



BERMUDA

INSURANCE (PRUDENTIAL STANDARDS) (INSURANCE GROUP SOLVENCY
REQUIREMENT) RULES 2011

BR 77 / 2011

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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) (Insurance Group Solvency Requirement) Rules 2011.

Interpretation

2 In these Rules—

“accident and health insurance” means an insurance that pays a benefit or benefits in the event of the person insured incurring an insured injury, illness or infirmity;

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- “Act” means the Insurance Act 1978;
- “annuity” means an insurance that provides savings or income benefits during the lifetime of the person insured or some limited period thereafter;
- “approved group internal capital model” means an internal model approved under paragraph 5;
- “available statutory capital and surplus”*[revoked]*
- “available statutory economic capital and surplus” means the amount shown in Line 40 of Form 1EBS as set out in these Rules”;
- “business continuity risk” includes a risk of an event that threatens or disrupts an insurance group’s continuous operations;
- “business processes risk” includes a risk of errors arising from data entry, data processing, or application design;
- “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;
- “compliance risk” includes a risk of legal or regulatory breaches or both;
- “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 insurance group’s inability to collect funds from debtors;
- “critical illness insurance” means a form of accident and health insurance that pays a benefit if the person insured incurs a predefined major illness or injury;
- “currency risk” means the risk of losses resulting from movements in foreign currency exchange risks;
- “deferred annuity” means an insurance that provides benefits at a future date which may be fixed deferred annuities where specified amounts are payable or variable annuities where the benefits are dependent on the performance of an investment fund or funds;
- “disability income insurance” means an accident and health insurance that pays a benefit for a fixed period of time during disability;
- “distribution channels risk” includes a risk of disruption to an insurance group’s distribution channel arising from employment of inexperienced or incapable brokers or agents;
- “double or multiple gearing” means the same capital being used towards satisfying regulatory capital requirements in two or more entities within an insurance group;
- “ECR” means the enhanced capital requirement as defined in section 1(1) of the Act;

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- “encumbered assets” means assets held for security or as collateral against a liability or contingent liability of the insurance group or other person or any other use restriction, excluding encumbered assets for the insurance group’s policyholder obligations;
- “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 insurance group in the event of a loss;
- “Form 1” *[revoked]*
- “Form 1EBS” means Schedule XIV Group Statutory Economic Balance Sheet set out in these Rules;
- “fraud risk” includes a risk of misappropriation of assets, information theft, forgery or fraudulent claims;
- “Group BSCR model” means the Bermuda Solvency Capital Requirement model established in accordance with paragraph 4 and Schedule I;
- “group life, health and disability insurance” means insurance that is issued to persons insured through a group arrangement such as through an employer or association;
- “group risk” means any risk of any kind, arising from membership of a group;
- “Group Rules” means the Insurance (Group Supervision) Rules 2011;
- “human resources (or “HR”) risk” includes a risk of employment of unethical staff, inexperienced or incapable staff, failure to train or retain experienced staff, and failure to adequately communicate with staff;
- “information technology (or “IT”) risk” includes a risk of unauthorized access to systems and data, data loss, utility disruptions, software and hardware failures, and inability to access information systems;
- “insurance” includes reinsurance;
- “insurance underwriting risk” means the risk of fluctuations or deterioration in the experience factors affecting the cost of benefits payable to policyholders or impacting upon the amounts held to provide for policyholder obligations including premium risk, catastrophe risk and reserve risk;
- “interest rate risk” means the risk that asset values are adversely affected by changes in current interest rates;
- “investment risk” means the risk that the actual return from an asset deviates from the expected return;
- “legal risk” means the risk arising from the failure of a parent or any member of the insurance group to—
- (a) comply with statutory or regulatory obligations;
 - (b) comply with its bye-laws; or

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(c) comply with any contractual agreement;

“life insurance” means insurance of risks on the mortality (risk of death) of the life insured; and term insurance, whole life insurance, and universal life insurance are construed accordingly;

“liquidity risk” means—

- (a) the risk arising from an insurance group’s inability to meet its obligations as they fall due; or
- (b) an insurance group’s inability to meet such obligations except at excessive cost;

“longevity risk” means the risk of fluctuations or improvements in mortality that cause benefits on payout annuities to be paid for longer than expected;

“market risk” means the risk arising from fluctuations in values of, or income from, assets or interest rates or exchange rates, and includes investment risk;

“material intra-group transaction” means—

- (a) an intra-group transaction where the total value is greater than or equal to 5% of the insurance group’s available capital and surplus;
- (b) a series of linked intra-group transactions that have a cumulative value that is greater than or equal to 10% of the insurance group’s available capital and surplus; or
- (c) an intra-group transaction where the qualitative risk characteristics of an intra-group transaction are assessed as high risk (including liquidity and solvency risk implications) and may adversely impact existing policyholders even though the quantitative impact remains unknown;

