



BERMUDA MONETARY AUTHORITY

INSURANCE DIVISION

**GUIDANCE NOTES FOR
RECLASSIFICATION OF LONG-TERM INSURERS IN
ACCORDANCE WITH THE INSURANCE AMENDMENT
(No. 3) ACT 2010**

1. Introduction

These Guidance Notes have been produced with the aim of providing informal, non-statutory guidance on the reclassification requirements and additional information for consideration when (re)insurers are determining the appropriate class for re-classification applications.

The aim of these Guidance Notes is to facilitate the uniform application of the legislation as it relates to the reclassification of all Long-Term insurers. All applicants should note however, that it is the responsibility of individual businesses to ensure their compliance with the law. The reader with specific queries may seek further advice from the Authority, as appropriate.

2. Scope of Guidance

The Insurance Amendment (No. 3) Act 2010 (the “Amendment Act”) came into force on 31st December 2010 and created five new classes of long-term insurance licenses: Class A, Class B, Class C, Class D, and Class E. These Guidance Notes relate principally to the rules set down in the Insurance Act 1978, (as amended by the Insurance Amendment (No. 3) Act 2010) which facilitate the reclassification of the existing Long-Term sector. They also provide additional information for consideration when applicable (re)insurers are determining the appropriate class for reclassification applications.

3. Definitions

In these Guidance Notes, the following terms are used.

"The Act" means the Insurance Act 1978 and its related regulations.

“Long-Term business” means the description in section 1 of the Act.

“Class A insurer " means the description in section 4EB of the Act.

“Class B insurer " means the description in section 4EC of the Act.

“Class C insurer " means the description in section 4ED of the Act.

“Class D insurer " means the description in section 4EE of the Act.

“Class E insurer " means the description in section 4EF of the Act.

“Unrelated business”, in relation to an insurer, means insurance business consisting of insuring the risks of persons who are not shareholders in, or affiliates of, the insurer (see Section 2 of the Insurance Returns and Solvency Regulations 1980). Insurance business will be considered unrelated or related based upon the relationship of the originating insurance company with the original consumer. If insurance business is unrelated at the time of issue, it remains unrelated business when transferred through reinsurance arrangements to affiliated companies.

“Affiliate” means a body forming part of a group with that insurer (Section 2 of the Act).

4. Application Process

All Long-Term insurers are required to submit an application for reclassification by 30th September 2011.

Any Long-Term (re)insurer that fails to apply for reclassification by the 30th September, 2011 may have its registration cancelled by the Bermuda Monetary Authority (“the Authority”) in accordance with Section 31 (4) of the Insurance Amendment Act 2010 (“the Act”).

The following documents must accompany a completed Form T-1 application form

- The company’s original Certificate of Registration
- Most recent audited statutory financial statements
- Management accounts as at 31st December 2010 or more recent if available
- The applicable application fee \$500.00 in the case of Class A and B and \$1000.00 in the case of Class C, D and E.

The Authority, in accordance with Section 4EA (2) of the Insurance Act 1978 may register a (re)insurer as a particular class of insurer where it would not be so registrable under sections 4EB to 4EF if, after taking into account:

(a) the nature of the intended relationship between the (re)insurer and its intended policyholders, the interests of those policyholders and of the public generally, and

(b) the level of regulation which is applicable to the different classes of insurer carrying on long-term business.

The Authority may exercise the powers of Section 4EA in certain circumstances were the (re)insurer’s business model, international profile and/or conditions of licence (including Section 56 directions and any other regulatory approvals) may warrant registration in a class within which the (re)insurer may not normally qualify to be registered. This could

result in a (re)insurer that may normally qualify to be registered in a class with increased regulatory oversight being allowed to register in a lower class, and vice versa.

ISSUES FOR CONSIDERATION

5. Affiliated Reinsurers

In exercising the Authority's discretion under Section 4EA of the Act, a Long-Term (re)insurer shall be registrable as a Class C (re)insurer if said (re)insurer is only assuming reinsurance from affiliated ceding (re)insurers.

If the (re)insurer assumes non-affiliated reinsurance and the (re)insurer is also exceeding \$250 million of total assets less amounts held in segregated accounts with respect to the non-affiliated reinsurance, then said (re)insurer shall be registrable as a Class D or Class E (re)insurer whichever is applicable.

6. Premiums or Assets Exceeding 20% Unrelated Business

In exercising the Authority's discretion under Section 4EA of the Act, for the purposes of the reclassification requirement, any (re)insurer whose net premiums written and/or total long-term business insurance reserves exceeds the 20% unrelated test shall be required to re-register as a Class C, Class D or Class E (re)insurer. Therefore, if a company is writing less than 20% unrelated net premiums but the reserves for unrelated business exceed 20% of total reserves, then said (re)insurer would not meet the criteria for a Class A or Class B insurer and would be required to make application to re-register as a Class C, Class D or Class E insurer.

7. Net Premiums Written

For the purposes of the re-registration requirement, the 20% unrelated test shall apply to the net position only. The gross position with respect to related vs. unrelated shall not be considered.

8. In Force Regulatory Approvals

All existing regulatory approvals including but not limited to section 56 directions, relevant asset approvals and other fixed capital approvals shall remain in force despite the reclassification of the (re)insurer in accordance with the new criteria. Please be advised that the Authority shall review all such approvals as it reviews the application for re-registration to ensure that said approvals remain appropriate. Should the Authority deem any previously granted approval to no longer be appropriate during the review and analysis of the re-registration application, the Authority shall consult with the applicant prior to amending or voiding said approval.

Please send the completed application form and the accompanying documents directly to

The Bermuda Monetary Authority
Insurance Division
BMA House
43 Victoria Street
Hamilton HM 12

P.O. Box 2447
Hamilton HM JX

Should you have any questions, queries or concerns please contact Ms. Leslie Robinson at lrobinson@bma.bm or 278-0277.

APPENDIX

TRANSITION NOTE

1. All new applications to conduct long-term business processed after January 1, 2011 will be registered as a Class A, Class B, Class C, Class D or Class E insurer as the case may be.
2. Insurers registered as a long-term insurer prior to January 1, 2011 are required to apply for re-registration as a Class A, Class B, Class C, Class D or Class E insurer by September 30, 2011.
3. As communicated in the Consultation Paper on Proposed Fees and the Guidance Notes for Annual Fees, the 2011 Annual Fees for long-term insurers will be based upon the anticipated reclassification determined from the insurer's December 31, 2010 assets. Where an insurer anticipates that its license class will be different from that determined strictly from its asset size (primarily affiliate only reinsurers or those that will qualify as a Class A or Class B insurer), it may apply for reclassification earlier. Those long-term insurers that seek and receive reclassification by March 31, 2011 will have their fees determined according to their new classification.
4. As communicated in the Consultation Paper on A Solvency Framework for Long-term Insurance and the Authority's response to the industry feedback, a trial run of the new reporting standards will be conducted in 2011 with those insurers with \$500 million or more of long-term insurance assets. Long-term insurers exceeding \$500 million in assets that apply for reclassification by March 31, 2011 and are re-registered in a Class other than E will be exempt from the trial run.