



BERMUDA

INSURANCE (PRUDENTIAL STANDARDS) (CLASS 3A SOLVENCY
REQUIREMENT) RULES 2011

BR 73 / 2011

TABLE OF CONTENTS

1	Citation
2	Interpretation
3	ECR
4	BSCR-SME model
5	Approved internal capital model
6	Capital and solvency return
6A	Declaration of capital and solvency returns
7	Commencement

SCHEDULES

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

Citation

1 These Rules may be cited as the Insurance (Prudential Standards) (Class 3A Solvency Requirement) Rules 2011.

Interpretation

2 In these Rules—

“Act” means the Insurance Act 1978;

“approved internal capital model” means a model approved under paragraph 5;

“available statutory capital and surplus” *[revoked]*

INSURANCE (PRUDENTIAL STANDARDS) (CLASS 3A SOLVENCY
REQUIREMENT) RULES 2011

“available statutory economic capital and surplus” means the amount shown in Line 40 of Form 1EBS as set out in these Rules;

“BSCR-SME model” means the Bermuda Solvency Capital Requirement - Small and Medium-Sized Entities model referred to in paragraph 4 and Schedule I;

“catastrophe risk” means the risk of a single catastrophic event or series of catastrophic events that lead to a significant deviation in actual claims from the total expected claims;

“concentration risk” means the risk of exposure to losses associated with inadequate diversification of portfolios of assets or obligations;

“credit risk” includes the risk of loss arising from an insurer’s inability to collect funds from debtors;

“currency risk” means the risk of losses resulting from movements in foreign currency exchange risks;

“ECR” means the enhanced capital requirement as defined in section 1(1) of the Act;

“encumbered assets” means assets held for security or as collateral against a liability or contingent liability of the insurer or other person or any other use restriction, excluding encumbered assets for policyholder obligations of the insurer;

“encumbered assets for policyholder obligations” means the total assets held for security or as collateral or otherwise restricted to meet the liabilities to the policyholders of the insurer in the event of a loss;

“Form 1A” *[revoked]*

“Form 1EBS” means Schedule XIV Class 3A Statutory Economic Balance Sheet set out in these Rules;

“Form 2A” means the Statutory Statement of Income (General Business) set out in Schedule I of the Insurance Accounts Regulations 1980;

“Form 8” means the Statutory Statement of Capital and Surplus set out in Schedule I of the Insurance Accounts Regulations 1980;

“group risk” means any risk of any kind arising from membership of a group;

“insurance underwriting risk” means any or all of the following—

- (a) premium risk;
- (b) reserve risk; or
- (c) catastrophe risk;

“legal risk” means the risk arising from an insurer’s failure to comply with—

- (a) a statutory or regulatory obligation;

INSURANCE (PRUDENTIAL STANDARDS) (CLASS 3A SOLVENCY
REQUIREMENT) RULES 2011

(b) its bye-laws; or

(c) its contractual agreement;

“liquidity risk” means the risk arising from an insurer’s inability to meet its obligations as they fall due, or to meet such obligations except at excessive cost;

“market risk” means the risk arising from fluctuations in—

(a) the value of assets or interest rates or exchange rates; or

(b) income from assets or interest rates or exchange rates;

“operational risk” means the risk of loss resulting from inadequate or failed internal processes, people and systems, or from external events, including legal risk;

“policyholder obligations” for the purposes of these Rules, mean the obligations set out in the aggregate Lines of 16(a), 17(a) and 18 of Form 1EBS under Schedule XIV as set out in these Rules;

“premium risk” means the risk that premium is insufficient to meet future obligations;

“relevant year” in relation to an insurer, means its financial year;

“reputational risk” includes risk of adverse publicity regarding an insurer’s business practices and associations;

“reserve risk” means the risk that an insurer’s technical provisions may be insufficient to satisfy its obligations;

“strategic risk” means the risk of an insurer’s inability to implement appropriate business plans and strategies, make decisions, allocate resources, or adapt to changes in the business environment;

“tail value-at-risk” (or “TVaR”) means the conditional average potential given that the loss outcome exceeds a given threshold.

[Paragraph 2 definition "policyholder obligations" inserted by BR 95 / 2012 para. 2 effective 1 January 2013; definitions "available statutory capital and surplus" and "Form 1A" revoked, "policyholder obligations" and "reserve risk" amended and "available statutory economic capital and surplus", "currency risk" and "Form 1EBS" inserted by BR 55 / 2015 para. 2 effective 1 January 2016]

ECR

3 (1) An insurer’s ECR shall be calculated at the end of its relevant year by reference to—

(a) the BSCR-SME model; or

(b) an approved internal capital model,

provided that the ECR shall at all times be an amount equal to or exceeding the minimum margin of solvency, as prescribed by section 6 of the Act.

(2) The ECR applicable to an insurer shall be—

INSURANCE (PRUDENTIAL STANDARDS) (CLASS 3A SOLVENCY
REQUIREMENT) RULES 2011

- (a) the ECR calculated at the end of its most recent relevant year; or
- (b) the ECR calculated after an adjustment has been made by the Authority under section 6D of the Act and has not otherwise been suspended under section 44A(4) of the Act,

whichever is later.