“morbidity risk” means the risk of fluctuations or deterioration of morbidity experience causing increased claims on accident and health insurance coverages;

“mortality risk” means the risk of fluctuations or deterioration of mortality experience causing increased claims on life insurance coverages;

“non-proportional insurance” means coverage of risk that is not shared at a given layer or that attach above an insured layer;

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

“outsourcing risk” includes a risk of miscommunication of responsibilities in relation to outsourcing, breach of outsource service agreements, or entering into inappropriate outsource service agreements;

“parent company” or “parent” has the meaning given to it in paragraph 2 of the Group Rules;

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- “payout annuity” including “contingent annuity” and “pension block” means an insurance that provides a series of payments to annuitants during their lifetime and/or for a fixed benefit period;
- “premium risk” means the risk that premium is insufficient to meet future obligations;
- “relevant year” in relation to an insurance group, means its financial year;
- “reputational risk” includes risk of adverse publicity regarding an insurance group’s business practices and associations;
- “reserve risk” means the risk that an insurance group’s technical provisions would be insufficient to satisfy its obligations;
- “stop loss insurance risk” means the risk that total claims experience deteriorates or is more volatile than expected, thereby increasing the likelihood and amount by which actual claims experience exceeds a predefined level;
- “strategic risk” means the risk of a parent company’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;
- “variable annuity guarantees” means insurance that provides a minimum investment guarantee on variable annuities.

[Paragraph 2 definitions "available statutory capital and surplus" and "Form 1" revoked, "reserve risk" amended and "available statutory economic capital and surplus", "currency risk" and "Form 1EBS" inserted by BR 57 / 2015 rule 2 effective 1 January 2016]

ECR

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

- (a) the Group BSCR model; or
- (b) an approved group internal capital model,

provided that the ECR shall at all times be an amount equal to, or exceeding, the minimum margin of solvency within the meaning of paragraph 19 of the Group Rules.

(2) The ECR applicable to an insurance group shall be—

- (a) the ECR as 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.

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

(4) Available statutory economic capital and surplus is determined by calculating the total capital and surplus reported on Form 1EBS, Line 40 and—

- (a) adding the capital contribution as applicable and entered by the insurance group; and
- (b) deducting capital reduction for entities with insufficient data as reported on Schedule XI(D).
- (c) *[revoked]*

(5) *[revoked]*

[Paragraph 3 subparagraph (5) inserted by BR 94 / 2012 para. 2 effective 1 January 2013; subparagraphs (3) and (4) amended by BR 57 / 2015 rule 3 effective 1 January 2016; subparagraph (5) revoked by BR 9 / 2016 rule 2 effective 15 March 2016]

Group BSCR model

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

Approved group internal capital model

5 (1) A designated insurer may apply to the Authority on behalf of the group of which it is a member for approval of a group internal capital model to be used in substitution of the Group BSCR model.

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

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

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

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

- (a) its decision to approve the group internal capital model; or
- (b) its decision to not approve the group internal capital model and the reason for its decision.

(5) A designated 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

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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 group internal capital model.

(6) The Authority may revoke the approval given under subparagraph (2) if it is satisfied that the insurance group has breached a condition of the approval or where the approved group internal capital model is deemed by the Authority no longer appropriate for the determination of the group's ECR.

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

(8) A designated 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.

Insurance group capital and solvency return

6 (1) Schedules II, IIA, III, IIIA, IVA, IVB, IVC, V, VI, VII, VIII, VIIIA, IX, X, XIA, XIB, XIC, XID, XII, XIII, XIV and XV have effect.

(2) Every insurance group must prepare a group capital and solvency return in accordance with Schedules I, II, IIA, III, IIIA, IVA, IVB, IVC, V, VI, VII, VIII, VIIIA, IX, X, XIA, XIB, XIC, XID, XII, XIII, XIV and XV.

(3) An insurance group capital and solvency return shall comprise the following—

- (a) both an electronic version and a printed version of the Group BSCR model;
- (b) both an electronic version and a printed version of the returns prescribed in Schedules I, II, IIA, III, IIIA, IVA, IVB, IVC, V, VI, VII, VIII, VIIIA, IX, X, XIA, XIB, XIC, XID, XII and XIII; and
- (c) where applicable, a printed copy of an approved group internal capital model.

(3A) Where the group maintains its accounts in foreign currency all amounts reported in a group capital and solvency return must be shown in the Bermuda equivalent.

