



BERMUDA

INSURANCE (PRUDENTIAL STANDARDS) (CLASS 4 AND CLASS 3B SOLVENCY
REQUIREMENT) AMENDMENT RULES 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, which amend the Insurance (Prudential Standards) (Class 4 and Class 3B Solvency Requirement) Rules 2008 (the “principal Rules”), may be cited as the Insurance (Prudential Standards) (Class 4 and Class 3B Solvency Requirement) Amendment Rules 2011.

Amends paragraph 2

2 The principal Rules are amended in paragraph 2 by inserting the following in their proper alphabetical order—

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“double or multiple gearing” means the same capital being used towards satisfying regulatory capital requirements in two or more entities;

“interest rate risk” means the risk that asset values are adversely affected by changes in current interest rates;

“material intra-group transaction” means—

- (a) an intra-group transaction where the total value is greater than or equal to 5% of the insurer’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 insurer’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;”.

Amends paragraph 3

3 The principal Rules are amended in paragraph 3 by revoking subparagraph (2)(b) and replacing it with the following—

- “(b) the ECR calculated after an adjustment has been made by the Authority under section 6D and has not otherwise been suspended under section 44A (4) of the Act,”.

Amends paragraph 5

4 The principal Rules are amended in paragraph 5(6) by inserting after “approval” at its second occurrence the words “, or where the approved internal capital model is deemed by the Authority no longer appropriate for the determination of the ECR”.

Amends paragraph 6

5 The principal Rules are amended in paragraph 6 by revoking subparagraph (5).

Inserts paragraph 6AB

6 The principal Rules are amended by inserting after paragraph 6A the following—

“Quarterly financial return

6AB (1) Every insurer that is not a member of a group for which the Authority is the group supervisor 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

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- (c) November for the third quarter.
- (2) An insurer's quarterly financial return shall comprise the following—
 - (a) quarterly unaudited financial statements in respect of its business for each financial quarter, such statements should be the most recent produced by the insurer, and must not reflect a financial position that exceeds two months; and
 - (b) intra-group transactions and risk concentrations which include—
 - (i) a list of material intra-group transactions;
 - (ii) details of material intra-group transactions including (where applicable)—
 - (A) exposure value (face value and 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;
 - (iii) details surrounding all intra-group reinsurance and retrocession arrangements 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);
 - (C) the proportion of the insurer's insurance business exposure covered by internal reinsurance, retrocession and other risk transfer arrangements; and
 - (D) counterparties involved including where they are located; and
 - (iv) the ten largest exposures to counterparties and any other counterparty exposures exceeding 10% of the insurer's statutory capital and surplus, including—
 - (A) name of counterparty, including where they are located;
 - (B) exposure values (face value and market value); and
 - (C) transaction type.
- (3) Quarterly unaudited financial statements shall minimally include a balance sheet and income statement.

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

- (a) to give as early warning as possible to any person examining the statements (whether by way of notice of the observance or non-observance by the insurer of any ECR, or in any other way) of any financial or operational difficulties into which the insurer's business has fallen or might appear likely to fall; and
- (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 insurer's business.”.

Amends Schedule I

7 The principal Rules are amended in Table 3 of Schedule I—

- (a) in the heading by deleting “120” and substituting “200”; and
- (b) in column 4 by deleting “1.2%” where ever it occurs and substituting “2.0%”.

Amends Schedule V

8 (1) The principal Rules are amended in Schedule V under the heading “SCHEDULE OF RISK MANAGEMENT”—

- (a) in paragraph (b) by inserting after “exposures” the words “and risk concentrations”;
- (b) in paragraph (n) by deleting the word “and”;
- (c) in paragraph (o) by deleting “the risk register.” and substituting “exposure territories; and”; and
- (d) by inserting after paragraph (o) the following—
 - “(p) the risk register.”.

