



PRIVATE SECTOR CONSULTATION
Rule and Statement of Guidance:
Investment Activities
of Insurers

Private Sector Consultation
Rule and Statement of Guidance on Investment Activities of Insurers

A. Introduction

1. Section 34(1)(a) of the Monetary Authority Act (2020 Revision) (“MAA”) states that:

After private sector consultation and consultation with the Minister charged with responsibility for Financial Services, the Authority may -

(a) issue or amend rules or statements of principle or guidance concerning the conduct of licensees and their officers and employees, and any other persons to whom and to the extent that the regulatory laws may apply;

2. Requirements specific to the private sector consultation are outlined in section 4(1) of the MAA as follows:

(1) When this Law requires private sector consultation in relation to a proposed measure —

(a) the Authority shall give to each private sector association a draft of the proposed measure, together with —

(i) an explanation of the purpose of the proposed measure;

(ii) an explanation of the Authority’s reasons for believing that the proposed measure is compatible with the Authority’s functions and duties under section 6;

(iii) an explanation of the extent to which a corresponding measure has been adopted in a country or territory outside the Islands;

(iv) an estimate of any significant costs of the proposed measure, together with an analysis of the benefits that will arise if the proposed measure is adopted; and

(v) notice that representations about the proposed measure may be made to the Authority within a period specified in the notice (not being less than thirty days or such shorter period as may be permitted by subsection (3)); and

(b) before proceeding with the proposed measure, the Authority shall have regard to any representations made by the private sector associations, and shall give a written response, which shall be copied to all the private sector associations.

3. The Cayman Islands Monetary Authority (“CIMA” or “the Authority”) seeks consultation and comment from the private sector associations concerning the *Rule - Investment Activities of Insurers* (attached as Appendix 1) and the *Statement of Guidance - Investment Activities of Insurers* (attached as Appendix 2).

B. Background

4. The Insurance Core Principles (“ICP”) developed by the International Association of Insurance Supervisors (“IAIS”) is a key document used by regulators around the world in establishing an appropriate framework comprised of principles, standards and guidance for the regulation and supervision of insurers.

5. One of the key areas covered by the ICP is the Investments of Insurers. The Authority has identified a need for the revision of the current regulatory measure addressing the investment activities of insurers (i.e. the Statement of Guidance for Asset Management & Investment Strategy for Insurance Companies) as it does not address key matters identified in the ICP and is insufficient as a regulatory instrument to support compliance by insurers.

C. Legal Considerations and International Standards

6. Section 6(1) of the MAA outlines the principal responsibilities of the Authority, which includes its regulatory functions, *inter alia*, "to regulate and supervise financial services business carried on in or from within the Islands".
7. Section 6(3) of the MAA provides that in performing its regulatory functions, the Authority shall, *inter alia*:
 - (a) *endeavour to promote and enhance market confidence and the reputation of the Islands as a financial centre;*
(...)
 - (c) *recognise the international character of financial services and markets and the necessity of maintaining the competitive position of the Islands, vis a vis both consumers and suppliers of financial services, **while conforming to internationally applied standards insofar as they are relevant and appropriate to the circumstances of the Islands;***
 - (d) *recognise the principle that a burden or restriction which is imposed on a person or activity should be proportionate to the benefits, considered in general terms;*
(...)
 - (f) *recognise the need for transparency and fairness on the part of the Authority.*
8. ICP 15 addresses the investments of insurers and provides that "regulatory requirements for solvency purposes" should be established "in order for insurers to make appropriate investments taking account of the risks they face".
9. The IAIS, in discussing the ICP 15, identifies several factors that regulators ought to be mindful of in conducting regulation and supervision of insurers, and in particular the investments of insurers, including that all investments should be:
 - (i) Liquid;
 - (ii) Secure;
 - (iii) Diversified;
 - (iv) Considered from both an individual and group perspective;
 - (v) Considered in light of asset liability management;
 - (vi) Considered from the perspective of management of risks (including capability to do so); and
 - (vii) Implementation of limitations/prohibitions for certain product types for, *inter alia*, the protection of policyholders such as derivatives, etc.

