

Appendix 1

In this annex underlining indicate new text and striking through indicates deleted text.

The DFSA Rulebook

Prudential – Insurance Business
Module

(PIN)

1 APPLICATION

1.1 Application

1.1.1 Subject to Rule 1.1.2, this module (PIN) applies to every Insurer except to the extent that a provision specifies a narrower application.

Guidance

1. An Insurer is defined in the GLO as an Authorised Firm which is authorised under its Licence to carry on in or from the DIFC, one or more of the Financial Services constituting Insurance Business.
- ~~2. A Person will not be granted a Licence authorising it to conduct Insurance Business unless, amongst other things that Person is either:
 - a. a limited liability company incorporated under the Companies Law 2004, including a Protected Cell Company; or
 - b. a body corporate incorporated with limited liability under the laws of a jurisdiction other than the DIFC.~~
- ~~3.~~ 2. The Rules in PIN apply in relation to all activities of an Insurer, whether carried on within the DIFC or elsewhere.

1.1.2 Chapters 2, 3, 4, 6, 7 and 9 do not apply to an Insurer that is an Authorised ISPV, unless expressly provided otherwise.

.....

5.8 Transfer of risk by an Insurer to an ISPV

5.8.1 This section applies to all Insurers.

5.8.2 An Insurer may not:

- (a) treat amounts recoverable from an ISPV as:
 - (i) an asset; or
 - (ii) reinsurance for the purposes of calculating its liabilities under contracts of insurance it has effected; or

(b) otherwise ascribe a value to such amounts;
unless it has first obtained a waiver from the DFSA.

Guidance

In considering:

- a. whether to grant such a waiver; and
- b. the amount which the DFSA will allow the Insurer to bring into account for these purposes;

the DFSA will take into account the following factors:

- c. where the ISPV is an Authorised ISPV, the DFSA will wish to be satisfied that the ISPV complies with Rules 10.1.2 to 10.1.7. The DFSA may rely on information supplied in connection with the ISPV's application for authorisation. However, if the application for a waiver is made after authorisation has been granted, the DFSA may request confirmation that there has been no material change to the information originally supplied;
- d. where the ISPV is not authorised, the DFSA will expect to receive confirmation that the ISPV is subject to regulation by a Financial Services Regulator in a jurisdiction acceptable to the DFSA. In addition, it will need details of the debt issuance or other financing mechanism by which the ISPV's reinsurance liabilities are funded. The DFSA will also expect to receive information about the ISPV's key management and control functions, including details of the ISPV's auditors and arrangements for claims handling, and any material outsourcing agreements. The DFSA will also need information about the structure of any Group of which the ISPV is a member;
- e. no credit will be allowed for a contract of reinsurance with an ISPV unless there is an effective transfer of risk to the ISPV. The DFSA will require evidence of such transfer.
- f. the DFSA will also expect to receive an analysis of the potential for risk to revert to the Insurer or any of its associates under realistic adverse scenarios or for liabilities to arise in respect of the risks transferred for which no provision has been made.

10 INSURANCE SPECIAL PURPOSE VEHICLES

10.1 Application

10.1.1 This chapter applies only to Insurers that are Authorised ISPVs.

10.1.2 An Authorised ISPV must ensure that at all times its assets are equal to or greater than its liabilities.

Guidance

It is the policy of the DFSA that an Authorised ISPV should be fully funded. The DFSA considers that to be fully funded an ISPV must have actually received the proceeds of the debt issuance or other mechanism by which it is financed. The DFSA would not, for example, authorise an ISPV where part of the financing for its reinsurance liabilities was on a contingent basis, i.e. a stand by facility or letter of credit.

10.1.3 The assets of an Authorised ISPV must be held by, or on behalf of:

- (a) the Authorised ISPV; or
- (b) the insurer which cedes to the Authorised ISPV the risks in respect of which the relevant assets are held.

10.1.4 An Authorised ISPV must develop, implement and maintain a risk management system to address all material risks to which it is subject. In particular, it must have regard to the Guidance on managing investment risk set out in section A.2.6.

Guidance

In developing, implementing and maintaining a risk management system as required under Rule 10.1.4 an Authorised ISPV should have proper regard to the Guidance on investment risk set out in section A2.6.

10.1.5 An Authorised ISPV must include in each of its contracts of reinsurance terms which ensure that its aggregate maximum liability at any time under those contracts of reinsurance does not exceed the amount of its assets at that time.

10.1.6 An Authorised ISPV must ensure that under the terms of any debt issuance or other financing arrangements used to fund its reinsurance liabilities the rights of the providers of that debt or other financing are fully subordinated to the claims of creditors under its contracts of reinsurance.

10.1.7 An Authorised ISPV must only enter into contracts or otherwise assume obligations which are necessary for it to give effect to the reinsurance arrangements which represent the special purpose for which it has been established.

10.1.8 Where the Authorised ISPV is a Protected Cell Company, Rules 10.1.2 to 10.1.7 should be read as applying to each Cell individually.