Consultation Paper

AFSA-P-CE-2020-0010

Proposed Amendments to the AIFC Insurance and Reinsurance Prudential Rules

Unrestricted

November 20, 2020

Introduction

1. The Astana Financial Services Authority (AFSA) has issued this Consultation Paper to invite public comments on the proposed amendments to the AIFC Insurance and Reinsurance Prudential Rules (PINS).
2. The proposals in this Consultation Paper will be of interest to current and potential AIFC participants who are interested in exercising business activities in or from the AIFC as captive insurers and insurance managers.
3. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please use “Consultation Paper AFSA-P-CE-2020-0010” in the subject line. You may, if relevant, identify the organisation you represent when providing your comments. The AFSA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise. Comments supported by reasoning and evidence will be given more weight by the AFSA.
4. The deadline for providing comments on the proposals is 12 December 2020. Prior to this consultation paper the AFSA published the policy paper on Enhancement of the AIFC Regulatory Framework for Captive Business, which included same proposals at policy level.
5. Once we receive your comments, we shall consider if any refinements are required to this proposal.
6. Comments to be addressed by post:
   Policy and Strategy Division

   Astana Financial Services Authority (AFSA)

   55/17 Mangilik El, building C3.2, Kazakhstan

   or emailed to: consultation@afsa.kz

7. The remainder of this Consultation

   Paper contains the following:

   (a) Background to the proposal

   (b) Annex 1: Proposed Amendments to the AIFC Insurance and Reinsurance Prudential Rules.

Background

1. A captive insurance is a risk management vehicle used by companies to cover risks that cannot be efficiently insured in the market or to manage risks in a more cost-effective manner. Captive insurers mainly underwrite risks related to or arising out of the business or operations of the group to which they belong or third-party risks arising in related businesses.

2. Captive insurance allows a company to insure its industry-specific risks which would otherwise be overpriced by commercial insurers. The cost savings would result not only from a more tailored risk assessment but also from avoidance of marketing and administration costs. In addition, captives are uniquely positioned to manage their own risks as they can make more precise forecasts based on their own historical data as opposed to commercial insurers who rely on industry averages.

3. The following summarizes the proposed amendments to the AIFC Insurance and Reinsurance Prudential Rules (PINS) that aim to provide a competitive and clear risk-based regulation for full-fledged and effective operation of captive insurers.
   (1) Introduce three classes of captive insurers differentiating on the amount of third-party risk allowed to be written.
   (2) Set prudential requirements for each class of captive insurers based on the level of risk the scope of their license assumes.
   (3) Explicitly state that an AIFC captive insurer can be either self-managed or managed by an AIFC insured Insurance Manager
   (4) Expand the functions of the AIFC Captive Insurance Managers.

   As a result of introduction of these changes, AFSA aims to further develop the insurance market in the AIFC and Kazakhstan.

4. The key objectives of the proposed amendments include:
   - Make the AIFC jurisdiction suitable for different types of captive insurers;
   - Increase the number of captive insurers and insurance managers in the AIFC;
   - Alignment of captive insurance classification with international standards;
   - Add clarification and precision to the requirements to captive insurance managers.

5. Annex 1 includes the proposed Amendments to the AIFC Insurance and Reinsurance Prudential Rules.

Proposed amendments to the AIFC Insurance and Reinsurance Prudential Rules

In these Rules the underlying indicates a new text and the strikethrough indicates a removed text

14 Captive Insurers

14.1 Introduction

14.1.1 Definition of Captive Insurer

A Captive Insurer is an Authorised Firm with a Licence to carry on Insurance Business <u>as a Class 1, Class 2 or Class 3 Captive Insurer</u> ~~only for the business or operations of the Group to which it belongs~~.

14.1.1-1. <u>Classification of Captive Insurer</u>

<u>(1)</u> <u>A class 1 Captive Insurer is an AIFC Captive Insurer that is permitted under the conditions of its authorisation to effect or carry out Contracts of Insurance only for risks related to or arising out of the business or operations of the group to which the Insurer belongs.</u>

<u>(2)</u> <u>A class 2 Captive Insurer is an AIFC Captive Insurer that is permitted under the conditions of its authorisation to obtain no more than 20% of its gross written premium from third-party risks arising from business or operations that are closely linked to the business or operations of the group to which the Insurer belongs.</u>

<u>(3)</u> <u>A class 3 Captive Insurer is an AIFC Captive Insurer that:</u>

(a) <u>is permitted under the conditions of its authorisation to effect or carry out Contracts of Insurance only for risks related to or arising out of the business or operations of persons who engage in similar, related or common:</u>

i. <u>businesses; or</u>
ii. <u>activities; or</u>
iii. <u>trade; or</u>
iv. <u>services; or</u>
v. <u>operations; and</u>

(b) <u>is owned by the persons mentioned in paragraph (i) or by a body corporate of which all such persons are members such as group captives.</u>

14.1.2 Definition of Captive Insurance Business

(1) Captive Insurance Business is the business of Effecting or Carrying out Contracts of Insurance <u>as a Class 1, Class 2 or Class 3 Captive Insurer</u> ~~only for the business or operations of the Group to which the Captive Insurer belongs~~.

