



BERMUDA

INSURANCE ACCOUNT RULES 2016

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SCHEDULES

The Bermuda Monetary Authority, in exercise of the power conferred by section 6A of the Insurance Act 1978, makes the following Rules:

Citation

- 1 These Rules may be cited as the Insurance Account Rules 2016.

Interpretation

- 2 In these Rules—

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- “the Act” means the Insurance Act 1978;
- “affiliate” in relation to an insurer, means a body forming part of a group with that insurer;
- “association” has the meaning given in the definition of “group”;
- “composite” and “section 24(6) composite” means an insurer which carried on both general business and long-term business;
- “consolidated” in relation to insurer’s statutory financial statements means the statutory financial statements which record the assets, liabilities, capital and surplus, income, and expenses of the insurer and its subsidiaries as those of a single economic entity in accordance with the insurer’s adopted Generally Accepted Accounting Principles (GAAP). In determining whether an insurer has control or exercises significant influence over a subsidiary, the insurer’s GAAP shall apply;
- “financial return” or “return” means statutory financial return;
- “Form” means a Form in Schedule I;
- “funds held by ceding reinsurers” means funds held by ceding reinsurers under the terms of contracts of insurance;
- “general business statutory assets” and “general business statutory liabilities” means assets and liabilities established in conformity with the requirements of Form 1SFS Column A for the statutory balance sheet of an insurer carrying on general business;
- “general purpose financial statements” refers to—
- (a) additional GAAP financial statements prepared in accordance with section 17A(2) of the Act; and
 - (b) any condensed general purpose financial statements under section 17A(2A) of the Act, prepared in accordance with these Rules;
- “group” means any two or more bodies, whether corporate or unincorporated, that are in association, and two bodies shall for the purposes of these Rules be deemed to be in association if one of them has control of the other or both are under the control of the same person or persons;
- “insurer” means a Class 3A, Class 3B, Class 4, Class C, Class D or Class E insurer;
- “non-admitted” means, in relation to an asset, an asset or portion of an asset that is not allowed by these Rules to be taken into account in preparing the statutory balance sheet;
- “policy” or “policy of insurance” means any contract of insurance (including any contract to pay an annuity on human life) whether or not there is in being any instrument in writing evidencing the contract;

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“policy loan” means a loan made to a policyholder by an insurer carrying on long-term business on the security of the cash surrender value of the policyholder’s policy of insurance;

“policy reserve” means the amount by which the present value of any benefits due under a policy of insurance exceeds the present value of the net premiums payable under the policy;

“quoted” means—

(a) in relation to an investment, an investment which has been granted a quotation or permission to deal on a stock exchange in Bermuda recognized by the Authority for the purposes of the Act, or on any stock exchange or over-the-counter market of repute outside Bermuda;

(b) in relation to the value of an investment, the market value of that investment, being the value listed on such an exchange or over-the-counter market as aforesaid on the last day of the relevant year,

and “unquoted” shall have a corresponding meaning, but any investment by any insurer in an affiliate shall not for any purpose of these Rules be taken to be either a quoted or an unquoted investment;

“relevant year” has the meaning assigned to it in paragraph 3(2);

“retrocessional contract” means a reinsurance contract whereby one reinsurer transfers to another insurer all or part of the reinsurance risk that it has assumed or will assume;

“unconsolidated” in regards to an insurer’s statutory financial statements means the statutory financial statements present investments in affiliates and the insurer’s share of the subsidiary’s net assets and financial results as a line item on the statutory balance sheet and statutory income statement respectively, following the valuation basis of the insurer’s adopted GAAP;

“unearned premiums” means the amount set aside as at the end of an insurer’s financial year out of premiums in respect of risks to be borne by the insurer after the end of that year, and calculated pro rata, under contracts of insurance entered into before the end of that year;

“unrelated business” means, in relation to an insurer, insurance business consisting of insuring risks of persons who are not shareholders in, or affiliates of, the insurer; and “related business”, in relation to an insurer, means insurance business which is not unrelated business.

Statutory financial return to relate to relevant year

3 (1) Every statutory financial return prepared in accordance with these Rules shall relate to the relevant year.

(2) In these Rules, “relevant year” in relation to a statutory financial return means the financial year to which the statutory financial statements relate which are required to be available or filed under section 18 of the Act.

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Content of statutory financial return

4 (1) The statutory financial return shall consist of—

- (a) an insurer information sheet;
- (b) an auditor's report;
- (c) a statutory balance sheet;
- (d) a statutory statement of income;
- (e) a statutory statement of capital and surplus;
- (f) notes to the statutory financial statements.

(2) Paragraphs 5 and 6 have effect as to the form and content of the insurer information sheet and the auditor's report, respectively.

(3) Every insurer shall file, in accordance with the requirements of these Rules, the statutory financial returns in respect of its insurance business for each financial year.

