

policyholder protection – isle of man

questions and answers for financial advisers only

This document provides an outline of the policyholder protection legislation for the Isle of Man and, where possible, the policyholder's right to compensation. Royal Skandia accepts no responsibility for any acts or omissions taken as a result of this document.

Policyholder protection schemes are regarded as a safety net for the policyholders of a life assurance company and allows policyholders to claim for compensation in the unlikely event the company stops trading or becomes insolvent. The rules governing such schemes and specific rights for each policyholder vary from one jurisdiction to another and in some jurisdictions there is no scheme at all.

isle of man policyholder protection

Q. Is there any statutory protection on the Isle of Man for Royal Skandia policyholders?

A. Yes, the Isle of Man's Life Assurance (Compensation of Policyholders) Regulations 1991 ('the Regulations') offer protection to Royal Skandia's policyholders. Members of the Manx Insurance Association introduced a policyholder protection scheme by way of a voluntary arrangement on 5 April 1988 until the Regulations formalised the scheme on 1 February 1991 ('the Scheme').

Q. Are all Royal Skandia policies covered by the scheme?

A. The Scheme operates to cover all policies issued by Royal Skandia on or after 1 February 1991.

Q. Does the enactment of the Regulations mean that all policyholders who were protected under the voluntary arrangement cannot benefit from any policyholder protection?

A. No, all policies which were effected on or after 5 April 1988 which were covered under the voluntary arrangement will benefit from protection under the same rules governing policies which came into effect from 1 February 1991.

Q. How much would the Scheme pay to each policyholder?

A. The Scheme would pay compensation to eligible policyholders up to 90% of the amount owed to them.

Example:

Mr Jones has owned three Collective Investment Bonds with Royal Skandia since 2001. The total surrender value* of the bonds is £550,000. If Royal Skandia was to cease trading or become insolvent Mr Jones would be entitled to up to £495,000 (90% of the surrender value).

* Surrender value is sometimes referred to as encashment value. It means the value you receive when you choose to cash in your bond, after any charges have been deducted.

Q. What is meant by the term 'eligible policyholders'?

A. The term 'eligible policyholders' refers to a legal entity, such as an individual, trustees or a company, who own a policy at the time the authorised life insurer ceases trading or becomes insolvent.

Q. The value of my client's policy is less than the premium originally paid. If Royal Skandia ceased trading today how much would my client be entitled to?

A. Your client's investment is subject to investment risk and the value of the policy can increase as well as fall on a daily basis. It is the surrender value of the policy on the day that Royal Skandia ceased trading which would be used to calculate the amount of compensation your client would be entitled to.

Example:

Mr Sutton paid a premium of £450,000 into a Collective Investment Bond with Trouble and Strife Life Insurance Company. Mr Sutton requested a surrender value of his bond on 1 October 2007, and the surrender value on that day was £475,000. On 1 December 2007 Trouble and Strife Life Insurance Company announced that they had ceased trading. The surrender value of the bond on 1 December 2007 was £425,000.

The maximum amount that Mr Sutton would be entitled to claim under the Isle of Man scheme is £382,500 (90% of the surrender value of the bond as at 1 December 2007).

Q. What would happen if my client invested £100,000 into a Royal Skandia Bond and chose a US dollar denominated equity fund as its underlying investment, which then falls rapidly in value? Is my client entitled to claim under the Scheme for the investment loss he has incurred?

A. No, the investment risk the client chooses to take in respect of the bond is their responsibility.

There are a number of reasons for your client's investment falling in value in this example:

- (a) choosing to invest in a high-risk fund
- (b) choosing to invest in a fund which holds investments in another currency, which also includes the additional risk of exchange rate fluctuations.

The value of your client's investments will fluctuate daily and Royal Skandia cannot guarantee the amount the client will receive as a return on the investment.

Q. My client holds shares in Company X, which have been transferred to Royal Skandia, in order for them to be used as the underlying asset in my client's Royal Skandia bond. Company X has just gone into liquidation and the shares are now worthless. Can my client claim under the scheme for the loss incurred?

