



HM Treasury Civil Liability Act report on savings provision: consultation on implementing regulations

Response from AXA UK

About AXA UK

1. AXA UK (AXA) is part of the AXA Group, a worldwide leader in financial services. AXA Group operates in 61 countries with over 170,000 employees and 105 million customers. AXA has around 11 million customers in the UK and operates through specific operating companies – AXA Insurance and AXA PPP healthcare.

Executive summary

2. As a leading general and health insurer, AXA has supported the Civil Liability Act, especially the Discount Rate provisions, as we believe it will ensure that people who have been injured through no fault of their own receive fair and just compensation. Therefore, we welcome the opportunity to submit a response to this consultation as part of the first review of the Personal Injury Discount Rate under the Damages Act 1996, as amended by the Civil Liability Act 2018.
3. In March 2018, AXA was one of 26 insurers who signed a letter addressed to the Lord Chancellor publicly committing to pass on to customers the cost benefits arising from Government action to tackle the extent of exaggerated low value personal injury claims and reform to the Personal Injury Discount Rate.
4. AXA recognise and support the need for greater transparency to ensure cost benefits arising from reforms contained in the Civil Liability Act are passed on to customers, whilst being mindful that the chosen approach doesn't result in unnecessary burdens being placed on insurers. Whilst we are supportive of the general approach outlined by the Government, some of the measures outlined in the draft regulations in Annex A require further clarity to ensure the information collected, and the approach taken to collect the information, is conducive to understanding whether cost savings have been transferred from insurers to consumers.
5. AXA is also in support of the consultation response submitted by the Association of British Insurers (ABI).

Introduction provisions (Section 2.1).

Consultation Question 1

Do you agree with the overall approach of providing a minimum threshold in order to limit the number of firms ultimately in scope?

6. AXA is in agreement with the overall approach of providing a minimum threshold to limit the number of firms in scope. A limit is necessary to prevent undue burdens being placed on firms who issue a relatively small number of third-party personal injury insurance policies.



Consultation Question 2

Do you agree that relevant policies sold is an appropriate metric?

7. AXA agree that the number of relevant policies sold is appropriate in that it is a simple and easily understood approach. However, there are other options that HM Treasury could consider that may improve accuracy. For example, Gross Written Premium (GWP) is often used as a metric to determine overall market size and may be more suitable for incorporating different types of policies such as those for multiple vehicles.

Consultation Question 3

Do you agree that 10,000 relevant policies sold is an appropriate limit? If not, is there a figure you think would be appropriate?

8. AXA would not be opposed to the limit being placed at 10,000 relevant policies sold in any full year of the report period. However, we have reservations that this limit is arbitrary and relatively low. Therefore, we would urge the Government to conduct further analysis of the suitability of this figure.

Consultation Question 4

Do you agree with the approach taken to allow firms to self-determine whether they meet the conditions to be in scope of the reporting requirements, and to declare to the FCA which report years they are in scope?

9. AXA agree with the approach to allow firms to self-determine whether they meet the conditions and to declare to the FCA which report years they are in scope.

Consultation Question 5

Do you agree that the SI in Annex A achieves the aim of exempting insurers who fall below the limit from the reporting requirement, except providing confirmation to this effect to the FCA?

10. AXA is largely in agreement that the SI in Annex A achieves the aim of appropriately exempting insurers who fall below the limit from reporting requirement.
11. However, it would be beneficial for the wording of the SI to be improved to provide additional clarity. An example is providing a clearer definition for a “relevant insurer” to ensure insurers that provide third-party personal injury cover through household or travel insurance policies are also in scope of the requirements.

Information to be provided by insurers (Section 2.2)

Consultation Question 6

Do you agree with the overall approach to requiring information from insurers?

12. AXA is supportive of the need for greater transparency on savings provision. However, we have some reservations regarding stakeholder’s understanding of the information provided by insurers, especially with regard to the audited figures proposed by the Government for each of the three years in the report period.
13. The approach taken involving the calculation of the “technical price” may result in misleading information, as many insurers will not price on a basis of allocating overall cost of a policy to specific parts of a claim. Furthermore, many costs such as reinsurance costs are



dependent on a significant number of factors and vary widely between different insurers. For personal motor claims it would be difficult for insurers to allocate the accurate reinsurance costs.