Insurer information sheet

5 The insurer information sheet shall state—

- (a) the name of the insurer and the title "Statutory Financial Return";
- (b) the certificate of registration number;
- (c) the class or classes of registration;
- (d) whether or not the insurer's statutory financial statements are available at the insurer's principal office in Bermuda pursuant to section 17(1) of the Act, or have been filed pursuant to section 17(3) of the Act;
- (e) the period covered by the insurer's statutory financial statements;
- (f) the currency in which amounts are shown in the insurer's statutory financial statements and whether that currency is the currency in which those amounts are required by paragraph 13(2) to be shown;
- (g) the rate or rates of exchange used in compliance with paragraph 13(4) for the purposes of any statutory financial statement required by these Rules;
- (h) the name of the insurer's ultimate parent company;
- (i) the name of the insurer's parent company;
- (j) the industry sector of the insurer's parent;
- (k) the insurer's ownership structure (for example, mutual company, company limited by shares, limited partnership, permit company, branch insurer, trust company, owned by a government or a government agency);
- (l) the insurer's company structure;

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- (m) the nature of the insurance business carried on by the insurer including—
 - (i) whether the insurer is a member of an insurance group;
 - (ii) whether the insurer has segregated accounts;
 - (iii) whether the insurer is in run-off;
 - (iv) whether the general purpose financial statements of the insurer for the relevant year have been audited and an unqualified opinion issued;
 - (v) the amounts prescribed by paragraph 10 as the minimum margin of solvency for general business insurers, and paragraph 12 as the minimum margin of solvency for long-term business insurers, and whether such margins were met;
 - (vi) for general business insurers, whether or not the minimum liquidity ratio applicable to the insurer for the relevant year was met;
- (n) the conditions, if any, which have been imposed on the insurer's registration under section 4 of the Act;
- (o) whether or not the insurer has complied with every condition attached to its certificate of registration;
- (p) the particulars of any direction issued or any other approvals granted by the Authority;
- (q) if any question in clause (m)(v), (m)(vi) or (o) has been answered in the negative, whether or not the insurer has taken corrective action in any case and, where the insurer has taken such action, describe the action in a statement attached to the certificate.

Auditor's report

- 6 (1) The auditor's report shall be signed by the insurer's approved auditor, addressed to the Authority, and shall state—
- (a) whether in his own opinion the auditor has carried out a proper examination of the insurer's general purpose financial statements, and that the examination was conducted and the audit scope prepared in accordance with an audit standard recognized by the Authority; and
 - (b) whether in his own opinion the statutory balance sheet, statutory income statement, and statutory capital and surplus have been prepared in accordance with the Act and these Rules.
- (2) Where any event specified in subparagraph (3) occurs in relation to an audit, the auditor shall qualify his report accordingly and include in his report such observations, whether of fact or opinion, as he considers necessary for bringing the nature and effect of the qualifications to the attention of the Authority.
- (3) The events referred to in subparagraph (2) are that—

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- (a) there were deficiencies in the general purpose financial statement audit consisting of—
 - (i) an inability of the auditor to obtain essential information;
 - (ii) restrictions on the scope of the audit;
 - (iii) some other deficiency or deficiencies;
- (b) the auditor disagreed with any valuation made in the general purpose financial statements;
- (c) in some respect or respects the statutory financial statements do not, in his opinion, comply with the requirements of the Act or any applicable rule;
- (d) the auditor considered that there was a significant doubt as to the insurer's ability to continue as a going concern.

Statutory balance sheet, statement of income, statement of capital and surplus

7 (1) Subject to paragraph 4, the statutory balance sheet, the statutory statement of income, and the statement of capital and surplus shall be prepared using Form 1SFS, Form 2SFS and Form 8SFS, respectively.

(2) The insurer shall—

- (a) consolidate the operation of affiliates in which it has control (as determined by the GAAP principles adopted by the insurer) in the consolidated statutory balance sheet and consolidated statutory statement of income; and
- (b) prepare the statutory balance sheet and statutory statement of income on an unconsolidated basis.

Notes to statutory financial statements

8 Every insurer shall set forth in a general note to its statutory financial statements the matters required in Schedule II on an unconsolidated basis.

Instructions relating to statutory financial statements

9 (1) Every insurer shall—

- (a) prepare its statutory balance sheet in accordance with the instructions in Schedule IV;
- (b) prepare its statutory statement of income in accordance with the instructions in Schedule V;
- (c) prepare its statutory statement of capital and surplus in accordance with the instructions in Schedule VI.

(2) If any instruction in Schedule III, IV, V or VI requires any amount to be shown or any information to be given in a line of a Form, that amount or information must be

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shown or given on that line notwithstanding that that line or that Form may not contain any express direction or indication where the amount or information is to be shown or given.

Minimum margin of solvency for general business

10 (1) For the purposes of section 6 of the Act, the minimum amount by which the value of the general business statutory assets of an insurer must exceed its general business statutory liabilities is the greatest of figure A, figure B, figure C and figure D, where those letters represent values calculated, in relation to that insurer, in accordance with Schedule VII.

(2) The minimum amount prescribed by subparagraph (1) shall not be less than that of figure D, where this letter represents a value calculated, in relation to an insurer, in accordance with Schedule VII.

