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THE LEEDS REFORMS AND THE INSURANCE SECTOR

On 15 July the Chancellor announced a number of proposed financial services reforms at a summit in Leeds, ahead of her annual speech at the Mansion House. This was accompanied by the publication of a series of related documents by HM Treasury.

In this briefing we consider insurance-specific aspects of the proposals. Further briefings from our Financial Regulation team will follow on the planned reforms of the SM&CR and the Financial Ombudsman Service - summaries of these consultations can be found in our most recent FR bulletin.

The Growth and Competitiveness Strategy

Central to the Leeds Reforms is the publication of the Government's Financial Services Growth and Competitiveness Strategy. As was the case with the previous Government, the current Government considers the financial services sector to be a key part of plans for economic growth. The reforms announced on 15 July are, therefore, predominantly aimed at encouraging that growth by improving the regulatory environment for financial services firms. Reducing the regulatory burden on firms and increasing efficiencies is a central message - this includes a proposed streamlining of the SM&CR regime and the introduction of shorter deadlines for determining regulatory applications. Although there is no suggestion that additional resource will be provided to the regulators to meet the new targets, the PRA and FCA have each published letters to HM Treasury confirming how they will work to achieve the new deadlines and "stretch targets".

The overall sense from the strategy is that (with the possible exception of the proposed review of the ring-fencing rules for banks) the changes proposed are not ground-breaking. Some of the strategy document refers to initiatives which are already in train - changes to conduct requirements for commercial insurance business, for example, which are in themselves unlikely to cause any seismic shifts and which we discuss in our earlier briefing. Perhaps as important as what is in the strategy and accompanying documents is what has been left out. Earlier expectations that the annual limit on cash ISAs would be reduced have not been met, for example, which will have disappointed investment banks and asset managers but pleased building societies. There was also no mention in the Chancellor's speech of any potential use of the backstop power being taken in the Pension Schemes Bill to set asset allocation targets for DC schemes, which remains an area of concern in parts of the industry.

Captive Insurance

Among the more tangible developments was the publication of the long awaited Treasury response to its November 2024 consultation on captive insurance. Plans for the introduction of a specific regime for captive insurers in the UK date back to Jeremy Hunt's 2023 autumn statement and have been lobbied for by the London Market Group (LMG) over a number of years. In its 2024 A Plan for the Future the LMG commented that there are currently no captive insurers domiciled in the UK and argued that this is the result of a regulatory system which does not differentiate between captives and other insurers.

Although the London Market Group published a statement supporting the Treasury response, insurers will still have to wait some time before they can take advantage of the proposed changes. The PRA and FCA have published a joint statement confirming that they will launch consultations in **summer 2026** on the rules and policies for the new regime.

Key points from the response document are:

- The Government confirms that it will go ahead with introducing a bespoke regime for captive insurers. This will require the PRA and FCA to develop a framework of rules. HM Treasury expects that these will include proportionately lower capital and reporting requirements and faster authorisations for captive insurers, which will all clearly be crucial to the uptake of the new regime
- There will be a distinction between direct-writing and reinsurance captives, with the expectation that the regulatory regime will be tailored to reflect this distinction.
- There is some widening of scope for the use of captives compared with the consultation:
    - financial services firms will be allowed to establish captive insurers for specific, limited purposes
    - a limited category of life insurance products (including group life fixed-term policies) will be able to be placed with captive insurers
    - captive insurers will be permitted to write compulsory lines of insurance, such as employers' liability insurance, on a reinsurance (but not direct) basis
- No further detail is given on any other restrictions on the types of business which will be permitted to be written by direct and/or reinsurance captives - as mentioned in the consultation, HM Treasury considers that this will be the responsibility of the regulators to determine
- The protected cell company regime will be widened to allow captives to operate through PCCs – this is the subject of a separate consultation, as discussed below.

No tax changes are proposed specifically for captive insurers, although some respondents to the consultation had noted that the tax treatment was an important factor for some captive owners when considering where to domicile. The Government takes the view that "*tax incentives are not a necessary component of introducing a modern and competitive captive insurance framework*". It remains to be seen whether this affects the take up of the new regime once established.

The Risk Transformation Regulations and PCCs

The ongoing PRA consultation

We discussed in our January 2025 Outlook the PRA's November 2024 consultation on proposed changes to the UK ISPV regime. A central plank of that consultation was the proposal to create an accelerated pathway for approval of the setting up of certain UK ISPVs, allowing new vehicles to be established within 10 working days rather than the current 4 to 6 weeks. The idea is that this will allow the UK to compete with other jurisdictions in the market for issuances of insurance-linked securities (**"ILSs"**).

The current regime for ILSs was established by the Risk Transformation Regulations 2017 (SI 2017/1212) (the **"RTRs"**). This included the introduction of protected cell companies (**"PCCs"**) into the UK corporate regime for the first time. So far, however, only a small number of PCCs have been established in the UK. The biggest take up has been through Lloyd's of London's London Bridge platform, which had deployed nearly $2 billion of capital through its two PCCs as at the end of 2024. The global market for ILSs is estimated to be around $110 billion[1].

The PRA policy statement on ISPVs is still awaited. Interestingly, though, the HM Treasury FS Sector Strategy on Cross-Cutting Reforms published on 15 July suggests that the 10 working day approval period will be a non-statutory target rather than a statutory deadline.

