

## **Policy note – expected Regulations to require insurers to provide information relating to the impacts of the Civil Liability Bill**

**This note sets out the expected approach for the proposed Regulations made by the Treasury regarding insurers providing information about the impact of the Civil Liability Bill, as referred to in the proposed Government amendment on this topic.**

### **Context and overall approach to amendment**

The Civil Liability Bill reforms the system for whiplash claims as well as the framework for the discount rate for personal injuries. Together, the reforms should result in benefits for consumers and taxpayers. The vast majority of insurers committed to passing on to customers cost benefits arising from reforms to both low value personal injury claims and to the Personal Injury Discount Rate (PIDR). During debates in the Lords, concerns were raised about whether insurers would stand by the public commitments made to pass on benefits from these reforms to consumers, and various amendments were proposed. While the government believes that the highly competitive nature of the motor insurance market will mean that insurers will pass on savings to consumers, the government recognised and understood the concerns raised by Peers.

Therefore, at Report stage in the House of Lords, the government committed to bring forward an amendment in the Commons to provide an effective means of reporting on the public commitment made by the insurance sector. The aim of this amendment is to enable insurers to demonstrate that savings have been passed on to consumers and thereby hold insurers to account, in a way that is appropriate given the commercial sensitivities associated with this type of information. In developing this approach, the intent has been to balance the need to:

- Hold insurers to account in a way that is sufficiently rigorous; and
- Avoid intervening in an already competitive market or placing disproportionate burdens on insurers or regulators.

The government's proposed places a statutory requirement on insurers to provide certain information to the Financial Conduct Authority (FCA). This information will then be aggregated and passed on to HM Treasury who will, assisted by the FCA, prepare a

report assessing whether the insurance industry has passed on savings from the Civil Liability Bill and associated reforms to the Small Claims Track.

Given that the proposed government amendment places new requirements on insurers, Treasury officials ran a short engagement exercise with key stakeholder groups representing insurers, brokers, actuaries, accountants and auditors to check workability of the proposed approach. The amendment has also been developed in discussion with the FCA and Prudential Regulation Authority (PRA). This engagement exercise was focussed on the overall approach and the draft proposals for the government amendment (primary legislation). The proposed amendment provides for Regulations to be made by the Treasury setting out further details of the requirements for insurers. This note summarises what is expected to be set out in these Regulations. The government intends to carry out further engagement with external stakeholders to refine the Regulations.

#### Commencement

The Regulations will come into force after the Civil Liability Bill has passed. It is expected that the Regulations will specify information to be provided by insurers from 1 April 2023, relating to the each of the preceding three years. Insurers will have the option to provide relevant information from an earlier start date than 1 April 2020.

#### Scope

As set out in the proposed amendment, insurers and Lloyds managing agents are required to provide the information relating to third party personal injury policies provided to persons domiciled in England and Wales. The aim is that the requirement mirrors the scope of the Civil Liability Bill.

However, recognising the different approaches taken for different lines of insurance, information relating to commercial lines of insurance is excluded from scope. Further to this, it is expected that the Regulations and accompanying Explanatory Memorandum will provide more detail about insurance classes within scope, and will set a de minimis threshold for insurance activity to minimise the risk that extremely small or specialist insurers face a genuinely disproportionate compliance burden from the new reporting requirements. An appropriate threshold might be for personal lines insurers with a market share in England and Wales of >0.05% in any of the years starting 1 April 2020,

1 April 2021 or 1 April 2022 to be within scope. Recognising that market share might be difficult for individual firms to calculate, the regulations are likely to set out broadly equivalent criteria relating to premiums or policy levels. An appropriate threshold in this context might be for insurers that have sold >10,000 relevant policies to be in scope. Personal lines insurers that do not meet the threshold criteria will need to provide a short statement to the FCA confirming that they do not fall in scope of the reporting requirements. New entrants to the market will also be required to provide this information.

### Process

As set out in the proposed amendment, firms in scope of the new requirements will be expected to provide information directly to the FCA in the format provided for by the Regulations. This is in recognition of the commercially sensitive nature of some of the information required. Firms will be expected to send a completed return with all the required information without delay after 1 April 2023 and no later than 1 April 2024. The Regulations and accompanying Explanatory Memorandum will set out further information about how this process will work.

The FCA is required to assist the Treasury in the preparing of the report. It is anticipated that by making the provision of information a “relevant requirement” under section 204A of the Financial Services and Markets Act 2000 as set out in the proposed amendment, the requirement will fall within the supervisory jurisdiction of the FCA to monitor and enforce the provision of information. The Regulations may further prescribe the role of the FCA collating and summarising the information, and providing relevant context. The report will provide aggregate level information about the market and will not disclose specific information about individual firms.

### Specific information required

The Regulations will provide more detail about the precise nature of information to be reported, and the detail of where information must be audited.

It is expected that the information that must be audited will include the following precise information:

- Total figure representing claims costs per year starting 1 April. Regulations will specify the expected approach. In addition to the total figure, the Regulation may

specify that additional information will be required separating claims costs into bands relating to size of claim. The bands might be for claims above or below £100,000.

- Mean claims costs per year starting 1 April, for comparative policies. Regulations will specify the expected approach. In addition to the total figure, the Regulation may specify that additional information will be required separating claims costs into bands relating to size of claim. The bands might be for claims above or below £100,000
- Total premium income per year starting 1 April, for comparable policies. It is expected that the Regulations will specify the expected approach for assessing premium. This might be for gross premium information to be provided.
- Mean premium income per year starting 1 April, for comparable policies. It is expected that the Regulations will specify the expected approach for assessing premium. This might be for gross premium information to be provided.
- Disclosure of underlying or technical price for that element of the total price which is influenced by the reforms under the Bill, if available.

The government recognises that some information may not be suitable for audit and that alternative means of verification will be necessary. It is expected that the information that must be appropriately assured will include:

- Description of expected claims costs and premium income in the absence of the reforms introduced through the Civil Liability Bill and associated reforms to the Small Claims Track.

There will be an opportunity for insurers to provide relevant additional information, such as:

- Description of the nature of business for the insurer, including whether sales are typically intermediated.
- Description of other benefits, if any, felt by customers as result of the reforms in the Civil Liability Bill and the associated reforms to the Small Claims Track.
- Description of other factors that may have had a significant impact on claims costs, premiums or wider business activity.

The regulations will include a pro-forma for insurers to complete and return to the FCA, for consistency.