

Telephone: 020 7066 9346

Email: [enquiries@fs-cp.org.uk](mailto:enquiries@fs-cp.org.uk)

Phelan Hill  
H M Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

24 June 2010

Our ref: HMT CP Insurers

Dear Mr Hill

## **Consultation Paper: Strengthening the administration regime for insurers**

The Panel supports HMT's proposals which we believe will provide greater protection for policyholders, in particular by enabling an administrator to assist the Financial Services Compensation Scheme to carry out its functions effectively and by allowing the administrator to write new contracts in particular circumstances. We recognise that potentially this new business could give rise to further risk to capital but, as the Paper states, any new contracts written by the administrator would be minimal in the context of the entire book.

### **Valuing contracts of insurance**

***Question 1: Do you agree that the valuation rules set out in the Insurers (Winding Up) Rules 2001 should be applied to insurance companies in administration?***

We agree. Consistency is desirable. The application to the administration regime of the valuation rules that currently apply in a liquidation would remove the current uncertainty.

### **Revising the objectives of the administrator of an insolvent insurance company – providing assistance to the FSCS**

***Question 2: Do you agree that the administrator should have a duty to provide assistance to the FSCS to enable it to administer the compensation scheme?***

We agree that the administrator should have a duty to provide assistance to the FSCS. The FSCS would be able to perform its functions most effectively with access to information from the insurer's records and with the benefit of the knowledge and expertise of the administrator.

**Question 3: Do you consider that the administrator should have a duty to provide assistance to the FSCS to enable it to secure continuity of long-term insurance contracts?**

Yes. Security of long-term contracts of insurance is a key concern for policyholders.

**Question 4: Do you consider that the duty to assist the FSCS in securing continuity of insurance contracts should also apply in relation to general insurance contracts?**

Yes. General insurance contracts will be in place, for example, to protect important assets such as policyholders' homes, cars etc and to guard against any loss of future income. Failure of continuity could have devastating effects on individual policyholders.

### **Continuity of contracts of long-term insurance**

**Question 5: Do you agree that the administrator should be required to maintain contracts of long-term insurance?**

Yes, we agree that the administrator should be required to maintain contracts of long-term insurance with a view to the transfer of part or all of the business to another insurer. As is noted in the Consultation Paper, in the event of an insurer being placed in administration there will be significant risks to policyholders of either delays in payment benefits or lack of access to comparable cover.

**Question 6: Do you consider that an administrator should be permitted to enter into new contracts of long-term insurance where it relates to existing policyholders and arrangements in place?**

On balance we accept that in order to continue the business of the insurer an administrator would need the flexibility to enter into new contracts if appropriate. The examples given in the Paper of group personal pensions and convertible term assurance products, are persuasive. We acknowledge however there is also a potential risk to existing policyholders of investing the firm's capital in this way. It is assumed that the role of the administrator in writing new contracts in these limited circumstances would be made clear to policyholders.

### **Variation of contracts in administration**

**Question 7: Do you agree that the power to agree variation of contracts in force should be given to the administrator?**

We agree that administrators should have the power to agree variations of contracts in force provided that this does not result in significant and/or insurmountable detriment to individual policyholders.

### **The appointment of Special Manager**

**Question 8: Do you agree that the administrator should have the same power to apply to the courts for the appointment of a Special Manager, as currently held by the liquidator?**

We agree. This seems entirely sensible.

**Reducing the value of contracts of long-term insurance in administration**

***Question 9: Do you agree that the courts should be given the power to reduce the value of contracts and to appoint an independent actuary, in the event of an insurer going into administration?***

We agree. This approach seems appropriate and ultimately helpful to policyholders.

Yours sincerely

Adam Phillips  
Chair  
Financial Services Consumer Panel