Minimum liquidity ratio for general business

11 (1) The minimum proportion that the liquid assets of an insurer carrying on general business may bear to such an insurer's liabilities (in these Rules called "the minimum liquidity ratio") shall be in accordance with this paragraph.

(2) The value of the relevant assets of an insurer carrying on general business shall be not less than seventy-five per centum of the amount of its relevant liabilities, unless the insurer is a section 24(6) composite.

(3) The value of the relevant assets of a section 24(6) composite shall be not less than one hundred per centum of the amount of its relevant liabilities.

(4) In this paragraph—

"relevant assets" means the assets required by these Rules in Form 1SFS Column A to be shown on lines 1, 2(f), 3(b), 5(a), 9, 10(d), 11(e) and 12—

- (a) where the insurer is not a section 24(6) composite, of the insurer's statutory balance sheet for general business;
- (b) where the insurer is a section 24 (6) composite, of the insurer's statutory balance sheet,

and includes any other assets which the Authority, on application in any particular case made to him with reasons, accepts for the purposes of this definition in that case;

"relevant liabilities" means the aggregate of the insurer's liabilities required by this Rule in Part I Column A to be show on lines 19 and 38 of the statutory balance sheet less the aggregate of the insurer's liabilities required by these Rules to be shown on Lines 31(b) and 37 thereof.

Minimum margin of solvency for long-term business

12 (1) For the purposes of section 6 of the Act, the prescribed amount by which the value of the long-term business assets of an insurer carrying on long-term business must

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exceed its long-term business liabilities is the amount specified in Schedule VIII in relation to the relevant class of long-term insurer.

(2) The amount prescribed in subparagraph (1) shall not be less than the MMS floor specified in Schedule VIII.

(3) In this paragraph “long-term business assets” and “long-term business liabilities” mean assets and liabilities established in conformity with the requirements of this paragraph in Form 1SFS Part II Column A for the statutory balance sheet of an insurer carrying on long-term business.

Requirements relating to preparation of statutory financial returns generally

13 (1) All statutory financial returns shall be prepared in the English language.

(2) All amounts which, for any purposes of these Rules, are to be shown in any account of any insurer shall be shown in a single currency, and that currency shall be the currency in which the books and records of the insurer are kept in the insurer’s principal office in Bermuda or, where different books and records are kept in different currencies in that office, then the currency in which the majority of those books and records are kept.

(3) Notwithstanding subparagraph (2), where the Authority pursuant to section 17(1) of the Act directs the production to it of statutory financial statements and amounts in those statements are shown in a foreign currency, those amounts must be converted into their Bermudian equivalent before the said statements are so produced.

(4) For the purposes of subparagraphs (2) and (3), the Bermudian equivalent of an amount in a foreign currency shall be the Bermudian dollar equivalent of that amount as converted into Bermudian dollars at the rate of exchange used by any licensed bank in Bermuda or any central bank in relation to purchases by that bank of that foreign currency on the last day of the relevant year.

(5) For all items shown in any account of any insurer (other than a statutory open year business revenue statement), there shall be shown the corresponding amounts for the immediately preceding financial year.

Condensed general purpose financial statements

14 The Condensed Financial Statements shall be prepared by completing the—

- (a) condensed consolidated balance sheet;
- (b) condensed consolidated statement of income;
- (c) condensed consolidated statement of capital and surplus; and
- (d) notes to the condensed consolidated general purpose financial statements as prescribed in Schedules IX and X,

and populating the line items therein with the corresponding equivalent values of the line items in the insurer financial statements for the corresponding financial year, taking into account applicable instructions prescribed in Schedule XI.

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Commencement

15 These Rules come into operation on 15 March 2016 and apply to financial years commencing on or after 1 January 2016.

SCHEDULES

(paragraphs 2, 8, 9, 10, 12, 14)

The following Schedules, referred to in paragraphs 2, 8, 9, 10, 12 and 14, have been omitted from these Rules and published on the Authority's website www.bma.bm, in accordance with section 6A(8) of the Insurance Act 1978—

- SCHEDULE I
Content of Statutory Financial Statements
- SCHEDULE II
Notes to Statutory Financial Statements
- SCHEDULE III
Instructions Affecting the Statutory Financial Statements
- SCHEDULE IV
Instructions Affecting the Statutory Balance Sheet
- SCHEDULE V
Instructions Affecting the Statutory Statement of Income
- SCHEDULE VI
Instructions Affecting the Statutory Statement of Capital and Surplus
- SCHEDULE VII
Minimum Margin of Solvency for General Business
- SCHEDULE VIII
Minimum Margin of Solvency for Long-Term Business
- SCHEDULE IX
Condensed General Purpose Financial Statements
- SCHEDULE X
Notes to Condensed Consolidated General Purpose Financial Statements
- SCHEDULE XI
Instructions Affecting the Condensed General Purpose Financial Statements

Made this 3rd day of March 2016

Chairman
The Bermuda Monetary Authority