(3B) For the purposes of subparagraph (3A)—

- (a) the Bermuda equivalent of an amount in foreign currency is the Bermuda dollar equivalent of that amount as converted into Bermudian dollars at the rate of exchange used by any licensed bank in Bermuda in relation to purchases by that bank of that foreign currency on the last day of the group's financial year;
- (b) notwithstanding clause (a), the Bermuda dollar equivalent of one U.S. dollar will be deemed to be one Bermuda dollar.

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(4) A designated insurer must furnish to the Authority an insurance group capital and solvency return in respect of the insurance group of which it is a member, on or before its filing date.

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

(6) In this paragraph, "filing date" has the meaning given in paragraph 25 of the Group Rules.

[Paragraph 6 subparagraphs (3A) and (3B) inserted by BR 94 / 2012 para. 3 effective 1 January 2013; subparagraphs (1), (2) and (3)(b) amended by BR 114 / 2013 para. 2 effective 1 January 2014; subparagraphs (1), (2) and (3)(b) amended by BR 57 / 2015 rule 4 effective 1 January 2016]

Declaration of insurance group capital and solvency return

7 Every group capital and solvency return submitted by a designated insurer on behalf of the group of which it is a member shall be accompanied with a declaration signed by—

- (a) two directors of the parent company, one of which may be the chief executive; and
- (b) either the chief risk officer of the parent company, or the chief financial officer of the parent company,

declaring that to the best of their knowledge and belief, the return fairly represents the financial condition of the insurance group in all material respects.

[Paragraph 7 revoked and replaced by BR 94 / 2012 para. 4 effective 1 January 2013; Paragraph 7(a) amended by BR 114 / 2013 para. 3 effective 1 January 2014]

Quarterly financial return

8 (1) Every insurance group shall prepare and file annually, quarterly financial returns no later than the end of the months of—

- (a) May for the first quarter;
- (b) August for the second quarter; and
- (c) November for the third quarter.

(2) A quarterly financial return shall comprise the following—

- (a) quarterly unaudited (consolidated) group financial statements in respect of its business for each financial quarter, where such statements are the most recent produced by the group, and must not reflect a financial position that exceeds two months;
- (b) intra-group transactions and risk concentrations which will include—

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- (i) details of material intra-group transactions that have materialized since the most recent quarterly or annual financial returns prepared and filed as the case may be, with the Authority by the insurer including (where applicable)—
 - (A) exposure value (face value or market value, if the latter is available);
 - (B) counterparties involved including where they are located;
 - (C) summary details of the transactions including purpose, terms and transaction costs;
 - (D) duration of the transaction; and
 - (E) performance triggers;
- (ii) details surrounding all intra-group reinsurance and retrocession arrangements, and other intra-group risk transfer insurance business arrangements that have materialized since the most recent quarterly or annual financial returns prepared and filed as the case may be, with the Authority by the insurer including—
 - (A) aggregated values of the exposure limits (gross and net) by counterparties broken down by counterparty rating;
 - (B) aggregated premium flows between counterparties (gross and net); and
 - (C) the proportion of the insurer's insurance business exposure covered by internal reinsurance, retrocession and other risk transfer insurance business arrangements;
- (iii) details of the ten largest exposures to unaffiliated counterparties and any other unaffiliated counterparty exposures or series of linked unaffiliated counterparty exposures exceeding 10% of the insurer's statutory capital and surplus, including—
 - (A) name of unaffiliated counterparty, including where the counterparty is located;
 - (B) exposure values (face value or market value, if the latter is available); and
 - (C) transaction type.

(3) Quarterly unaudited group financial statements shall minimally include a Balance Sheet and Income Statement.

(4) The information required to be included in the quarterly unaudited group financial statements shall be information calculated to fulfil (in addition to any other purposes for which Group Rules may require) the following purposes—

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- (a) to give as early warning as possible to any person examining the said statements (whether by way of notice of the observance or non-observance by the group of any ECR, or in any other way) of any financial or operational difficulties into which the insurance group's business has fallen or might appear likely to fall;
- (b) to provide the basis on which the Authority or any other authority may in good time take action under the Act or any other statutory provision to exercise any statutory power available to it for the safeguarding of any element of the public interest involved in or affected by the insurance group's business.

[Paragraph 8 subparagraph (2)(b) revoked and replaced by BR 94 / 2012 para. 5 effective 1 January 2013]

Offences

9 Every person who knowingly or recklessly makes a false or misleading statement or return shall be guilty of an offence and is liable on summary conviction to a fine up to \$50,000.

Commencement

- 10
- (1) Except for paragraph 3, these Rules come into operation on 16 January 2012.
 - (2) Paragraph 3 comes into operation on 1 January 2013.

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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 30th day of December 2011

Chairman
The Bermuda Monetary Authority

[Amended by:

BR 94 / 2012
BR 114 / 2013
BR 91 / 2014
BR 57 / 2015
BR 9 / 2016]