(2) General Captive Insurance Business is Captive Insurance Business in relation to General Insurance Contracts.

(3) Long-Term Captive Insurance Business is Captive Insurance Business in relation to Long-Term Insurance Contracts.

14.1.3 Captive Insurer to be incorporated in the AIFC

(1) Only an Authorised Firm which is incorporated under the laws of the AIFC may apply to the AFSA for a Licence to conduct Captive Insurance Business.

(2) A Captive Insurer may either be self-managed or managed by an Insurance Manager authorised by AFSA.

14.3 Application of PINS to Captive Insurers

14.3.1 Application of PINS 2 (Systems and Controls)

(1) A Captive Insurer must comply with the requirements of PINS 2 (Systems and Controls) in full subject to (2).

(2) A Captive Insurer may appoint an Insurance Manager authorised by AFSA to perform the Controlled Function of Senior Executive Officer provided that such Employee is an Approved Individual and the Designated Function of Money Laundering Reporting Officer.

14.3.2 (…)
14.3.3 (…)
14.3.4 (…)
14.3.5 (…)
14.3.6 (…)
14.3.7 (…)
14.3.8 (…)
14.3.9 (…)
14.3.10 (…)
14.3.11 (…)

14.3.12 Application of PINS 13 (Prudential Returns)

(1) A Captive Insurer must comply with PINS 13 (Prudential returns) in full.

(2) Unless required otherwise by AFSA in writing, Class 1 Captive Insurer may submit Prudential Returns semi-annually instead of quarterly as stated in Schedule 6.

14.4 Capital adequacy requirements for Captive Insurers

14.4.1 Minimum Capital Requirement (MCR) for a Captive Insurer

(1) For the purposes of Schedule 4 of PINS, the Capital Floor for a Captive Insurer is the highest of the following:

~~(a) US$150,000 for a Captive Insurer carrying on General Captive Insurance Business;~~
~~(b) US$150,000 for a Captive Insurer carrying on Long-term Captive Insurance Business; or~~
~~(c) an amount specified in writing by the AFSA.~~
(d) the Base Capital Requirement;
(e) he Premium Risk Component;
(f) the Technical Provision Risk Component.

(2) Base Capital Requirement (BCR) for a Captive Insurer is

(a) US$100,000 for a Class 1 Captive Insurer;

(b) US$200,000 for a Class 2 Captive Insurer;

(c) US$300,000 for a Class 3 Captive Insurer.

(3) Premium Risk Component for a Captive Insurer

(a) The Premium Risk Component for a Class 1, Class 2 or Class 3 Captive Insurers conducting general insurance business or life insurance business is the amount calculated in accordance with the following formula:

[18% × firm's net written premium up to US$ 5 million]

+

[16% × firm's net written premium in excess of US$ 5 million]

(4) Technical Provision Risk Component for a Captive Insurer

(a) The Technical Provision Risk Component for a Class 1, Class 2 or Class 3 Captive Insurers conducting general insurance business is the amount calculated in accordance with the following formula:

[5% × firm's net claims reserve under general Contracts of Insurance]

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[15% × the amount of firm's reinsurance and other recoveries expected to be received in respect of those claims]

(b) The technical provision risk component for a Class 1, Class 2 or Class 3 Captive Insurers conducting long-term insurance business is the amount calculated in accordance with the following formula:

[2.5% × Policyholder liabilities calculated using actuarial methods for long-term insurance]

14.4.2 (…)

14.4.3 Prescribed Capital Requirement ~~for a Protected Cell Company~~

(1) Class 1, Class 2 and Class 3 Captive Insurers are not required to calculate Prescribed Capital Requirement;

(2) For a Protected Cell Company each Cell of a Protected Cell Company must calculate its Prescribed Capital Requirement in accordance with PINS 5.2.3 (Obligation to calculate PCR) as if it were a stand-alone Insurer.

14.4.4 (…).