D. Purpose of Proposed Measure

10. Having regard to the recommendations contained in ICP 15, and the need for more comprehensive regulatory measures to support the effective supervision of investment activities of insurers, ensure the protection of policyholders and align with international standards, a rule and statement of guidance has been developed taking into account the circumstances in the Cayman Islands
11. The proposed Rule seeks to establish clear and precise directives regarding the investment activities of insurers while the SOG seeks to provide guidance, in respect of compliance with the Rule.

12. Table 1 below sets out the general aspects of the Rule and SOG and the objective of each regulatory measure:

Table 1: Proposed Rule and SOG on the Investment Activities of Insurers

	Rule	Statement of Guidance
Definitions	Provides definition for terms such as: <ul style="list-style-type: none"> a. Insurer b. Investment Policy c. Portfolio Insurance Companies; and d. Risk Management Framework 	Provides definition for terms such as: <ul style="list-style-type: none"> a. Insurer b. Investment Committee; c. Investment Strategy; and d. Investment Policy
General Principles	Sets out general principles for the investing of assets such as: <ul style="list-style-type: none"> a. <i>Risk management</i>- an insurer shall only invest in assets/instruments the risks of which it can properly identify, measure, manage and control having regard to its solvency needs. b. <i>Security</i>- adequate consideration must be given to the security of assets and ensuring that same are held in a location which does not contravene the sanction orders observed in the Cayman Islands. c. <i>Liquidity</i>- an insurer shall account for sufficient liquidity to be able to meet policyholders' payments as they fall due along with any other obligations. d. <i>Diversification</i>- an insurer (where applicable) must ensure that there is sufficient diversification of assets having regard to the nature, scale and complexity of its insurance business. 	Provides guidance on the general principles contained in the Rule including on: <ul style="list-style-type: none"> a. <i>Risk management</i>- it is important for the insurer to evaluate and understand the source, scope and types of risks (including consideration of internal and external factors that are likely to affect risks) associated with an investment activity and implement adequate procedures to manage these risks. b. <i>Security</i>-investments should be sufficiently secure for the portfolio as a whole, which is essential in ensuring obligations to policyholders are met. c. <i>Liquidity</i>- it is important to ensure assets generate sufficient cash flows to meet obligations as they become due and regard should be given to issues such as unexpected large claims, significant shifts in markets conditions and derivative obligations which may affect liquidity. d. <i>Diversification</i>- investing in a wide range of assets enables the mitigation of risks of adverse financial events and CIMA will expect the diversification of an insurer (where applicable) to fit its risk profile having regard to the type of insurance business conducted.

	Rule	Statement of Guidance
Nature of Liabilities	Sets out requirement that an insurer must invest in a manner appropriate to the nature and duration of its liabilities having regard to: <ul style="list-style-type: none"> a. Cash flows, b. Investment guarantees, c. Matching of assets with liabilities, etc. 	Recommends that an insurer should consider certain factors regarding its liabilities including: <ul style="list-style-type: none"> a. How liability cash flows are met by the cash inflows, b. How the investment and liability strategies adopted by the insurer allow for interaction between assets and liabilities including liability mitigation strategies, and c. How the economic valuation of assets and liabilities are changed under a range of different scenarios.
Management of Investment Risks	Prescribes steps to be taken by an insurer in ensuring that it invests in assets which can be properly assessed and managed.	Recommends consideration of various factors that are likely to affect an insurer's exposure to investment risks as well as consideration of its risks tolerance levels, its objectives, the general economic climate, interest rates, legal and regulatory requirements.
Investment Policy	Requires an insurer to establish an investment policy which must be submitted to CIMA for approval and shall, unless otherwise approved by the Authority, contain information regarding: <ul style="list-style-type: none"> a. The nature, role and extent of the insurer's investment activities, b. Identification of the insurer's risk appetite and tolerance levels as well as the types and characteristics of the investments, c. Identification of the minimum and maximum limits on asset allocation by geographical areas, markets, sectors, counterparties, currency and credit quality, d. Details of how it intends to address monitoring and control of investments, accountability for all investment 	Provides guidance on the investment policy recommending that: <ul style="list-style-type: none"> a. an insurer's investment policy should be commensurate with the nature, size and complexity of its insurance business activities. b. the policy should, where possible, identify the due diligence processes that will be utilised for each investment, c. the policy should also identify the manner by which appropriate credit ratings for each investment (together with an independent credit analysis) will be conducted including details of the investment process from start to finish.

