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INSURANCE (GENERAL) (AMENDMENT) REGULATIONS, 2011

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MINISTRY OF FINANCE

S.I. No. 51 of 2011

INSURANCE ACT
(CHAPTER 347)

INSURANCE (GENERAL) (AMENDMENT) REGULATIONS, 2011

The Commission, in exercise of the powers conferred by section 233 of the Insurance Act, makes the following regulations —

1. Citation.

These regulations, which amends the Insurance (General) Regulations,¹ may be cited as the Insurance (General) (Amendment) Regulations, 2011.

2. Amends regulation 2 of the principal Regulations.

Regulation 2 of the principal Regulations is amended by inserting, in the appropriate alphabetical order, the following —

“investment assets” mean cash, bonds, preference shares, real estate ventures, assets that represent a single or combination of investments in a single company or class of investments or other assets approved by the Commission;”.

3. Amends regulation 29 of the principal Regulations.

Regulation 29 of the principal Regulations is amended by deleting paragraph (3), and substituting therefor the following as a new paragraph (3) —

“(3) Where there is a catastrophe hazard, a registered insurer may —

- (a) with the prior written approval of the Commission; or
- (b) where the Commission is unable to approve borrowings within two business days after the occurrence of the catastrophe hazard,

borrow in excess of five percent of the assets of the body corporate, but such borrowings shall not exceed the potential recoveries from reinsurance.”.

4. Repeals and replaces regulation 70 of the principal Regulations.

Regulation 70 of the principal Regulations is repealed and replaced by the following —

¹S.I. No. 57 of 2010.

“70. Qualifying Assets.

- (1) Subject to regulations 71 and 72, qualifying assets which are based on the unconsolidated financial statements of the company prepared in accordance with International Financial Reporting Standards, are —
- (a) cash in hand and on deposit at a bank in The Bahamas;
 - (b) bank certificates of deposits;
 - (c) government bonds;
 - (d) government guaranteed bonds or securities approved by the Commission;
 - (e) securities including debt, preference shares or mutual funds quoted on a recognized securities exchange;
 - (f) preferred shares not quoted on a recognized securities exchange issued by a company or other debt instruments or investments approved by the Commission;
 - (g) performing loans by way of mortgages on real estate;
 - (h) net investment income due and accrued;
 - (i) premiums receivable;
 - (j) reinsurance balances receivable including unearned or deferred reinsurance premiums;
 - (k) accounts receivable (other than balances from brokers, agents, sub-agents and salespersons) net of provisions for bad and doubtful debts;
 - (l) land and buildings held for investment purposes;
 - (m) irrevocable letters of credit provided by a recognized bank, for such amount and on such conditions as approved by the Commission;
 - (n) policy loans which amount to a value less than the cash surrender value of the policy; and
 - (o) cash outside The Bahamas which is directly utilized to meet claims of policyholders or in support of policy liabilities in that jurisdiction,
- less the amount, if any, of any encumbrance.
- (2) Where a mutual fund is not listed on an approved exchange, the mutual fund may be a qualifying asset on a pro rata basis determined on its underlying assets that are qualifying assets under paragraph (1).

- (3) Notwithstanding paragraphs (1) and (2), the Commission may approve other categories of qualifying assets.”.

5. Amends regulation 71 of the principal Regulations.

Regulation 71 of the principal Regulations is amended by inserting, immediately after the words “an admissible”, the words “or a qualifying”;

6. Repeals and replaces regulation 72 of the principal Regulations.

Regulation 72 of the principal Regulations is repealed and replaced by the following —

“72. Admissible assets.

- (1) Subject to paragraph (2), for solvency or reduced requirements, admissible assets and the reduced value assigned to them, which are based on the unconsolidated financial statements of the company prepared in accordance with International Financial Reporting Standards, are —
- (a) goodwill and other intangible assets (100% discount);
 - (b) deferred acquisition costs (100% discount);
 - (c) non-performing mortgage loans overdue for ninety days or more (20% discount);
 - (d) furniture and fixtures (85% discount);
 - (e) equipment (50% discount) of the net value;
 - (f) computer software (100% discount);
 - (g) ordinary shares of private companies up to a maximum of 5% of admissible assets, exclusive of investments in private companies (25% discount);
 - (h) debit balances from brokers, agents, sub-agents and salespersons —
 - (i) 0 – 30 days outstanding (20% discount),
 - (ii) 31 – 90 days outstanding (50% discount),
 - (iii) greater than 90 days outstanding (100% discount);
 - (i) bills receivable that are not properly secured by collateral (100% discount);
 - (j) unsecured cash advances to or in the hands of officers or agents (100% discount);
 - (k) premiums outstanding for more than one modal —
 - (i) 0 – 30 days outstanding (0% discount),
 - (ii) 31 – 60 days outstanding (50% discount),

