

# CONCEPT PAPER

## INSURANCE INDUSTRY COMPENSATION FUND ('IICF')

### INSOLVENCY SUB-FUNDS

#### 1 ADMINISTRATION OF THE INSOLVENCY SUB-FUNDS

- 1.1 The insolvency sub-funds will form part of the IICF and will be managed by the Managing Committee ('MC') as defined under the Insurance (Industry Compensation Fund) Regulations 2015.
- 1.2 The IICF will be extended to provide for 2 separate sub-funds, namely: (a) the Insolvent Long term Insurer sub-fund; and (b) the Insolvent General Insurer sub-fund.
- 1.3 Furthermore, within the separate insolvency sub-fund, there will be a sub-fund for each insolvent insurer.
- 1.4 The insolvency sub-funds will be post funded.
- 1.5 The MC will establish a Technical Sub-Committee ('TC') for each insolvent insurer..
- 1.6 The TC will comprise of one representative from each insurer who will be willing to form part of the same sub-fund except the insurer against which a determination has been made.
- 1.7 Members appointed on the TC will not be remunerated.
- 1.8 The MC, in consultation with the FSC, will make a determination to activate any relevant insolvency sub-fund where an insurer is subject to a petition to the Court for its winding up, also referred as the 'determination date'.
- 1.9 After any determination date, the MC will provide information to the public regarding the follows:
  - (a) the operation of the IICF;
  - (b) eligibility to be considered as defined policyholder or beneficiary; and
  - (c) how to make a claim.
- 1.10 All insurers would be required to have at all times a workable 'exit strategy' with the aim of leaving the insurance sector in an orderly fashion.

- 1.11 The exit strategy will be required to cover aspects on how an insurer will voluntarily wind-up itself at any point in time and causing minimum disruption to the sector, its policyholders/beneficiaries and third-party claims. A copy of the 'exit strategy' and any amended versions will have to be filed with the IICF and the FSC.

## 2 PARTICIPATION TO THE INSOLVENCY SUB-FUNDS

- 2.1 Insurers will participate to either the Long term insolvency sub-fund or General insolvency sub-fund, depending on the licence that each insurer holds.
- 2.2 The MC will determine the sub-fund that applies to each insurer based on the principal category of insurance business for which the insurer is licensed and will inform each insurer accordingly.
- 2.3 Only insurance policies whose risks are situated in Mauritius and remaining unpaid by reason of insolvency will be protected by the Compensation Fund
- 2.4 Policies written by: (a) External Insurers; (b) way of inwards reinsurance business; (c) way of term assurances for mortgage; and (d) way of insurance businesses that is excluded, will not be covered by the IICF.
- 2.5 Policy contracts will need to make mention whether it is or it is not covered by the IICF.

### *ELIGIBLE CLAIMANT*

- 2.6 Policyholders or beneficiaries who were Mauritian resident at the time the policy was issued and are Mauritian resident at time the insurer is determined as being insolvent, can make a claim to the IICF.
- 2.7 Eligible claims will be claims on an occurrence basis, .i.e., all claims for contingent event that occurred before the determination to activate the relevant insolvency sub-fund.
- 2.8 The MC may, at its discretion, make a determination to include a person or group of persons as eligible claimant if it believe that public confidence in the insurance industry will suffer.
- 2.9 When making claims, the policyholder or beneficiary will cede the right against the insurer to the IICF (subrogation).
- 2.10 No payments from the IICF will be made to:
- (a) a substantial shareholder of an insolvent insurer; and

- (b) any person whose policy benefits are in excess of normal benefit.

#### *ELIGIBLE CLAIMS*

- 2.11 Any claims will need to be made to both, the IICF and the insolvent insurer within 2 years from the determined insolvency date.
- 2.12 Eligible claims would be all unpaid and outstanding claims that would be eligible to be admitted for payment by the date of the insolvency.

#### *CONTINUITY OF COVER*

- 2.13 The MC might decide that some insurance policy be kept in-force for a maximum period of three months after the date of determination is made for practical reasons.

### **3 FUNDING OF THE INSOLVENCY SUB-FUNDS**

- 3.1 The insolvency sub-funds would be post event funded, where the event would be the time an insurer is declared insolvent.
- 3.2 The IICF will borrow an amount of money to start initial payments. The borrowings will be either from commercial banks or the Government.
- 3.3 Where the managing committee is of the opinion that the sub-fund will be unable to repay the financing through the expected recoveries of the insurer, the Compensation Fund shall establish a levy on all insurers.
- 3.4 The MC will determine the rate of levy applicable on the insurers.
- 3.5 The maximum levy is capped at 3% of gross premium of policy not excluded from participation of the IICF – irrespective of the number of insolvency.
- 3.6 The levy shall continue to be payable until such time the financing is repaid.

### **4 ROUNDS OF PAYMENT**

- 4.1 Each claim will be identified as either (a) a capital claim or (b) an income claim.
- 4.2 The insolvency sub-funds will pay up to 80% of eligible claims and there will be a cap to the maximum amount that can be paid (e.g. individual claim, lump sum, annuities. etc.).

- 4.3 There will be separate caps for income and capital type claims.
- 4.4 When the insolvency sub-funds would recover more than the first round of payment (from the liquidator), it will firstly reimburse insurers who had contributed to the IICF via levies raised, in proportion to the amount that was contributed.
- 4.5 Afterwards, any surpluses remaining, would be paid back to policyholders in proportion to their outstanding claim amount.
- 4.6 For cases where any designated funds of a long term insurer are referred to the IICF, long term insurance policy will run-off. Premiums will continue to be due and claims will be paid upon the occurrence of a contingent event.