	Rule	Statement of Guidance
	<p>transactions and investment authorisation criteria and limits.</p>	
Internal Controls & Audit	<p>Requires an insurer to have in place adequate systems of internal controls to ensure:</p> <ul style="list-style-type: none"> a. the conduct of investments activities is appropriately supervised having regard to the insurer's size, complexity, and the nature of its investment activities; and b. that assets are managed in accordance with the overall investment policy. <p>It also sets out the factors that will be used to assess effective internal controls.</p>	<p>Recommends factors that should be included in adequate systems of control including:</p> <ul style="list-style-type: none"> a. concentration limits, b. valuation and recording of investments in accordance with generally accepted accounting principles, c. cash flows generated through investments such as income, repurchases and redemptions at maturity; d. reporting on investments.
Loans	<p>Requires approval to be sought from CIMA for the provision of related or unrelated loans and requires a credit review of the proposed debtor to be included in the submission for approval to CIMA.</p> <p>While loans are not specifically addressed in ICP 15, a rule in respect of same was necessary having regard to the fact that the Authority has, on several occasions, had to treat with the requests of insurers to use "loan to related parties" as an investment strategy (for any surplus cash), on the basis that they can earn higher returns on the loan amounts compared to investment returns.</p> <p>In that context, loans may form part of an insurer's investment portfolio/strategy.</p>	<p>Provides guidance on what the credit review, required by the Rule, should include and advises that the provision of loans ought not to be a significant part of an insurer's business operations.</p>
Derivative Activities	<p>Permits investments in derivatives for hedging and/or efficient portfolio risk management but not for speculation purposes.</p>	<p>Provides guidance on steps that should be taken by an insurer in investing in derivatives including evaluating the security of derivative products by taking into</p>

	Rule	Statement of Guidance
		account the underlying exposures, as well as the security of the derivative counterparty, the purpose for which the derivative is held, and the cover (such as collateral) the insurer has for derivative exposure.

E. Jurisdictional Comparison

13. In determining appropriate content for the proposed Rule and SOG on the investment activities of insurers, the regulatory measures in several jurisdictions were reviewed:

Guernsey

14. Guernsey has issued Insurance Business (Solvency) Rules 2015¹ which focuses on, among other things, investment of insurers. The rules generally cover the critical areas highlighted under ICP 15, issued by the IAIS.

United Kingdom (UK)

15. The PRA's rulebook for UK Solvency II firms (i.e. life and non-life firms established in the UK and premiums over EURO 5 million annually) speaks to investments by insurers addressing a number of areas required by ICP 15.

- (1) There are requirements that a firm must invest only in assets and instruments the risk of which it can properly identify, measure, monitor, manage, control and report and take into account in the assessment of its overall solvency needs.
- (2) The UK has as a general principle that *"all the assets of the firm must be (i) invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio of assets of the firm as a whole; and (ii) localised such as to ensure their availability"*.
- (3) The rulebook addresses the issue of asset-liability matches/mismatches by requiring a firm to ensure that assets held to cover its technical provisions are invested in a manner appropriate to the nature and duration of the firm's insurance and reinsurance liabilities and in the best interests of all policyholders.
- (4) The UK also has some restrictions on types of assets firms may invest in, as well as a requirement for some diversification: Rule 5.2 provides (i) "the firm must not invest in a derivative or quasi- derivative unless and to the extent that, it contributes to a reduction of risks or facilitates efficient portfolio management; (ii) investment and assets which are not admitted to trading should be kept to prudent levels (iii) assets must be properly diversified in such a way as to avoid:
 - (a) Excessive reliance on any particular assets, issuer group of undertakings or geographical area; and
 - (b) Excessive accumulation of risk in the portfolio as a whole.
 - (c) Investments in assets issued by the same issuer, or issuers belonging to the same group, must not expose the firm to excessive risk concentration.

Bermuda

16. Bermuda has a 2005 guideline which appears to be outdated and does not address all areas covered in ICP 15.

¹ [https://www.gfsc.gg/sites/default/files/The%20Insurance%20Business%20\(Solvency\)%20Rules%202015.pdf](https://www.gfsc.gg/sites/default/files/The%20Insurance%20Business%20(Solvency)%20Rules%202015.pdf)

United States of America (USA)

17. The US has model acts developed by the National Association of Insurance Commissioners² but they are extremely detailed and not necessarily suitable to the Cayman Islands' insurance industry.

