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Insurance (Prudential Standards) (Class 3B and Class 4 Solvency Requirement) Amendment Order 20XX

In exercise of the powers conferred upon the Bermuda Monetary Authority by section 6A of the Insurance Act 1978, the following Order is made—

Citation and commencement

1. This Order may be cited as the Insurance (Prudential Standards) (Class 3B and Class 4 Solvency Requirement) Amendment Order 20XX and shall come into operation on the day of 20XX].

Interpretation

2. In this Order “principal Order” means the Insurance (Prudential Standards) (Class 3B and Class 4 Solvency Requirement) Order 20XX.

Paragraph 2 amended

3. Paragraph 2 of the principal Order is amended by inserting the following definitions in their alphabetical order –

“capital instruments” has the meaning given in paragraph 2 of the Insurance Returns and Solvency Regulations 1980;

“encumbered assets” has the meaning given in paragraph 2 of the Insurance Returns and Solvency Regulations 1980;

“Tier 1 capital” has the meaning given in paragraph 2 of the Insurance Returns and Solvency Regulations 1980;

“Tier 2 – ancillary capital” has the meaning given in paragraph 2 of the Insurance Returns and Solvency Regulations 1980;

“Tier 2 – basic capital” has the meaning given in paragraph 2 of the Insurance Returns and Solvency Regulations 1980;

“Tier 2 capital” has the meaning given in paragraph 2 of the Insurance Returns and Solvency Regulations 1980;

“Tier 3 - ancillary capital”, in relation to an insurer’s available statutory capital and surplus, includes the following-

(a) Tier 2 – basic capital or Tier 3 – basic capital instruments but are callable on demand and are unpaid; or

(b) capital instruments that satisfy the following-

- (i) in a winding-up or insolvency, is subordinated to the obligations of policyholders; and
- (ii) unencumbered; and
- (iii) maturity of not less than 3 years.

but excludes capital instruments that are included in Tier 1 capital, Tier 2 – ancillary capital, Tier 2 – basic capital, and Tier 3 – basic capital.

“Tier 3 - basic capital”, in relation to an insurer’s available statutory capital and surplus, shall include the following-

(a) the difference between the encumbered assets and the policyholder obligations for which the assets have been held as calculated in accordance with, the Insurance Accounts Regulations 1980, Form 1A, statutory balance sheet; and

(b) capital instruments that satisfy the following-

- (i) in a winding-up or insolvency, is subordinated to the obligations of policyholders; and
- (ii) unencumbered; and
- (iii) maturity of not less than 3 years; and
- (iv) non-redeemable; and
- (v) do not contain terms or conditions designed to accelerate or induce an insurer’s insolvency.

but excludes capital instruments that are included in Tier 1 capital, Tier 2 – ancillary capital, Tier 2 – basic capital, and Tier 3 – ancillary capital

“Tier 3 capital” means the aggregate sum of “Tier 3 – basic capital” and “Tier 3 – ancillary capital”;

Paragraph 3 amended

3. (1) Paragraph 3 (3) of the principal Order is deleted and the following substituted –

“(3) Every Class 3B and Class 4 insurer shall maintain available statutory capital and surplus to an amount that is equal to or exceeds the value of the ECR and that meets eligible capital limits prescribed in subparagraph (4).

(2) Paragraph 3 is amended by inserting the following subparagraph after subparagraph (3) –

“(4) The eligible capital limit is the aggregate sum of the following amounts -

- (a) an amount representing not less than 60% of the value of Tier 1 capital;
- (b) an amount representing not more than 30% of the value of Tier 2 capital; and
- (c) an amount representing not more than 10% of the value of Tier 3 capital.”.

Paragraph 6 amended

3. (1) Paragraph 6 (1) of the principal Order is amended by deleting “and VI” and substituting “VI and VII”.

(2) Paragraph 6(2) is amended –

- (a) by deleting “Class 4” and substituting “Class 3B and Class 4”;
- (b) in subparagraph (b) by deleting “and VI” and substituting “VI and VII”.

Schedule VIII added

4. The principal Order is amended by inserting the following schedule after Schedule VI–

“SCHEDULE VII

(Paragraph 6)

Schedule of ECR eligible capital

1. The schedule of ECR eligible capital shall disclose the following particulars of the eligible capital limits of the general business of Class 3B and Class 4 insurers –

(a) a separate entry dealing with each capital instrument included in Tier 1 capital, Tier 2 capital, Tier 2 – basic capital, Tier 2 – ancillary capital, Tier 3 capital, Tier 3 - basic capital, and Tier 3 – ancillary capital and each entry shall include the following–

- (i) a description of the capital instrument;
- (ii) the date of issue; and
- (iii) the value.”.