

**INSURANCE RETURNS AND SOLVENCY AMENDMENT
REGULATIONS 2008**

BR 2/2009

INSURANCE ACT 1978

1978 : 39

**INSURANCE RETURNS AND SOLVENCY AMENDMENT
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ARRANGEMENT OF REGULATIONS

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| 1 | Citation and commencement | 5 | Regulation 12A added |
| 2 | Interpretation | 6 | Schedule I replaced |
| 3 | Regulation 5 amended | | |
| 4 | Regulation 9A added | | |

In exercise of the powers conferred upon the Minister of Finance by sections 18 and 53 of the Insurance Act 1978 (“the Act”), the following Regulations are made—

Citation and commencement

1 These Regulations may be cited as the Insurance Returns and Solvency Amendment Regulations 2008 and shall come into operation on 31 December 2008.

Interpretation

2 In these Regulations, “principal Regulations” means the Insurance Returns and Solvency Regulations 1980.

**INSURANCE RETURNS AND SOLVENCY AMENDMENT
REGULATIONS 2008**

Regulation 5 amended

3 Regulation 5 of the principal Regulations is amended—

- (a) in paragraph (1)(bb)(ii), by inserting “and Part IV where applicable” after “Part II”;
- (b) in paragraph (1)(d), by inserting “Class 3A, Class 3B and” after “in the case of a”;
- (c) by inserting after paragraph (1)(d)—

“and

- (e) where the insurer carried on special purpose business in the relevant year, a special purpose business solvency certificate;”
- (d) by deleting paragraph (2) and substituting the following—

“(2) Regulations 6, 7, 8, 8A, 9, 9A, 13, 14 and 14A shall have effect as to the form and content of the cover sheet, the auditor’s report, the general business solvency certificate, the loss reserve certificate, the long-term business solvency certificate, the special purpose business solvency certificate, the declaration of the statutory ratios, the actuary’s certificate and the schedule of ceded reinsurance respectively.”

Regulation 9A added

4 (1) The principal Regulations are amended by adding the following regulation after Regulation 9—

“Special purpose business solvency certificate

9A (1) A special purpose business solvency certificate shall relate to the special purpose business of the insurer and shall be signed—

- (a) by at least two directors of the insurer (of whom one must be a director resident in Bermuda if the insurer has a director so resident); and
 - (b) by the insurer’s principal representative in Bermuda.
- (2) The said certificate shall state—
- (a) whether or not the insurer has prepared statutory financial statements in respect of the relevant year;

**INSURANCE RETURNS AND SOLVENCY AMENDMENT
REGULATIONS 2008**

- (b) whether or not the said statements are available at the insurer's principal office in Bermuda pursuant to section 17(1) or, as the case may be, have been filed pursuant to section 17(3) of the Act;
- (c) whether or not the insurer has complied with every condition attached to its certificate of registration;
- (d) the aggregate value of the insurer's assets as shown in the statutory balance sheet for the relevant year, in this sub-paragraph called "the statutory balance sheet assets value", and whether or not in the opinion of those signing the certificate—
 - (i) the statutory balance sheet assets value was determined in accordance with the requirements of the Act and of any applicable regulations;
 - (ii) the value of the insurer's assets at the end of the relevant year was in the aggregate at least equal to the statutory balance sheet assets value;
- (e) whether or not in the opinion of those signing the certificate the aggregate amount of the insurer's liabilities at the end of the relevant year (after taking into account all prospective and contingent liabilities, but not liabilities in respect of share capital) is not more than the aggregate amount of the liabilities as shown in the insurer's statutory balance sheet for that year;
- (f) the following amounts as shown in the insurer's statutory statement of income for the relevant year—
 - (i) the aggregate amount of the gross premiums written;
 - (ii) the aggregate amount of the reinsurance premiums ceded;
 - (iii) the aggregate amount of the net premiums written shown on line 3 of the insurer's statutory statement of income for the relevant year;

**INSURANCE RETURNS AND SOLVENCY AMENDMENT
REGULATIONS 2008**

- (iv) the aggregate amount of the premiums and other considerations shown on line 19(d) of the insurer's statutory statement of income for the relevant year;
- (g) whether any accounts of the insurer for the relevant year have been audited for any purpose other than the purposes of these Regulations;
- (h) the minimum special purpose business solvency margin prescribed by regulation 12A, and whether that margin was met;
- (i) whether the insurer's special purpose business is fully funded in accordance with the definition of special purpose business in section 1 of the Act;
- (j) the aggregate amount of the statutory capital and surplus as shown in the insurer's statutory statement of capital and surplus for the relevant year;
- (k) the currency in which amounts in the insurer's statutory financial statements for the relevant year have been shown;
- (l) the rate of exchange used, in compliance with paragraphs (2) and (3) of regulation 16, for the purposes of any statement called for by this regulation;
- (m) if any question in sub-paragraph (c), (h) or (i) of this paragraph has been answered in the negative, whether or not the insurer has taken corrective action in any case and, where the insurer has taken such action, a description of the action in a statement attached to the certificate."