[1] Lloyd's London Bridge investment platform reaches $1.92bn; Aon Securities 2024 Annual Report

The HM Treasury consultation

As part of the Mansion House proposals, HM Treasury has published a consultation on changes to the RTRs, principally to allow PCCs to be used as captive insurers as well as for their current purpose of risk transformation. PCCs in other jurisdictions can be used for this purpose – in Guernsey, for example, this was how they were initially used when the Guernsey PCC regime was established in the 1990s. Allowing PCCs to be used as captive insurers has the potential to allow smaller businesses, which may not be in a position to create a full captive insurer, to insure risks with "captive cells".

The principal changes to the RTRs will be:

- to allow transformer vehicles to assume risks from non-insurers (by amending Article 13A of the RTRs)
- to allow PCCs to be set up as insurance undertakings (by amending Articles 15 and 57 of the RTRs).

No further detail is included in the consultation as to how the existing regulatory regime for insurers should apply to PCCs – HM Treasury comments that "*Differentiating where a PCC structure would or would not be appropriate would be for the regulators to assess, likely taking into account aspects such as the application of capital and liquidity requirements, governance and risk management rules and how the business would be wound up in the event of insolvency*". It may be that the proposed timescale for the PRA and FCA to consult on their rules for captive insurers partly reflects the need to construct a regime which encompasses PCCs.

HM Treasury also proposes:

- removing the existing requirement on the PRA to incorporate a limitation on the scope of the regulated activities of a transformer vehicle as part of the authorisation process (although the PRA would retain the power to introduce such limitations). The idea is that this would allow more scope for innovation rather than unnecessarily requiring vehicles to repeatedly apply for variations of approval (which otherwise could drive structures involving PCCs to a more flexible regime)
- removing the restriction which limits the activities of a cell in a PCC to a single contractual arrangement from a single counterparty. In the consultation HM Treasury comments that it does "*not see a reason to treat a cell of a protected cell company differently to other types of transformer vehicle*". The change would align with PRA proposed changes to its rules to allow stand-alone ISPVs (non-PCCs) to enter into more than one risk transformation transaction (subject to restrictions) - this could, for example, enable the tranching of risks into multiple layers or simplify the renewal process for repeat business. The Treasury proposal goes further than the PRA changes, however, in suggesting that the cell of a PCC should be able to assume risk from more than one undertaking. This would facilitate a corporate group insuring all of its risks into a particular cell but does cut across the ring-fencing of assets and liabilities in the PCC somewhat, so it will be interesting to see the detail of this change when the amending legislation is published.

Targeted support

As part of the Mansion House reforms, HM Treasury has published a policy note on and draft changes to the Financial Services and Markets Act (Regulated Activities) Order 2001 (the **"Regulated Activities Order"**) to facilitate the introduction of targeted support. The FCA published a consultation paper on the introduction of targeted support in pensions and retail investments on 30 June.

The FCA's consultation on targeted support is on its face aimed at improving consumers' access to advice. In the foreword to the document the FCA comments "*Success of our work will be that consumers can access the help and guidance that they need, at a cost they can afford, when they need it, so that they can make informed decisions about their finances*". By contrast, in the Growth and Competitiveness Strategy HM Treasury lists the introduction of targeted support as part of a group of interventions intended to "*Address risk aversion to retail investment, to the benefit of our citizens, markets and wider economy*". The interventions also include supporting an industry-led campaign promoting the benefits of retail investment to consumers. It is of course possible that both consumers and the wider economy will benefit from these initiatives but there will no doubt be future scrutiny on the balancing of interests.

The changes to the Regulated Activities Order will create a new specified activity of providing targeted support, and provide that when a firm provides targeted support it is not ‘advising on investments’ for the purposes of Article 53 of the Order. The definition of targeted support is based around the grouping of individuals with other individuals who share similar characteristics and/or similar circumstances.

HM Treasury has invited feedback on whether the proposed new specified activity of providing targeted support is sufficiently distinct from Article 53. **This will be crucial to the operation of the proposed new regime and interested firms will no doubt wish to scrutinise the drafting closely.**

The Financial Ombudsman Service

As mentioned above, a detailed briefing on the proposed changes to the Financial Ombudsman Service (**“FOS”**) regime prepared by our Financial Regulation team will follow.

The headline point, which will be of interest to insurers as well as other consumer facing financial services firms, is that the Government proposes changes to the “**fair and reasonable**” test under which the FOS currently operates. The changes will make it clear that where conduct complained of is in scope of the FCA rules then compliance with those rules, consistent with the FCA’s intention for what those rules should achieve, will mean that a firm has acted fairly and reasonably. The test will operate on the basis of the rules in place at the time of the alleged misconduct.

Industry will welcome the increased certainty this is likely to bring - avoiding the FOS acting, in the Government’s words, as a “quasi-regulator”.

The Consumer Duty

As part of the general theme of reducing the regulatory burden on firms where appropriate, HM Treasury has asked the FCA to report by the end of September on how it plans to address concerns about the application of the Consumer Duty for firms primarily engaged in wholesale activity. The Duty applies to all firms that can determine or have a material influence over retail customer outcomes. Depending on the circumstances, this can include firms in the wholesale market which do not have a direct relationship with retail customers if they are part of a distribution chain involving retail customers.

The FCA had already committed, in FS25/2 (published in March 2025) to engage with firms to consider how more certainty could be provided on its expectations under the Duty for firms in retail distribution chains, particularly those that do not interact directly with retail customers. The HM Treasury request may not in practice, therefore, go much further than the FCA’s existing work in this area.

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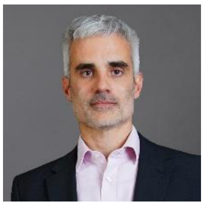

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