(3) Every insurer shall maintain available statutory economic capital and surplus to an amount that is equal to or exceeds the value of the ECR.

(4) Notwithstanding subparagraph (3), the ECR shall be phased in over a period of three years as follows—

- (a) the applicable ECR for the financial year ending 2011 shall be 50% of the amount determined by Schedule I or an approved internal capital model;
- (b) the applicable ECR for the financial year ending 2012 shall be 75% of the amount determined by Schedule I or an approved internal capital model; and
- (c) the applicable ECR for the financial year ending 2013 and beyond shall be the full amount determined by Schedule I or an approved internal capital model.

[Paragraph 3(3) amended by BR 55 / 2015 para. 3 effective 1 January 2016]

BSCR-SME model

4 The BSCR-SME model, set out in Schedule I, has effect.

Approved internal capital model

5 (1) An insurer may apply to the Authority for approval of an internal capital model to be used in substitution of the BSCR-SME model.

(2) Where the Authority is satisfied, having regard to subparagraph (3) that it is appropriate to do so, it may approve the internal capital model and may make its approval subject to conditions.

(3) In considering an application for approval of an internal capital model the Authority shall have regard to the following matters—

- (a) the appropriateness of the internal capital model for the determination of the insurer's capital requirement;
- (b) the extent to which the internal capital model has been integrated into the insurer's risk management program; and
- (c) the appropriateness of controls applicable to the creation and maintenance of the insurer's internal capital model.

(4) The Authority shall serve notice on an insurer of the following matters—

- (a) its decision to approve the internal capital model; or

INSURANCE (PRUDENTIAL STANDARDS) (CLASS 3A SOLVENCY
REQUIREMENT) RULES 2011

(b) its decision to not approve the internal capital model and the reason for its decision.

(5) An insurer served with a notice under subparagraph (4)(b) may, within a period of 28 days from the date of the notice, make written representations to the Authority; and where such representations have been made, the Authority shall take them into account in deciding whether to confirm its decision not to approve the insurer's internal capital model.

(6) The Authority may revoke the approval given under subparagraph (2) if satisfied that the insurer has breached a condition of the approval, or where the approved internal capital model is deemed by the Authority as no longer appropriate for determining the ECR.

(7) The Authority shall serve notice on the insurer of its proposal to revoke its approval of the insurer's internal capital model and the reason for its proposal.

(8) An insurer served with a notice under subparagraph (7) may, within a period of 28 days from the date of the notice, make written representations to the Authority; and where such representations have been made, the Authority shall take them into account in deciding whether to revoke its approval.

Capital and solvency return

6 (1) Schedules I, II, IIA, III, IIIA, IV, IVC, V, VI, IX, X, XII, XIV, XV, XVI and XVII to these Rules have effect.

(2) Every insurer shall make a capital and solvency return to the Authority which shall comprise the following documents—

(a) both an electronic version and a printed version of the BSCR-SME model and the returns prescribed under Schedules II, IIA, IIIA, IV, IVC, V, VI, IX, XII, XVI and XVII; and

(b) where applicable, a printed copy of an approved internal capital model.

(3) An insurer shall, on or before its filing date, furnish the Authority with its capital and solvency return.

(3A) An insurer shall, at the time of furnishing its capital and solvency return in accordance with subparagraph (3), also file with the Authority an opinion of its loss reserve specialist, which takes into account its technical provisions calculated in accordance with Line 19 of Form 1EBS and Schedule XV.

(4) An insurer shall keep a copy of its capital and solvency return at its principal office for a period of five years beginning with its filing date, and shall produce a copy of the return to the Authority, if so directed by the Authority, on or before a date specified in the direction.

(5) In this paragraph, "filing date" has the meaning given in section 17(4) of the Act.

[Paragraph 6 sub-paragraphs (1) and (2)(a) amended by BR 111 / 2013 para. 2 effective 1 January 2014; subparagraphs (1) and (2) amended and subparagraph (3A) inserted by BR 55 / 2015 para. 4 effective 1 January 2016; subparagraphs (1) and (2)(a) amended by BR 10 / 2016 rule 2 effective 15 March 2016]

INSURANCE (PRUDENTIAL STANDARDS) (CLASS 3A SOLVENCY
REQUIREMENT) RULES 2011

Declaration of capital and solvency returns

6A Every capital and solvency return made by an insurer under paragraph 6 shall be accompanied with a declaration signed by two directors of the insurer and by the insurer's principal representative declaring that to the best of their knowledge and belief, the return fairly represents the financial condition of the insurer in all material respects.

[Paragraph 6A inserted by BR 95 / 2012 para. 3 effective 1 January 2013]

Commencement

7 These Rules come into operation on 31 December 2011.

INSURANCE (PRUDENTIAL STANDARDS) (CLASS 3A SOLVENCY
REQUIREMENT) RULES 2011

SCHEDULES

*The Schedules to these Rules have been omitted.
They are available for inspection at the offices of the Bermuda Monetary Authority
or on the website www.bma.bm*

Made this 23rd day of December 2011

Chairman
The Bermuda Monetary Authority

[Amended by:

BR 95 / 2012
BR 111 / 2013
BR 93 / 2014
BR 55 / 2015
BR 10 / 2016]