14. Moreover, AXA do not believe the requirement for a further independent audit is necessary and will ultimately result in adding cost and inefficiencies to the reporting process. The existing audit processes and declarations to the FCA should be sufficient to provide adequate savings provision reporting.

Consultation Question 7

Do you agree with the approach to require totals to be separated with respect to settlement value? If so, is a settlement value of £100,000 appropriate?

15. AXA has no concerns regarding the £100,000 settlement value figure, other than those outlined in our answer to consultation question 6.

Consultation Question 8

Does the SI in Annex A achieve the aim of requiring information that will enable the Treasury and the FCA to make a reasoned assessment of whether benefits arising from the act have been passed on to consumers?

16. AXA consider the SI in Annex A to overcomplicate achieving the relevant aims of enabling the Treasury and the FCA making a reasoned assessment. As outlined in point 13, the request of provision of reinsurance premiums as part of the returns is unlikely to facilitate further understanding of whether benefits have been passed on and could ultimately result in confusion.
17. There are many factors that impact on the value of motor insurance premiums, therefore it should be recognised that judgement will be required when evaluating the information submitted under the Regulations.

Consultation Question 9

Do you agree with the approach to calculating counterfactual information? If not, do you have a view on how counterfactual information could be calculated?

18. AXA is largely supportive of the general approach in calculating counterfactual information, subject to reservations made elsewhere in this response.
19. Furthermore, the audit requirements outlined for providing counterfactual information will result in insurers relying on a range of assumptions for determining expected figures for claims costs and premiums had the act not been passed. These assumptions may not be conducive to achieve the aims of the reporting process.

Consultation Question 10

Does the SI in Annex A achieve the aim of requiring counterfactual information that is consistently calculated according to a uniformly-applied methodology? If not, what factors do you think should be taken into account to ensure a more consistent calculation of this data?

20. AXA consider maintaining consistency between different insurers to be difficult, one reason for this is that estimating approaches can vary greatly between insurers. Nonetheless for the



purposes of comparisons the returns from individual insurers should enable the Treasury and the FCA to successfully undertake the required analysis.

Additional information

Consultation Question 11

Do you agree with the proposed approach to enable firms to provide additional information if they choose?

21. AXA agree that the approach enables firms to provide additional information if they wish to. We are strongly supportive of encouraging additional information to provide explanations to data submitted. It is only when this information is submitted will we truly be able to understand adjustments to the discount rate and to accurately capture the impact of an adjustment to claims costs and overall pricing.

Consultation Question 12

Does the SI in Annex A meet the aim of allowing firms to include this information if they choose?

22. Similar to the analysis we provided in point 21, we consider SI in Annex A to successfully achieve the aim of allowing firms to include additional information if they choose.

Insurance mediation and reinsurance

Consultation Question 13

Do you agree with the proposed approach to requiring insurers to disclose information about intermediary costs and fees, and information about reinsurance premiums?

23. No, AXA do not support the proposed approach to require insurers to disclose information on intermediary costs and fees, and information regarding reinsurance premiums.
24. The draft SI does not clearly define the scope of the term “intermediary”. The costs charged by intermediaries is an issue for intermediaries. AXA believe that intermediary costs are not relevant for the primary aim of the reporting process of assessing whether savings made by insurers have been transferred to policy holders.
25. As discussed in point 13, reinsurance costs fluctuate widely across the industry and depend on a multiplicity of factors.

Provision of information date

Consultation Question 14

Do you agree that the 1 November 2023 is sufficient time to collect information and provide to FCA?

26. AXA would support extending the timeframe by a further six months as this may be required to collect and provide the relevant information to the FCA, especially if the independent audit requirement remains as currently outlined by the Treasury.

If you need to get in touch regarding the information in this submission, please get in touch with Public Affairs Executive, Jonathon Murphy, at jonathon.murphy@axa-uk.co.uk or on 07866032309.