

22 June 2012

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Dear Richard,

## **Insurance (Prudential Supervision) Amendment Regulations 2012– Request for Comment**

The Financial Services Council (“FSC”) appreciates the opportunity to comment on issues raised in your email of 13 June 2012, attaching an exposure draft of the regulations.

We acknowledge the progress made on these regulations and the points addressed that have been submitted on previously. The following comments are set out in the order of the regulations.

### **Regulation 2**

We recommend that the commencement provisions allow for early adoption to coincide with a financial year that suits individual life insurers.

### **Regulation 15**

The notice period specified in Regulation 15(2) would not work in practice as it does not allow sufficient time to prepare the financial statements and solvency calculations required for establishment of the statutory fund. While the effective date of establishment of the statutory fund may be the balance date, the actual establishment date is likely to be some months later, once all necessary documentation is available. We recommend that the establishment date for the purpose of Regulation 15(2) should be the later date and the notice period should apply from that date.

### **Regulation 20**

Regulation 20(1) does not appear to allow for the situation where policies have negative policy liabilities under Margin on Services. We would appreciate clarification of the Bank’s intention as the 'equivalent value' of assets approach does not seem to work in those circumstances.

### **Regulation 21**

This definition of **participating business** still doesn’t explicitly exclude items that would be currently and ordinarily considered non-participating: investment account, investment linked or group business with a profit share.

It is not clear under section (b) whether the actuary could classify a business line as not participating as well as participating, although that may be precluded by the definition of **non-participating benefit**.

Furthermore, section (b) does not apply to any business entered into after the commencement date of the regulations. We are concerned that new investment linked and group business with a profit share will need to be classified as participating and this is not an appropriate outcome.

FSC is willing to assist the Bank with suitable wording.

We submit that a transitional arrangement is necessary for existing business (either via actuarial discretion or reference to Schedule 6 of the previous Life Act 1908). We also submit that there needs to be a provision to prevent the classification of investment linked and group business contracts sold after the commencement date as participating.

#### **Regulation 27 / 28**

We submit that a sub-clause should be added in each of these regulations {27(2)(b) and 28(3)} so that a **distribution** of shareholder retained profits (participating or non-participating) or shareholders' or members' capital can be made directly to **'shareholders and members'** and doesn't have to first be transferred to a "shareholders' or members' fund"; provided all other regulations on such distributions are, of course, being complied with.

#### **Regulation 30**

With regard to 30(2)(a) it would be helpful if the wording of the regulation could make it clear that it does not specify a particular date for determination of the starting amount.

#### **Participating Business**

We expect individual companies will come back individually on specifics around their profit gate.

Yours sincerely,

Deborah Keating  
**EXECUTIVE OFFICER**