A. No, your client cannot claim under the Scheme. There are a number of factors to be aware of:

- (a) All underlying assets in a Royal Skandia bond are owned by Royal Skandia. Your client has transferred the ownership of the shares from himself to Royal Skandia and no longer has any legal entitlement to the shares; and
- (b) The Scheme is in place to compensate eligible policyholders of Royal Skandia, not to compensate for risks associated with investing in the underlying assets of the policy.

The outcome is the same where a client is holding a collective investment, OEIC or unit trust with a fund management group and the fund management group goes into liquidation.

Q. Is the situation described above the same if the underlying investment is a UK bank deposit and the bank goes into receivership?

A. Yes, regardless of the type of underlying asset the factors are still the same:

- (a) All underlying assets in a Royal Skandia bond are owned by Royal Skandia.
- (b) The Scheme is in place to compensate eligible policyholders of Royal Skandia, not to compensate for risks associated with investing in the underlying assets of the policy.

In view of this, Royal Skandia would need to seek compensation from the receivers for the bank as creditors or make a claim under the relevant compensation scheme.

For the UK there is a compensation scheme which covers bank deposits, the Financial Services Compensation Scheme (FSCS). Unfortunately, this scheme only covers individuals and small firms as eligible claimants for its scheme so Royal Skandia only has redress directly with the receivers for the bank.

Q. If the policyholder does not reside in the Isle of Man would he be able to claim compensation under the scheme?

A. Yes, the Isle of Man scheme offers protection to eligible policyholders no matter where in the world they reside.

Example:

If a policyholder resides in the UK and holds a Royal Skandia policy, the policyholder will be protected under the Manx Scheme because Royal Skandia is an authorised Isle of Man insurance company and is subject to Isle of Man company and insurance law.

Q. If the policy has changed ownership since the commencement date of the policy, who has the right to claim compensation under the scheme?

A. In the unlikely event Royal Skandia ceases trading or becomes insolvent, the legal entity who is the policyholder at the time the company ceases to trade or becomes insolvent can claim compensation under the terms of the Scheme.

protection of royal skandia's assets

Q. Are assets linked to Royal Skandia policies segregated from Royal Skandia's business assets?

A. The Isle of Man Insurance Act 1986 ('the Act') sets out how Manx life assurance companies must hold assets linked to the policies it issues. Section 15 of the Act requires every authorised insurance company to set up a special fund to hold assets linked to policies issued. This is known as a 'long-term business fund' (LTBF) in the Act. The assets held in the LTBF should generally only be applied for the purposes of meeting liabilities of the policies issued by Royal Skandia.

Q. Can Royal Skandia use any of the LTBF assets for its general business purposes?

A. The Act does allow an insurer to apply assets in the LTBF for purposes other than meeting policyholder liabilities but only if the assets exceed the liabilities. Even in those circumstances such a transfer can only be made following a resolution of Royal Skandia's directors and the written consent of the appointed actuary. The appointed actuary has a statutory duty to protect the interests of the policyholders generally. As Royal Skandia currently writes unit-linked business, there is always a close link between the value of the company's assets and the liabilities to its policyholders.

Q. How is Royal Skandia's business regulated and monitored?

A. The Act requires that Royal Skandia at all times keeps its LTBF accounts separate from its general business accounts. Royal Skandia must, at least yearly, produce a set of audited accounts to the Isle of Man Government Insurance & Pensions Authority for inspection. It is the responsibility of the appointed actuary to certify on prudent assumptions that the company is able to meet all policyholder claims and has maintained the required level of assets, which is known as the 'required solvency margin'. Royal Skandia is also subject to regular internal and external audit activity and inspection visits by its Regulator.

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Royal Skandia Life Assurance Limited is registered in the Isle of Man under number 24916. Registered and Head Office: Skandia House, King Edward Road, Onchan, Isle of Man, IM99 1NU, British Isles. Phone: +44 (0)1624 655 555 Fax: +44 (0)1624 611 715.

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SK6000/28-0768/August 2008