Regulation 12A added

5 The principal Regulations are amended by adding after regulation 12 the following—

“Minimum margin of solvency for special purpose business

12A (1) The amount of \$1 dollar is hereby prescribed—

- (a) for the purposes of section 6(1) of the Act as the prescribed amount; and
- (b) for the purposes of the statement called for by regulation 9A(2)(h), as the minimum special purpose business solvency margin,

**INSURANCE RETURNS AND SOLVENCY AMENDMENT
REGULATIONS 2008**

by which the value of the special purpose business assets of an insurer carrying on special purpose business must exceed the amount of its special purpose business liabilities.

(2) In this regulation—

“special purpose business assets” and “special purpose business liabilities” respectively mean assets and liabilities established in conformity with the requirements of the Insurance Accounts Regulations 1980 for the statutory balance sheet of a special purpose insurer carrying on special purpose business;

“insurer” includes, in relation to section 6 of the Act, a body applying for registration as an insurer under the Act.”.

Schedule I replaced

6 Schedule I to the principal Regulations is amended by revoking Schedule I and replacing it with the following—

“SCHEDULE I (Reg. 10(1))

GENERAL BUSINESS SOLVENCY MARGIN

Figure A

1. For the purposes of regulation 10, figure A has the following value in relation to the class of insurer indicated—

Class 1	\$120,000
Class 2	\$250,000
Class 3	\$1,000,000
Class 3A	\$1,000,000
Class 3B	\$1,000,000
Class 4	\$100,000,000

Figure B

2. (1) For the purpose of regulation 10, sub-paragraphs (2) and (3) set out the method of calculating figure B in relation to Class 1, Class 2, Class 3, Class 3A, and Class 3B insurers, and sub-paragraph (4) in relation to Class 4 insurers.

(2) Where the net premiums—

**INSURANCE RETURNS AND SOLVENCY AMENDMENT
REGULATIONS 2008**

- (a) written by a Class 1, Class 2, Class 3, Class 3A or Class 3B insurer in its current financial year, or
- (b) projected to be written by an insurer, on application for registration as a Class 1, Class 2, Class 3, Class 3A or Class 3B insurer, in its first financial year,

do not, or (as the case may be) are not projected to, exceed \$6,000,000, figure B shall be calculated as 20% of those net premiums.

(3) Where the net premiums—

- (a) written by a Class 1, Class 2, Class 3, Class 3A or Class 3B insurer in its current financial year, or
- (b) projected to be written by an insurer, on application for registration as a Class 1, Class 2, Class 3, Class 3A or Class 3B insurer

do, or (as the case may be) are projected to, exceed \$6,000,000, figure B shall be calculated as \$1,200,000 plus the following percentage of the net premiums written which exceed \$6,000,000 in relation to the class of insurer indicated—

Class 1	10%
Class 2	10%
Class 3	15%
Class 3A	15%
Class 3B	15%

(4) Figure B shall be calculated as 50% of the net premiums written by a Class 4 insurer in its current financial year, or projected to be written by an insurer on application for registration as a Class 4 insurer.

(5) In this paragraph, “net premiums written” in relation to any financial year means—

- (a) in relation to a Class 1, Class 2, Class 3, Class 3A or Class 3B insurer, the net amount, after deductions of any premiums ceded by the insurer for reinsurance, of the premiums written by the insurer in that year in respect of general business; and
- (b) in relation to a Class 4 insurer, the net amount, after deductions of any premiums ceded by the insurer for reinsurance (not exceeding 25% of gross premiums written), of the premiums written by the insurer in that year in respect of general business,

**INSURANCE RETURNS AND SOLVENCY AMENDMENT
REGULATIONS 2008**

and “net premiums projected to be written” has a corresponding meaning.

Figure C

3 For the purposes of regulation 10, figure C shall be calculated as the following percentage of the aggregate—

- (a) of the amounts shown by the insurer in completing lines 17 and 18 of Form 1 or Form 1A (as applicable) in the Insurance Accounts Regulations 1980, or
- (b) of those amounts as projected by the insurer on application for registration,

in relation to the class of insurer indicated—

Class 1	10%
Class 2	10%
Class 3	15%
Class 3A	15%
Class 3B	15%
Class 4	15%

Made this 24th day of December, 2008

Minister of Finance