

# GUERNSEY SPECIAL PURPOSE INSURERS

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Guernsey's special purpose insurer (SPI) business continues to grow, alongside its established captive insurance business. Guernsey saw an increase in international insurers established on the island of 31 over the 12 months to 31 December 2016, bringing the total number of international insurers to 835, with annual premiums written of £5.54 billion according to latest available statistics – their highest level since available records began in 2001. The bulk of this increase in business is attributable to special purpose insurers, predominantly insurance-linked securities (ILS) business.

What is a special purpose insurer?

Within the last six months the Guernsey Financial Services Commission (GFSC) has published The Insurance Business (Special Purpose Insurer) Rules 2016 (SPI Rules), which clarify and confirm the regulatory definition and treatment of SPIs under Guernsey law. The Insurance Business (Solvency) Rules 2015 (Solvency Rules) had already provided for Category Six 'special purpose entities' as being primarily 'insurers whose underwriting and counterparty risk are effectively eliminated' by being fully collateralised or fully funded. The Solvency Rules give examples of these as including:

- Transformer cells, i.e. cells within a Guernsey protected cell company whose primary purpose is to enable transactions between the capital and insurance markets by converting derivatives contracts into insurance contracts, or vice versa;
- Fully collateralised catastrophe cells, i.e. cells within a Guernsey cell company which reinsure catastrophe risks and have 100% collateralisation through the issue of risk-linked securities to sophisticated investors; the collateral is subject to a trust or other security arrangement;
- ILS cells – a broader category of 2. above, where the underlying insurance contracts are not limited to catastrophe risk; as well as natural catastrophes, ILS products typically cover life insurance (mortality and longevity) and man-made events (fire, terrorism, even lottery jackpot losses); and
- Fully funded entities.

The SPI Rules have now provided a formal definition of 'special purpose insurer' as an insurer or cell which satisfies all of the following requirements:

- The insurer or cell has at all times assets the value of which is equal to or exceeds its aggregate maximum risk exposure and the insurer or cell is able to pay the amounts it is liable for as they fall due;
- The proceeds of the debt or equity issuance or other financing mechanism are fully paid in or in the form of contingent assets where the finance provider has achieved a financial rating (counterparty, credit or financial strength as applicable) of at least A- as of the date of application and as determined by an Acceptable Rating Agency;
- The proceeds of the debt or equity issuance or other financing mechanism are:
- Claims of participants in any financing mechanism against the assets of the insurer or the cell are subordinated to the claims of creditors under the contracts of insurance underwritten by the insurer or cell;
- The insurer or cell only enters into contracts or otherwise assumes obligations or contingent liabilities which are solely necessary for it to give effect to the purposes set out from time to time in its agreed business plan; and
- Each of the insurance contracts is structured so that the insurer or cell meets the fully funded requirements individually for each contract.

What are the benefits of domiciling in Guernsey?

Guernsey SPIs or other entities that the GFSC agrees may fall into Category Six (special purpose entities) benefit from waivers of the regulatory capital and solvency requirements applicable to Guernsey insurers in other categories, so that they are not required to hold the minimum and prescribed capital under the Solvency Rules (Guernsey is outside of the EU and therefore not required to implement Solvency II). They can also benefit from a

fast track self-certification approval process for creation and licensing of new cells. This process requires the manager of the SPI to self-certify the nature of the transactions contemplated and to provide the GFSC with relevant documentation and the licensing fee within seven days of the effective date of the insurance underwritten.

Other waivers include:

- ILS SPVs can benefit from a waiver from the requirement for accounts to comply fully with UK GAAP FRS in relation to notes to FRS accounts;
- Certain long term SPVs, for example runoff situations or reinsurance of pension scheme longevity risk, may benefit from a waiver of the requirement for an appointed actuary (normally required for long term business).

These benefits are in addition to the normal benefits of establishing an insurer in Guernsey, including a tax neutral environment and appropriate, high quality regulation to recognised international standards.

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