

Long Term Care Insurance – Summary of Responses to December 2000 Consultation Document

LONG-TERM CARE INSURANCE

39 responses were received to the consultation document published in December 2000. This paper summarises the response to each question.

CHAPTER 1 - REGULATION

Question 1. Do readers agree that the Government should give the Financial Services Authority responsibility for regulating the selling and marketing of long-term care insurance?

24 of the 39 respondents agreed with the Government's preferred option (Option 3), that the FSA should be given the power to regulate the selling and marketing of long-term care insurance, but not other medical insurances.

Some in the industry argued for "lighter touch" regulation (Options 1 or 2) whereas consumer groups argued that all medical insurance products should be regulated by statute. A number of other respondents argued that long term care insurance regulation should be introduced in the short term with the option of bringing all medical insurance into scope being kept under review.

Question 2. How might the Government define long-term care insurance legally if it decides to give the FSA full conduct of business regulation?

13 respondents answered this question. A selection of their suggestions is reproduced below.

- where the benefits of a class IV long-term insurance contract are capable of being paid regularly after the insured life's 70th birthday, once a valid claim is accepted
- long term care insurance covers the risk that, at the time of making the claim, the individual is suffering from an impairment or impairments which are likely to persist indefinitely and which mean that the individual is unable to live independently without assistance or care. The insurance benefits are payable for as long as the impairment persists.
- long-term care is the regular care and support that people who have prolonged physical or mental illness or disability, or frailty due to age, need for periods of months or years. Long Term care can be provided in one's own home, sheltered housing, in a residential care or nursing home or hospital. In most circumstances it is means tested and in some cases is delivered free by the NHS.

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- to insure the life assureds' cost of care in their own home, or a residential or nursing home
- benefits should be capable of being paid (once a valid claim was accepted) (a) beyond the life assureds' normal retirement date, and (b) over the whole outstanding life of the life assured (except where a limited benefit payment period applies or the policy has a termination date ”
- the definition should include
 - (i) the prime objective and marketing message of the policy (i.e. to fund for care needs (financial and care support) for those who are unable to care for themselves)
 - (ii) benefits being paid beyond a person's normal retirement age
 - (iii) benefits being paid over the whole outstanding life of the life assured or until the benefit period has expired to the conclusion of the policy
- the benefits are triggered by a deterioration in mental or physical health or both
- the benefits are payable by reference to any period during which that deterioration persists or by reference to any shorter fixed period during which it persists; and
- the main disability risks covered are those which relate to physical or mental conditions from which there is in general little prospect of recovery.
- Long Term care insurance means insurance (where insurance means insurance written as either long-term or short-term insurance business) which provides benefits to meet in whole or in part the continuing cost of care of those unable to care for themselves and which is triggered by either the receipt of care, the assessment of the need for care, or by reaching a defined level of physical dependence or cognitive ability
- where the benefits of the plan were capable of being paid out continuously over the whole outstanding life of the policyholder, once a valid claim (or claims) is accepted, the conditions of which continue to be met”

Question 3. How could the Government ensure that its legal definition ring-fences long-term care insurance from other medical insurances?

In the main the respondents that answered this question were the same ones that answered question 2. Most referred to their own proposed definitions as an effective way of ring-fencing. Those respondents that favoured option 4

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below considered that would solve the problem. Two respondents gave detailed comments on this question.

One said that by clearly defining long term care is deemed to reflect any insurance or investment product/contract, providing long term benefits capable of continuing for an individuals life time, with no upper age limit will exclude other protection products that either exclude continuing long term care or have limited benefit payment periods”.

Another said that HMT should regulate those kinds of long term care products that would satisfy existing definitions proposed by FSA. Risk based products should be subject to controls which apply to other life non-investment products”.

Question 4. Would readers provide an estimate of compliance costs under FSA regulation, both for full conduct of business and a disclosure regime?

The respondent firms and trade associations generally agreed that compliance costs would be minimal as they said that firms treat LTCI products as if they were already regulated. However some firms sounded a note of caution. One firm said costs will bear disproportionately on lower premium products. Another said regulation costs must be proportionate to the risk.

One trade body conducted a questionnaire survey of their members. 45% of those who responded thought LTCI sales would grow as a result of adopting regulation and CAT standards. In turn this should lead to a reduction per policy written on all costs including compliance costs.

CHAPTER 2 – CAT STANDARDS

Question 5. Do readers agree in principle that CAT standards could be used as a benchmark for long-term care insurance products?

20 of the 39 respondents agreed in principle that CAT standards could be used as a benchmark for long-term care insurance products. 10 respondents were opposed in principle and the remaining nine did not express an opinion. In summary, the arguments for and against were as follows:

Arguments for CAT standards

- as the market grows, CAT standards will offer advisers and consumers a benchmark to measure the quality of a products benefits and services

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- CAT standards have worked well where they have been introduced in other areas, and we see no reason not to apply them to LTCI
- essential that long-term care insurance products conform to acceptable standards and CAT standards are an appropriate benchmark for such products
- CAT standards would add to consumers' understanding and to make it easier to compare products. But the importance of seeking advice cannot be overstated
- voluntary CAT standards would be very helpful in allowing consumers to identify quality products and make informed choices
- a well drawn up CAT standard could benefit consumer confidence.

Arguments against CAT standards

- certainly CAT standards could be used. Whether they add anything beneficial to a fully regulated sales environment is questionable and we would welcome clarification as to whether or not this is the intention
- we doubt the appropriateness of CAT standards in a fully regulated environment unless they are to form a significant part of a lighter touch and to represent minimum rather than absolute standards
- the simple use of Cover, Access and Terms is not sufficient to describe the aspects of a full LTCI policy
- the current UK market is too underdeveloped for any minimum benchmark standards to be described with any authority
- unlike a CAT investment product, a CAT LTCI policy could easily be totally inappropriate for an individual's particular circumstances
- setting a government endorsed benchmark could stifle innovation
- the LTC market is immature. It is likely that the market could evolve rapidly and there is a danger that CAT standards would stifle innovation and fail to respond to changes in the market
- considerable dangers would arise from encouraging consumers to buy this complex product without good-quality advice. Conduct of business regulation is more likely to provide effective consumer protection
- CAT standards are voluntary and usually involve setting the benchmark at a low, if not the lowest, common denominator. The public is then misled into thinking that purchasing the product guarantees its efficacy.