims (e.g. coverage for a non UK motor insurance policy with a UK claim subject to UK jurisdiction).

Background

The discount rate used in awarding personal injury damages has been recently revised by the Ministry of Justice in the UK. Under the Damages Act 1996, the Lord Chancellor, has the power to set a discount rate which courts must consider when awarding compensation for future financial losses in the form of a lump sum in personal injury cases. The discount rate ensures that claimants are not under or over compensated. It adjusts personal injury damages awards to take into account the return expected when a compensation lump sum is invested.

On the 27 February 2017, the discount rate has been revised from 2.5% to minus 0.75%. This rate is effective as from the 20 March 2017. By making the rate negative, undertakings will have to increase compensation sums whereas previously there was a reduction. The movement from 2.5% to -0.75% is a very significant one, increasing substantially sums for future loss and impacting insurers' claims costs and reserves.

The reduction in the discount rate has resulted in reduction in capital and increases in technical provisions. This change may also have an impact on reinsurance arrangements for motor and lability insurance cover.

Action Required

As changes in the discount rate impact on the adequacy of the reserves, premium rates, underwriting and reinsurance, authorised insurance undertakings and authorised reinsurance undertakings are requested to provide their assessment on the impact of the changes in the Ogden discount rate in relation to their undertaking.

Undertakings are requested to provide suitable comments which should be comprehensive and address:

1. Reserving:

a. Reported PPO exposures: case estimate updates or otherwise;
b. Incurred but not reported: claims not reported or not enough reported;
c. Premium provision: large loss allowances, interacting with pricing and reinsurance.

2. **Pricing and underwriting**

a. Premiums and pricing: portfolio impacts of rate changes;
b. Underwriting: change to avoid anti-selection e.g. exposures to younger drivers.

3. Reinsurance

a. Changes in excess points or cover limits, alternatively extensions to the scope of the program e.g. purchase of ADC or other reinsurance covers;
b. Reinsurance rates: impacts of rate or cover changes on pricing and reserves.

4. Capital

a. Details of any deterioration in financial condition;
b. Details of internal model changes; efforts made to ensure that the standard formula calibration remains fit for purpose in the light of a heavier tailed PPO loss distribution.

Undertakings are required to provide feedback to the MFSA by **Wednesday 28th June 2017.**

Contacts

Any queries or requests for clarifications in respect of the above should be sent by email on ipsu@mfsa.com.mt

Communications Unit
Malta Financial Services Authority
22nd May 2017