Gibraltar

18. Gibraltar's guidance³ on the use of derivative contracts in insurance funds addresses topics like suitability of assets, derivatives and investment strategy. General principles such as liquidity, security, diversification etc do not appear to be addressed.

Singapore

19. Singapore has a Notice of Investment of Issuers⁴. It sets out the requirements for an investment committee and addresses areas such as asset liability management, permitted derivatives and activities. However, no comprehensive requirements were noted for areas such as security, diversification, and assessment of risks.

Thailand

20. Thailand, through the Office of Insurance Commission (OIC), has issued Notifications for life and non-life insurers which set out certain requirements on the investment activities of insurers. The Notifications cover, among other things, that:

- (1) Insurers shall consider the capability of operation systems and staff expertise, taking into account the security, liquidity and risk diversification as well as types of risk such as market risk, credit risk, liquidity risk, operational risk, concentration risk or strategic risk.
- (2) Insurers are required to prepare and submit an investment policy framework and investment strategy to the OIC at least annually.
- (3) Adherence to investment limits. In setting investments limits and risk charges, the OIC takes into consideration security, liquidity and diversification characteristics and needs of insurers' investment portfolios.
- (4) Use of derivatives are permitted but only for hedging purposes and with OIC approval.

Table 2: Comparison of Regulatory Measures for Investment of Insurers

	Guernsey (Rule)	UK (Rule)	Bermuda (Guideline)	USA (Act)	Gibraltar (Guidance)	Singapore (Notice)	Thailand (Notice)	Cayman Islands (Proposed Rule and SOG)
<i>Liquidity</i>	✓	✓	✓	✓	✓	✓	✓	✓
<i>Security</i>	✓	✓	✓	✓	✓	✓	✓	✓
<i>Diversification</i>	✓	✓	✓	✓	✓	✗	✓	✓
<i>Asset Liability Management</i>	✓	✓	✓	✓	✓	✓	✗	✓
<i>Investment Policy/ Strategy or Plan</i>	✓	✗	✓	✓	✓	✓	✓	✓
<i>Investment Committee</i>	✗	✗	✓	✗	✗	✗	✓	✓
<i>Derivatives</i>	✓	✓	✓	✓	✓	✓	✓	✓
<i>Prohibitions</i>	✓	✗	✗	✓	✗	✓	✗	✓
<i>Limits</i>	✗	✗	✗	✗	✗	✗	✓	✗

² <https://content.naic.org/sites/default/files/inline-files/MDL-283.pdf> and <https://content.naic.org/sites/default/files/inline-files/MDL-280.pdf>

³ <https://www.fsc.gi/uploads/legacy/download/adobe/insurance/InsuranceGuidanceNote11.pdf> and

<https://www.fsc.gi/uploads/legacy/download/adobe/insurance/InsuranceGuidanceNote05.pdf>

⁴ https://www.mas.gov.sg/-/media/MAS/Notices/PDF/MAS-125_Apr-2013.pdf

F. Cost and Benefit Analysis of Implementing the Proposed Measures

21. Table 3 shows the estimated costs and benefits of the proposed Rule and Statement of Guidance.

Table 3: Estimated Costs and Benefits of Proposed Amendments

	Costs	Benefits
<i>CIMA</i>	<ol style="list-style-type: none"> 1. Processing Rule and SOG and conducting consultation. 2. Staff training 3. Conducting outreach to Insurance sector. 4. Responding to queries from insurers. 5. Gazettal and publication of measures. 6. Costs of monitoring compliance with the Rule and SOG 	<ol style="list-style-type: none"> 1. The Rule and supporting SOG will provide clarity and certainty on the expectations of CIMA in its supervision of insurers as it applies to their investment activities. 2. The Rule also gives CIMA the ability to enforce requirements in a way that the current Statement of Guidance for Asset Management & Investment Strategy for Insurance Companies cannot. 3. It was necessary to establish rules which are clear and succinct and have a separate Statement of Guidance to provide clarity on these rules. Together these measures provide an effective framework for protecting policyholders while ensuring clarity is given to insurers. 4. Aids in ensuring compliance during onsite inspections, resulting in more consistency between regulated entities and more streamlined inspections and reports.

