

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

INSURANCE AMENDMENT (NO. 2) ACT 2013

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SCHEDULE I

Amendments to the Insurance Accounts Regulations 1980

SCHEDULE II

Amendments to the Insurance Returns and Solvency Regulations 1980

WHEREAS it is expedient to amend the Insurance Act 1978, and to make consequential amendments;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Insurance Act 1978 (the "principal Act"), may be cited as the Insurance Amendment (No. 2) Act 2013.

Amends section 6

2 Section 6 (5) of the principal Act is amended by inserting before the words "or, as the case may be a Class E insurer"; the words ", Class C, Class D".

Amends section 17

3 Section 17 (4) of the principal Act is amended—

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- (a) in paragraph (a) by deleting “Class 1 or Class 2 insurer” and substituting “Class 1, Class 2 or Class 3 insurer”;
- (b) in paragraph (b) by deleting the words “Class 3,”.

Amends section 18A

4 Section 18A (2) of the principal Act is amended—

- (a) in paragraph (a) by deleting “Class 1, Class 2,” and substituting “Class 1, Class 2, Class 3,”;
- (b) in paragraph (b) by deleting the words “Class 3,”.

Amends section 30J

5 Section 30J (4) of the principal Act is amended by deleting “Class 1 and Class 2 insurer,” and substituting “Class 1, Class 2 and Class 3 insurer”;

Consequential amendments

- 6 (1) Schedule 1 which amends the Insurance Accounts Regulations 1980 has effect.
- (2) Schedule 2 which amends the Insurance Returns and Solvency Regulations 1980 has effect.

Commencement

7 This Act comes into operation on 1 January 2014.

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SCHEDULE I

(section 7)

AMENDMENTS TO THE INSURANCE ACCOUNTS REGULATIONS 1980

Amends Schedule I

1 The Schedule 1 to the Insurance Accounts Regulations 1980 (the “principal Regulations”) is amended—

- (a) in Form 4 “STATUTORY BALANCE SHEET (Long term Business)” by—
 - (i) deleting Statement Line 4 “INVESTMENTS IN AND ADVANCES TO AFFILIATES” and substituting—

- “ 4. INVESTMENTS IN AND ADVANCES TO AFFILIATES:
 - (a) Unregulated entities that conduct ancillary services
 - (b) Unregulated non-financial operating entities
 - (c) Unregulated financial operating entities
 - (d) Regulated non-insurance financial operating entities
 - (e) Regulated insurance financial operating entities
 - (f) Total investments in affiliates (equity method)
 - (g) Advances to affiliates
 - (h) Total investments in and advances to affiliates (equity method) ”;
- (ii) in Statement Line 12 (a) “FUNDS HELD BY CEDING REINSURERS” by deleting “Affiliates” and substituting “Affiliated”.
- (iii) by deleting Statement Line 13 “SUNDRY ASSETS” and substituting—

- “ 13. SUNDRY ASSETS:
 - (a) Derivative instruments XXX
XXX
 - (b) Segregated accounts companies-
variable annuities XXX
XXX
 - (c) Segregated accounts companies - others XXX
XXX

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- | | | | |
|-----|---------------------|-----|-----|
| (d) | Deposit Assets | XXX | |
| | | XXX | |
| (e) | _____ | XXX | XXX |
| (f) | Total sundry assets | XXX | ”; |
- (b) in Form 5 “STATUTORY STATEMENT OF INCOME (Long term business)” in Statement Line 19 (d) by inserting “PREMIUMS” after the word “REINSURANCE”;
- (c) in FORM 6 “STATUTORY BALANCE SHEET” by—
- (i) deleting Statement Line 4 “INVESTMENTS IN AND ADVANCES TO AFFILIATES”; and substituting—
- “ 4. INVESTMENTS IN AND ADVANCES TO AFFILIATES:
- (a) Unregulated entities that conduct ancillary services
- (b) Unregulated non-financial operating entities
- (c) Unregulated financial operating entities
- (d) Regulated non-insurance financial operating entities
- (e) Regulated insurance financial operating entities
- (f) Total investments in affiliates (equity method)
- (g) Advances to affiliates
- (h) Total investments in and advances to affiliates (equity method) ”;
- (ii) deleting “Affiliates” in Statement Line 12 (a) “FUNDS HELD BY CEDING REINSURERS” and substituting “Affiliated”.
- (iii) deleting Statement Line 13 “SUNDRY ASSETS” and substituting—
- “ 13. SUNDRY ASSETS:
- | | | | |
|-----|--|-----|--|
| (a) | Derivative instruments | XXX | |
| | | XXX | |
| (b) | Segregated accounts companies - variable annuities | XXX | |
| | | XXX | |
| (c) | Segregated accounts companies - others | XXX | |

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		XXX	
(d)	Deposit Assets	XXX	
		XXX	
(e)	_____	XXX	XXX
(f)	Total sundry assets	XXX	”;

- (d) in FORM 7 “STATUTORY STATEMENT OF INCOME (Section 24 (6) Composite and Special Purpose Insurer)” in Statement Line 19 (d) by inserting the word “PREMIUMS” after the word “REINSURANCE”.

