

DRAFT STATUTORY INSTRUMENTS

2017 No.

**FINANCIAL SERVICES AND MARKETS, ENGLAND
AND WALES**

**The Civil Liability Act 2018 (Information Requirements and
Report on Savings) Regulations 2019**

Made - - - -

Coming into force in accordance with regulation 1(1)

The Treasury make the following Regulations in exercise of the powers conferred by sections 11 and 12(4) of the Civil Liability Act 2018.

In accordance with section 11 of the Civil Liability Act 2018, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introductory Provisions

1.—(1) These Regulations may be cited as the Civil Liability (Report on Savings) Regulations 2019 and come into force on the twenty-first day after the day on which these Regulations are made.

(2) These Regulations extend to England and Wales.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Civil Liability Act 2018;

“the 2000 Act” means the Financial Services and Markets Act 2000;

“additional report period” means the period of two years beginning with 1 April 2018;

“technical price” means the price calculated in the underwriting period which takes account of the expenses of providing cover underwritten in a report year for a specified element of the policy including costs of capital and reinsurance costs and which is based on the underlying risk, but which does not include optimisation or market pricing factors;

“settlement value” means the amount of the award paid by an insurer under a policy or the amount of the award that an insurer might reasonably have been expected to pay under a policy, had the Act not been passed.

(2) Expressions used in these Regulations that are defined for the purposes of section 11 of the Act have the same meaning as in the Act.

Insurers to whom these Regulations apply

3.—(1) These Regulations apply to relevant insurers.

(2) A “relevant insurer” is an insurer who—

- (a) has issued third party personal injury policies of insurance to individuals domiciled in England and Wales on or after 1 April 2020;
- (b) has effected or carried out contracts of insurance in England and Wales for at least one full report year during the report period; and
- (c) has issued more than 10,000 relevant third party personal injury policies of insurance where the period of cover began in at least one of—
 - (i) the twelve month period immediately preceding the report period; or
 - (ii) a report year during the report period.

(3) An insurer to whom these Regulations apply must provide information relating to—

- (a) the full report period; or
- (b) each full report year in the report period for which that insurer is authorised to effect or carry out contracts of insurance in England and Wales.

(4) An insurer who becomes a relevant insurer during the reporting period or the twelve month period immediately preceding it must notify the FCA that it is within scope of these Regulations without delay.

(5) A relevant insurer who does not meet the condition in paragraph (2)(c) for one or more of the report years must provide the FCA with written confirmation that it is not within scope of the requirement and does not need to provide the information for each report year in which the condition is not met.

PART 2

Information to be provided by insurers

Audited information to be provided to the FCA

4.—(1) For each of the report years, the information provided to the FCA must include audited figures for—

- (a) the total gross amount, including reinsurance and legal costs, paid by an insurer under its relevant third party personal injury policies of insurance in respect of personal injuries sustained by third parties, where the amount of damages for the injury is governed by the law of England and Wales;
- (b) the mean of the gross amounts paid by an insurer during the report year under those policies in respect of those injuries;
- (c) the amounts in sub-paragraphs (a) and (b) in separate totals in respect of claims with a settlement value—
 - (i) up to and including £100,000; and
 - (ii) in excess of £100,000;
- (d) the total amount charged by the insurer by way of premiums for relevant third party personal injury policies of insurance where the period of cover began in the report year;
- (e) the mean amount charged by the insurer for those policies;

- (f) the total amount calculated by the insurer as the technical price of that element of the policies which relates exclusively to personal injury.
- (2) Where a relevant insurer provides any of the information in paragraph (1), it must be accompanied by a statement from a qualified auditor verifying that the information has been audited.
- (3) If the information in paragraph (1)(f) is not provided, the qualified auditor must provide an assurance that the insurer does not have a figure for the technical price in respect of that element.
- (4) The insurer must notify the FCA of the details of the qualified auditor who has audited the information for each report year to which the information under paragraph (1) relates.

Counterfactual information to be provided to the FCA

- 5.—(1) For each of the report years, the information provided to the FCA must include—
- (a) the total amount that the insurer might reasonably have been expected to pay during the report year under its relevant third party personal injury policies of insurance in respect of personal injuries sustained by third parties where the amount of the damages for the injury is governed by the law of England and Wales, if the Act had not been passed;
 - (b) what might reasonably have been expected to be the mean of the amounts paid by the insurer in respect of those injuries if the Act had not been passed;
 - (c) the amount that the insurer might reasonably have been expected to charge by way of premiums for those policies if this Act had not been passed; and
 - (d) the mean of the premiums charged for those policies that the insurer might reasonably have been expected to charge if the Act had not been passed.
- (2) The information provided in paragraph (1) must be calculated with reference to—
- (a) the preceding two years' reporting of that data, where available;
 - (b) any costs, profit or price projections calculated in advance of the coming into force of the Act which did not take account of some or all of those measures contained in the Act; and
 - (c) any factors or trends in the insurance market for that report year which could have the effect of influencing or distorting the figures in paragraph (1).
- (3) Where a relevant insurer provides any of the information in paragraph (1), this information must be accompanied by a statement from a qualified auditor verifying that the requirements in paragraph (2) have been taken into account in the calculation of that information.
- (4) The insurer must notify the FCA of the details of the qualified auditor who provided the statement for each reporting year to which the information under paragraph (1) relates.

Additional report period

6. A relevant insurer may provide the information in regulations 4 and 5 to the FCA in respect of one or more full years beginning with 1 April 2018 or 1 April 2019 in the additional report period, in addition to the information required in respect of the report period.

Additional information which may be taken into account

- 7.—A relevant insurer must provide—
- (a) A description of benefits other than a reduction in premium price, if any, which have been passed on to individuals purchasing relevant third party personal injury policies of insurance from savings resulting from the passing of the Act;

- (b) any other information which is, in the insurer's opinion, relevant to the aim of assessing whether benefits from savings made from the reforms under the Act have been passed on to individuals purchasing relevant third party personal injury policies of insurance during the report period.

Insurance intermediary activities

8.—(1) A relevant insurer must include in its return to the FCA a statement as to whether any of its relevant third party personal injury policy of insurance are sold through intermediaries.

(2) Where the statement given under paragraph (1) confirms this is the case, the insurer must disclose what proportion of the gross written premium of relevant third party personal injury policies of insurance is so affected.

(3) The information provided under regulations 4, 5 and 6 must be provided net of intermediary commissions, fees and costs or other retention.

Reinsurance

9. Where any of the information provided under regulation 4 includes a reinsurance premium paid by the insurer, the insurer must disclose the total amount of reinsurance premium paid and the proportion of the total amount of gross written premium which is made up by the reinsurance premium in each case.

Provision of information

10.—(1) The information must be clear, concise and made in such form as the FCA may direct.

(2) The latest date for provision of this information to the FCA is the 1st November 2023.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations are made under section 11 of the Civil Liability Act 2018 to give effect to—