	Costs	Benefits
<i>Cayman Islands</i>	No costs foreseen.	<ol style="list-style-type: none"> 1. Enhances the reputation of the jurisdiction since there will be appropriate measures in place to guide the insurance sector; which consequently will have a significant and positive impact on confidence in the Cayman Islands as a strong well-regulated financial centre. 2. Ensures consistency with the IAIS international standards identified in ICP 15 as it applies to investments of insurers, already applied by many other jurisdictions. 3. Likelihood of positive international assessment in relation to the application of the ICP in the Cayman Islands as it provides greater clarity surrounding the regulatory and supervisory framework for insurers.
<i>Regulated Entities</i>	<ol style="list-style-type: none"> 1. Staff training on the Rule and SOG for Investment of Insurers. 2. Implementation of rules and statement of guidance, including the establishment of an investment committee and an adequate risk management framework. 3. Potential restrictions on certain riskier investment activities. 4. Possible costs for unwinding/adjusting positions if not consistent with requirements in the rules. 	<ol style="list-style-type: none"> 1. Will ensure appropriate staff has requisite knowledge to manage investments. 2. Reduces risk of investment activities by insurers affecting solvency and consequently ensuring the protection of policyholders.

22. Consequent to the above, it is determined that benefits outweigh the costs and the implementation of the Rule for the Investments of Insurers and the Statement of Guidance for the Investment of Insurers measures should be pursued by the Authority.

G. Consultation Feedback and Comments

23. Before proceeding with the proposed measure, the Authority shall have regard to any representations made by the private sector associations only. Feedback submitted by individuals, entities, or other bodies, unless acting on behalf of private sector associations, will not be accepted by the Authority. Representations from private sector associations must be submitted as a consolidated document, and a listing of the entities which provided feedback should be included. Private sector associations should ensure that conflicting positions are resolved prior to submission to the Authority. Where positions conflict within or across associations, the Authority will consider all available information in taking a decision, which will be at its sole discretion.
24. To ensure that all responses are given due consideration, it is important that private sector associations make clear reference to the sections of the measure being commented on, and that responses are unambiguous, clearly articulated and based on fact. The consultation process is not designed to address complaints or grievances. Feedback of this nature should be submitted through the established complaints process.
25. In cases where the feedback proposes to change a policy position of the Authority or substantially amend any requirement of the draft measure, information to support the position of the association must be provided. The table below provides an example of the Authority’s expectation with regard to feedback for the proposed measure.

Reference	Example of a Helpful Comment	Examples of Comments needing more Support
Rule 4.2 ⁵	<p>In Rule 4.2 the current text omits the fair value measurement of liabilities. Also, as defined it is not asymmetrical with the Market Price definition and thus scenarios exists that fall into neither category.</p> <p><u>Suggested wording:</u> <i>Hard-to-Value Securities means an asset or liability for which there is no Market Price which is required to be measured at fair value pursuant to 5.2</i></p>	<ul style="list-style-type: none"> × This is not what is done in other jurisdictions. × I don’t think we should do this. × CIMA is not considering the position of the experts.

26. All feedback submitted by private sector associations will be given due consideration, nevertheless, the decision to adopt any feedback provided into a proposed measure will be at the sole discretion of the Authority.

H. Notice of Representations

27. The Authority seeks consultation through written comments and representations from the private sector associations concerning the:

Rule and Statement of Guidance on Investment Activities of Insurers

⁵ This example is not reflective of the content of the proposed measure.

28. The Authority must receive representations by 1700hrs on **Wednesday, November 10, 2021**. Representations received after this deadline may not be considered and will not form part of the collated written response provided to private sector associations.

29. Comments and representations must be addressed to:

The Managing Director
Cayman Islands Monetary Authority
P.O. Box 10052
SIX, Cricket Square
Grand Cayman KY1-1001
Cayman Islands
Tel: 345-949-7089
Fax: 345-946-5611
Email:

consultation@cimoney.com.ky

and copied to KavitaMaharajAlexander@cima.ky.

30. The Authority shall have due regard to any representation made by the private sector associations and industry stakeholders. The Authority shall provide a written response collating the feedback received and the Authority's position on this feedback. This response shall be copied to all relevant private sector associations only.



SIX, Cricket Square
PO Box 10052
Grand Cayman KY1 - 1001
CAYMAN ISLANDS

General Office: 345-949-7089

www.cima.ky