Amends Schedule III

2 The principal Regulations are amended in Part III of Schedule III “Additional instructions for insurers carrying on long-term business only”—

- (a) in paragraph 23 “Policy reserves- accident & health” by deleting “These reserves shall be actuarially computed” and substituting “These reserves shall be an amount, actuarially computed, which are considered adequate.”;
- (b) in paragraph 26 “Other insurance reserves - long term business” by-
- (i) inserting after “sheet.” the words “These must be actuarially determined and be considered adequate.”; and
- (ii) deleting the words “These must be actuarially determined”.

SCHEDULE II

(Section 7)

AMENDMENTS TO THE INSURANCE RETURNS AND SOLVENCY REGULATIONS 1980

Amends Regulation 8A

1 The Insurance Returns and Solvency Regulations 1980 (the “principal Regulations”) are amended in regulation 8A (2) by inserting after “Part II” the words “(Classes 1, 2, and 3) and Part IV (Classes 3A, 3B and 4)”.

Amends regulation 10

2 Regulation 10 of the principal Regulations is amended—

- (a) in sub-paragraph (1) by deleting “and figure C,” and substituting “, figure C and figure D,”;
- (b) by inserting the following after sub-paragraph (1)—

“(1A) In the case of a Class 4, 3B and 3A insurer, the minimum amount prescribed by paragraph (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 I.”.

Amends Regulation 12

3 Regulation 12 of the principal Regulations is amended by inserting after paragraph (1)—

“(1A) In the case of a Class C, D or E insurer, the amount prescribed in paragraph (1) shall not be less than the MMS floor specified in Schedule III.”.

Revoke and replace Regulation 14

4 The principal Regulations are amended by revoking regulation 14 and substituting—

“Actuary’s certificate

14 (1) The actuary’s certificate shall relate to the long-term business of the insurer and shall be signed and dated by the insurer’s approved actuary.

(2) The insurer’s approved actuary shall state, in an opinion, to what extent the instructions in Part III of Schedule III to the Insurance Accounts Regulations 1980 relating to Line 27(d) of the statutory balance sheet, in so far as those instructions call for the opinion of an approved actuary, have been complied with.”.

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Amends Schedule I

5 Schedule I to the principal Regulations is amended by inserting after paragraph 3 a new paragraph 4 as follows—

“Figure D

4 For the purposes of regulation 10 (2), figure D shall be calculated by a Class 3A, Class 3B or Class 4 insurer as 25% of that insurer’s ECR reported at the end of its relevant year.”.

Revoke and replace Schedule III

6 Schedule III to the principal Regulations is repealed and replaced as follows—

“SCHEDULE III

(Reg. 12(1))

MINIMUM MARGIN OF SOLVENCY FOR LONG-TERM BUSINESS

<u>Class</u>	<u>Minimum Margin of Solvency ('MMS')</u>
A	greater of \$120,000 or 0.5% of assets;
B	greater of \$250,000 or 1% of assets;
C	greater of \$500,000 or 1.5% of assets;
D	greater of \$4,000,000 or 2% of first \$250,000,000 of assets plus 1.5% of assets above \$250,000,000;
E	greater of \$8,000,000 or 2% of first \$500,000,000 of assets plus 1.5% of assets above \$500,000,000;

where assets shall be the total assets reported on an insurer’s balance sheet in the relevant year less the amount held in a segregated account.

Application

1. The MMS shall be phased in over a period of three years from the coming into force of this Schedule.
2. The applicable MMS for the financial year ending in 2011 shall be 50% of the amount specified above 3.
3. The applicable MMS for the financial year ending in 2012 shall be 75% of the amount specified above.
4. The applicable MMS for the financial year ending in 2013 and beyond shall be the full amounts specified above.

<u>Class</u>	<u>MMS Floor</u>
C	25% of ECR
D	25% of ECR
E	25% of ECR

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Application

The MMS Floor shall come into operation on 1 January 2017. ”.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Insurance Act 1978 (the “principal Act”) by making some revisions in the regulation of insurance business.

The Bill further seeks to address housekeeping issues to ensure the principal Act is appropriately referenced and matters relating to initiatives arising out of consultation with industry are taken account of.

Clause 1 provides a citation for the Bill.

Clause 2 amends section 6 of the principal Act to address an oversight under subsection (5) which is corrected by providing for the requirements of that subsection to now apply to Classes C and D insurers.

Clause 3 amends section 17 of the principal Act to impose a requirement on Class 3 insurers to file their statutory financial statements 6 months after the end of the financial year as opposed to the current four months.

Clause 4 amends section 18A of the principal Act to provide for the penalty provision to apply to Class 3 insurers in alignment with the amendment to section 17 under clause 3.

Clause 5 amends section 30J of the principal Act to provide for the section to apply to Class 3 insurers. This amendment brings this section into alignment with the amendment to section 17 under clause 3.

Clause 6 makes provision for consequential amendments made in Schedules I and II. Schedule I amends the Insurance Accounts Regulations 1980 to provide for minor technical revisions relating to approved auditors; approved actuaries; loss reserve specialists and solvency margins. Schedule II amends the Insurance Returns and Solvency Regulations 1980 to provide for the inclusion of a list of investments and advances in affiliates which must be disclosed to the Authority and, generally, to provide for housekeeping amendments necessary to give greater clarity to the interpretation of certain provisions.

Clause 7 provides for the commencement date of the Act.