(2) The principal Rules are amended in Schedule V under the heading “INSTRUCTIONS AFFECTING SCHEDULE V”—

- (a) in paragraph (a) by inserting after “governance” the words “and group”;
- (b) in paragraph (a)(i) by inserting after “including” the word “names,”;
- (c) in paragraph (a)(i) by deleting the word “and” where it last occurs;
- (d) in paragraph (a)(ii) by inserting after “sub-committees;” the word “and”;
- (e) by inserting after paragraph (a)(ii) the following—

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- “(iii) the name of the jurisdiction(s) where the group’s board of directors primarily deliberates on matters including—
 - (A) setting strategic decision;
 - (B) determining the (re)insurer’s risk appetite;
 - (C) choice of corporate structure, including amalgamations, acquisitions and strategic alliances;
 - (D) choice of new lines of business, new products, marketplace positioning; and
 - (E) assessing solvency needs;
 - (iv) the name of the jurisdictions where the group’s board of directors and chief and senior executives primarily reside;
 - (v) the name of the jurisdiction where the group’s central control functions reside (i.e., group finance, actuarial, and risk management);
 - (vi) the group’s financial position based on its most recent audited general purpose financial statement regarding its—
 - (A) total assets;
 - (B) total reserves; and
 - (C) capital and surplus;
 - (vii) the name of insurers within the group that have the three highest—
 - (A) total asset value;
 - (B) total insurance reserve value; and
 - (C) total capital and surplus based on the group’s most recent audited general purpose financial statement;
 - (viii) the total values for subparagraph (vii)(A), (B) and (C);
 - (ix) the jurisdiction of incorporation of each insurer in subparagraph (vii);
 - (x) any events which have occurred or decisions made subsequent to the relevant year-end that would, or have, materially changed the information in subparagraphs (iii) through (ix) (e.g., amalgamation or acquisition or restructuring, etc.). Provide a detailed response and explanation; and
 - (xi) a copy of the latest group organizational chart;”;
- (f) by inserting after paragraph (b) the following—

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- “(ba) the disclosures required to be made in relation to material transactions of intra-group exposures between the insurer and other members of the group to which it belongs; all intra-group reinsurance and retrocession arrangements, and the ten largest exposures to counterparties and any other counterparty exposures exceeding 10% of the insurer’s statutory capital and surplus under paragraph (b), shall be the same disclosures required to be made under paragraph 6AB(2)(b);”;
- (g) in paragraph (g) by deleting “model;” and substituting the words “model. The documentation used to derive the gross probable maximum loss must be retained for at least five years, once a capital and solvency return has been filed in accordance with paragraph 6, at the registered office of the insurer and shall be presented to the Authority upon request;”;
- (h) in paragraph (h) by deleting “model;” and substituting the words “model. The support documentation used to derive the net probable maximum loss must be retained for at least five years, once a capital and solvency return has been filed in accordance with paragraph 6, at the registered office of the insurer and shall be presented to the Authority upon request;”; and
- (i) in paragraph (i)—
- (i) by deleting the word “and” at its last occurrence in subparagraph (i);
- (ii) by inserting “and” at the end of subparagraph (ii); and
- (iii) by inserting the following after subparagraph (ii);
- “(iii) the support documentation must be retained for at least five years, once a capital and solvency return has been filed in accordance with paragraph 6, at the registered office of the insurer and shall be presented to the Authority upon request;”.

Amends Schedule VII

9 The principal Rules are amended in Schedule VII by revoking and replacing Table 8 with the following—

“Table 8
CISSA Capital Summary

Risk categories	(a) CISSA capital	(b) Regulatory capital
Premium risk		
Reserve risk		
Catastrophe risk		

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Market risk		
Credit risk		
Liquidity risk		
Group, Concentration, Reputational and Strategic risk		
Other (specify)		
Total capital pre-diversification between risk categories		
Diversification credit between risk categories		
Total capital after diversification between risk categories before operational risk		
Operational risk		
Total capital after diversification and operational risk		

Where:

- (a) CISSA capital is the amount of capital the insurer has determined that it requires to achieve its strategic goals upon undertaking an assessment of all material (reasonably foreseeable) risks arising from its operations or operating environment; and
- (b) Regulatory capital is determined by the BSCR or an approved internal capital model at 99.0% Tail Value-at-Risk ("TVaR") over a one year time horizon.