- (iii) greater than 60 days outstanding (100% discount);
 - (l) all NSF, Post Dated, Payment Stopped or otherwise non-bankable cheques (100% discount);
 - (m) non-arms-length transactions with affiliates (100% discount);
 - (n) accounts receivable (other than balances due from brokers, agents, sub-agents and salespersons) (50% discount);
 - (o) investment assets (other than assets in regulation 70(1)(a) to (d)) representing more than 60% of total investments (an additional 20% discount);
 - (p) securities including debt, preference shares or mutual funds quoted on a recognized securities exchange (20% discount);
 - (q) preferred shares issued by a company approved by the Commission (20% discount);
 - (r) land and buildings held for investment purposes (15% discount);
 - (s) land and office buildings used in operations (25% discount);
 - (t) real estate acquired as a result of foreclosed mortgages (25% discount);
 - (u) qualifying assets not referred to in subparagraphs (a) to (t) (0% discount);
 - (v) cash outside The Bahamas not referred to in regulation 70(1)(o) (0% discount); and
 - (w) other assets (100% discount).
- (2) The Commission may —
- (a) change the reduced values assigned to existing categories of admissible assets under paragraph (1), on a case by case basis; and
 - (b) approve other categories of admissible assets and the reduced value assigned to them.
- (3) Where a mutual fund is not listed on an approved exchange, the mutual fund may be an admissible asset on a pro rata basis determined on its underlying assets that are admissible assets under paragraph (1).”.

7. Amends regulation 74 of the principal Regulations.

Regulation 74(2) of the principal Regulations is amended by inserting, immediately after the words “in trust”, the words “under paragraph (1)”.

8. Inserts new regulation 89A into the principal Regulations.

The principal Regulations are amended by inserting, immediately after regulation 89, the following as new regulation 89A —

“89A. Use of International Financial Reporting Standards as option to valuation.

Notwithstanding regulations 83 to 89, the registered insurer may use International Financial Reporting Standards as an option to the valuation of assets and investments.”.

9. Amends regulation 93 of the principal Regulations.

Regulation 93(3) of the principal Regulations is amended by deleting the word “prescribed” and substituting therefor the words “determined by the Commission”.

10. Amends regulation 94 of the principal Regulations.

Regulation 94(2) of the principal Regulations is amended by deleting the word “prescribed” and substituting therefor the words “determined by the Commission”.

11. Repeals and replaces regulation 95 of the principal Regulations.

Regulation 95 of the principal Regulations is repealed and replaced by the following —

“95. Registration of sub-agents.

Pursuant to section 119(1) of the Act, sub-agents shall be registered in one of two categories and sponsored by a registered agent in accordance with section 123(3) of the Act —

(a) Category 1: Sole Proprietor.

An individual, producing annual commissions of two hundred and fifty thousand dollars or less; and

(b) Category 2: Corporate Sub-Agent.

A company producing annual commissions in excess of two hundred and fifty thousand dollars.”.

12. Repeals and replaces regulation 118 of the principal Regulations.

Regulation 118 of the principal Regulations is repealed and replaced by the following —

"118. Sub-agent's registration category.

Pursuant to section 119(1) of the Act, sub-agents shall be registered in one of two categories and sponsored by a registered agent in accordance with section 123(3) of the Act —

(a) Category 1: Sole Proprietor.

An individual, producing annual commissions of two hundred and fifty thousand dollars or less; and

(b) Category 2: Corporate Sub-Agent.

A company producing annual commissions in excess of two hundred and fifty thousand dollars."

13. Amends regulation 119 of the principal Regulations.

Regulation 119(3)(a) of the principal Regulations is amended by deleting the words "prescribed time period" and substituting therefor the words "time period as determined by the Commission".

14. Amends regulation 122 of the principal Regulations.

Regulation 122(2) of the principal Regulations is amended by inserting, immediately after the words "the insurer", the words ", broker, agent or sub-agent".

15. Repeals and replaces regulation 132 of the principal Regulations.

Regulation 132 of the principal Regulations is repealed and replaced by the following —

"132. Agents and sub-agents.

No sub-agent shall be registered under the Act to solicit or sell products for more than —

(a) one agent that is licensed only to sell long-term insurance and one agent that is licensed only to sell general insurance; or

(b) one agent that is licensed to sell both long-term and general insurance,

at the same time in accordance with section 123(3) of the Act."

16. Repeals and replaces regulation 139 of the principal Regulations.

Regulation 139 of the principal Regulations is repealed and replaced by the following —

"139. Submission of annual audited accounts.

- (1) The broker, agent and corporate sub-agent shall submit to the Commission, within four months of the close of each financial year, a copy of —
 - (a) the audited accounts;
 - (b) the balance sheet; and
 - (c) the profit and loss account,for that financial year.
- (2) A sole proprietor sub-agent shall submit to the Commission, within four months of the close of each financial year, a copy of the financial statements for that financial year, reviewed by an accountant registered and licensed under the Public Accountants Act (*Ch. 364*).

17. Amends regulation 140 of the principal Regulations.

Regulation 140(2)(c) of the principal Regulations is amended by inserting, immediately after the word "agent", the words ", sub-agent".

18. Amends Form 3 of the First Schedule to the principal Regulations.

Form 3 of the First Schedule to the principal Regulations is amended in Part A —

- (a) by deleting the word "broker", wherever that word appears and substituting therefor the word "sub-agent"; and
- (b) in paragraph 16, by deleting the words "a brokers' association" and substituting therefor the words "an association".

Made this 1st day of June, 2011.

Signed
LENNOX M^cCARTNEY
Superintendent of Insurance