

11 April 2013

Brandon Sloan  
Senior Policy Advisor  
Policy Advice Division  
Inland Revenue Department  
P O Box 2198  
Wellington 6140

[Brandon.sloan@ird.govt.nz](mailto:Brandon.sloan@ird.govt.nz)

Dear Brandon

## **Life Insurance Taxation Rules: Remedial Legislation**

The Financial Services Council (**FSC**) appreciates the invitation to comment on the draft legislation covering remedial changes to the life insurance taxation rules attached to your letter dated 5 April.

In consultation with members of our Taxation Advisory Group the following points have been made:

1. The proposed change regarding the discount rate for profit participation business only relates to using the actuarial discount rate for section EY 17. We believe section EY 21 also requires an amendment to permit use of an actuarially determined discount rate based on market returns as for section EY 17, otherwise the ratio that splits income between the policyholder and shareholder bases will not sum to 100.

In relation to sections EY 28 and EY 29, we support an amendment to the other profit provisions to also allow use of an actuarially determined discount rate based on market returns. Although section EY 28 is the more relevant section in practice, in principle the same logic should apply to the calculation of new participating business that is set out in section EY 29.

There should also be the option to apply a risk free rate if used in the past.

2. As a point of clarification, we would appreciate confirmation that the proposed new section DW 4(4B) (and the proposed analogous change for life insurers presumably to go in section EY 24) is intended to take effect only for transfers occurring on or after 1 January 2014. It would potentially be an issue if it was intended to have retrospective effect.

Please let me know if there is anything that requires further explanation.

Yours sincerely,

Deborah Keating  
**EXECUTIVE OFFICER**