ADDITIONAL INFORMATION

1. What is the primary reason(s) (select multiple responses where applicable) for aiming at the disclosed CISSA amount?:
 - target agency rating (e.g. "A-", "AA", etc);
 - market share;
 - business expansion;
 - nature of product(s) (e.g. risk characteristics);
 - manage downgrade risk;
 - regulatory capital requirements; and

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- others _____ (Provide a description)
2. What methodology is used to aggregate the risk categories in deriving the CISSA capital? (Select all that apply)
- correlation matrix;
 - linear correlations;
 - T copulas;
 - gumbel copulas;
 - clayton copulas;
 - causal drivers approach eg., inflation, cycles; and
 - others _____ (Provide a description)
3. What contingency plans are in place for raising additional capital under stress situations? (select all that apply)
- parental guarantees;
 - revolving letters of credit;
 - issue subordinated debt;
 - issue preference shares;
 - float additional shares;
 - capital injections from parent;
 - contingent surplus notes;
 - catastrophe derivatives (e.g. bonds, swaps and options); and
 - Others
4. Does the insurer have arrangements or contractual commitments, including forward purchase agreements or guarantees, to provide support to affiliates or other companies in stressed situations? (Yes or No)
- If yes, briefly describe the arrangement(s) and the aggregate exposure.
5. Has the insurer down streamed debt to establish equity positions (participations) or, engaged in double or multiple gearing? (Yes or No)
- If yes, provide details and amount of capital.
6. Has debt been down streamed to establish equity positions in the insurer, or is the insurer using capital that is double or multiple geared? (Yes or No)
- If yes, provide details and amount of capital. ”.

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Revokes and replaces Schedule X

10 The principal Rules are amended by revoking and replacing Schedule X with the following—

“SCHEDULE X

(Paragraph 6)

SCHEDULE OF ELIGIBLE CAPITAL

The schedule of eligible capital shall provide particulars of the following matters—

- (a) Tier 1, Tier 2 and Tier 3 eligible capital (Table 9); and
- (b) particulars of each capital instrument approved by the Authority as “Any other fixed capital” (in accordance with Form 8, Line 1(c) under the Insurance Accounts Regulations 1980).

Table 9

Total statutory capital and surplus (Form 8, Line 3)

Less: Encumbered assets (not securing policyholder obligations)

Subtotal:

Tier 1 - Basic Capital

- (a) Fully paid shares (Form 8, Line 1(a)(i))
- (b) Contributed surplus or share premium (Form 8, Line 1(b))
- (c) Statutory surplus - End of Year (Form 8, Line 2(h) (deficit) or retained earnings)
- (d) Capital adjustments
- (e) Hybrid capital instruments: Non-cumulative, perpetual or fixed term preference shares - Qualifying
- (f) Other:
- (g) Less: Treasury shares (Form 8, Line 1(a)(iii))
- (h) Less: Difference between encumbered assets for policyholder obligations (Notes to Form 1A, Line 15), including funds held by ceding reinsurers (Form 1A, Line 12(c)) and policyholder obligations (Form 1A, Lines 16, 17(a) and 18) - Encumbered assets for policyholder obligations (Notes to Form 1A, Line 15), including funds held by ceding reinsurers (Form 1A, Line 12(c))
Less: Policyholder obligations (Form 1A, Lines 16, 17(a) and 18)
- (i) Less: Encumbered assets not securing policyholder obligations
- (j) Less: Restricted assets in excess of capital requirements to the extent that these amounts are not included in encumbered assets both for policyholder obligations and not for policyholder

Tier 1 - Ancillary Capital

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- (a) Perpetual or fixed term subordinated debt (Form 8, Line 1(c))

Total Tier 1 Available Capital

Tier 2 - Basic Capital

- (a) Hybrid capital instruments:
Cumulative preference shares
- (b) Other:
- (c) Add: Difference between encumbered assets for policyholder Obligations (Part II, Note 1 of the Notes to the Statutory Financial Statements), including funds held by ceding reinsurers (Form 1A, Line 12) and policyholder obligations (Form 1A, Lines 16, 17(a) and 18) deducted from Tier 1 (if it qualifies)

Tier 2 - Ancillary Capital

- (a) Unpaid and callable common shares (Form 8, Line 1(c))
- (b) Qualifying unpaid and callable hybrid capital (Form 8, Line 1(c))
- (c) Qualifying unpaid and callable non-cumulative, perpetual preference shares (Form 8, Line 1(c))
- (d) Perpetual or fixed term subordinated debt (Form 8, Line 1(c))
- (e) Approved letters of credit (Form 8, Line 1(c))
- (f) Approved guarantees (Form 8, line 1(c))

Total Tier 2 Available Capital

Total 3 - Basic Capital

- (a) Short-term hybrid capital instruments cumulative preference shares
- (b) Short-term subordinated debt

Tier 3 - Ancillary Capital

- (a) Short-term subordinated debt (Form 8, Line 1(c))
- (b) Approved letters of credit (Form 8, Line 1(c))
- (c) Approved guarantees (Form 8, Line 1(c))

Total Tier 3 Available Capital

Total available capital and surplus

Regulatory Capital Level

Minimum Margin of Solvency

Enhanced Capital Requirement

Instructions Affecting Table 9

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Table 9 inputs are subject to any eligible capital rules prescribed by the Authority under section 6A of the Act.

The insurer shall include all components of total statutory capital and surplus (Form 8, Line 3 of the Insurance Accounts Regulations 1980) subject to adjustments made under section 6D of the Act in Table 10 in accordance with the provisions of any eligible capital rules prescribed by the Authority under section 6A of the Act.

For the Tier 1 basic capital, to calculate the “Difference between encumbered assets for policyholder obligations and policyholder obligations”, the insurer shall determine the difference between the encumbered assets for the policyholder obligations, including funds held by ceding reinsurers and the higher of (i) the policyholder obligations of the insurer for which assets have been held and calculated in accordance with Form 1A, Lines 16, 17(a) and 18 and (ii) the capital requirement applicable to the encumbered assets for policyholder obligations where the encumbered assets for policyholder obligations exceeds both policyholder obligations and the capital requirement applicable to the encumbered assets for policyholder obligations.

For Tier 2 basic capital, to calculate the “Difference between encumbered assets for policyholder obligations and policyholder obligations”, the insurer shall determine the difference between the encumbered assets for the policyholder obligations and the higher of (i) the policyholder obligations of the insurer for which assets have been held and calculated in accordance with Form 1A, Line 17(a) and (ii) the capital requirement applicable to the encumbered assets for policyholder obligations where the encumbered assets for policyholder obligations exceeds both policyholder obligations and the capital requirement applicable to the encumbered assets for policyholder obligations.

Table 9A

For the year ending _____, 20XX
expressed in _____ (currency)

Description of capital instrument	Date of issue	Maturity date (as applicable)	Value of the capital instrument	Eligible capital Tier

Total available capital and surplus

Instructions affecting Table 9A

The insurer to include every capital instrument contributing to the amount reported in Form 8, Line 1(c) of the Insurance Accounts Regulations 1980

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in Table 9A in accordance with the provisions of any eligible capital rules
prescribed by the Authority under section 6A of the Act. ”.

Commencement

11 These Rules come into operation on 31 December 2011.

Made this 23rd day of December 2011

Chairman,
The Bermuda Monetary Authority