



BERMUDA

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

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TABLE OF CONTENTS

1	Citation
2	Interpretation
3	Statutory Statements and Returns: General
4	Statutory Financial Statements
5	Statutory Financial Return
6	General requirements
7	Minimum margin of solvency
8	Minimum liquidity ratio
9	Commencement
	SCHEDULE I
	Forms
	SCHEDULE II
	Instructions Affecting the Statutory Balance Sheet
	SCHEDULE III
	Notes to Statutory Financial Statements
	SCHEDULE IV
	Calculating Minimum Margin of Solvency

The Bermuda Monetary Authority, in exercise of the power conferred by section 6A of the Insurance Act 1978, makes the following Rules:

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

Citation

1 These Rules may be cited as the Insurance (Technical Standards) (Class IIGB Insurers) (Statements, Returns, and Capital Solvency) Rules 2020.

Interpretation

2 In these Rules, unless the context indicates otherwise—

“the Act” means the Insurance Act 1978;

“affiliate” in relation to a Class IIGB Insurer, means a body forming part of a group with that Class IIGB Insurer;

“association” has the meaning assigned to it in the definition of “group”;

“consolidated” in relation to a Class IIGB Insurer’s Statutory Financial Statements means the Statutory Financial Statements which record the assets, liabilities, capital and surplus, income, and expenses of the Insurer and its subsidiaries as those of a single economic entity in accordance with the Class IIGB Insurer’s adopted Generally Accepted Accounting Principles (GAAP). In determining whether an Insurer has control or exercises significant influence over a subsidiary, the Insurer’s GAAP shall apply;

“digital asset” means digital asset as defined under section 2(1) of the Digital Asset Business Act 2018;

“Financial Return” or “Return” means Statutory Financial Return;

“Form” means a Form as set out in Schedule I to these Rules;

“funds held by ceding reinsurers” means funds held by ceding reinsurers under the terms of contracts of insurance;

“group” means any two or more bodies, whether corporate or unincorporated, that are in association, and two bodies shall for the purposes of these Rules be deemed to be in association if one of them has control of the other or both are under the control of the same person or persons;

“non-admitted” means, in relation to an asset, an asset or portion of an asset that is not allowed by these Rules to be taken into account in preparing the Statutory Balance Sheet;

“policy” or “policy of insurance” means any contract of insurance (including any contract to pay an annuity on human life) whether or not there is in being any instrument in writing evidencing the contract;

“policy loan” means a loan made to a policyholder by a Class IIGB Insurer carrying on long-term business on the security of the cash surrender value of the policyholder’s policy of insurance;

“policy reserve” means the amount by which the present value of any benefits due under a policy of insurance exceeds the present value of the net premiums payable under the policy;

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

“quoted” means—

- (a) in relation to an investment, an investment as respects which there has been granted a quotation or permission to deal on a stock exchange in Bermuda, or on any stock exchange outside Bermuda recognized by the Authority for the purpose of these Rules, or over-the-counter market of repute outside Bermuda; and
- (b) in relation to the value of an investment, the market value of that investment, being the value listed on such an exchange or over-the-counter market as aforesaid on the last day of the relevant year,

and “unquoted” has a corresponding meaning, but any investment by a Class IIGB Insurer in an affiliate shall not for any purpose of these Rules be taken to be either a quoted or an unquoted investment;

“relevant year” means the financial year to which the Statutory Financial Statements or the Statutory Financial Return relates;

“retrocessional contract” means a reinsurance contract whereby one reinsurer transfers to another insurer all or part of the reinsurance risk that it has assumed or will assume;

“unconsolidated” in regards to a Class IIGB Insurer’s Statutory Financial Statements means the Statutory Financial Statements present investments in affiliates and the Class IIGB Insurer’s share of the subsidiary’s net assets and financial results as a line item on the Statutory Balance Sheet and the Statutory Income Statement respectively, following the valuation basis of the Insurer’s adopted GAAP;

“unrelated business” means, in relation to a Class IIGB Insurer, insurance business consisting of insuring risks of persons who are not shareholders in, or affiliates of, the Class IIGB Insurer; and “related business”, in relation to a Class IIGB Insurer, means insurance business which is not unrelated business.

Statutory Statements and Returns: General

3 (1) The Statutory Financial Statements required under section 15 of the Act shall be prepared in accordance with paragraphs 4 and 6 of these Rules.

(2) The Statutory Financial Return required under section 18 of the Act shall be prepared in accordance with paragraphs 5 and 6 of these Rules.

(3) A copy of the Statutory Financial Statements (together with the Notes to those statements and the Auditor’s Report thereon) shall be filed with the Authority in accordance with section 17(4)(b) of the Act, and shall be accompanied with the Statutory Financial Return.

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

Statutory Financial Statements

4 (1) The Statutory Financial Statements shall consist of the Statutory Balance Sheet, the Statutory Statement of Income, and the Statutory Statement of Capital and Surplus.

(2) The—

(a) Statutory Balance Sheet shall be—

- (i) as set out in Form 1SFS of Schedule I to these Rules; and
- (ii) prepared in accordance with Schedule II to these Rules;

(b) Statutory Statement of Income shall be as set out in Form 2SFS of Schedule I to these Rules;

(c) Statutory Statement of Capital and Surplus shall be as set out in Form 8SFS of Schedule I to these Rules.

(3) If any instruction in Schedule II requires any amount to be shown or any information to be given in a line of a Form, that amount or information must be shown or given on that line notwithstanding that that line or that Form may not contain any express direction or indication where the amount or information is to be shown or given.

(4) Where a Class IIGB Insurer has control in affiliates, the Insurer shall—

(a) consolidate the operation of its affiliates (as determined by the GAAP principles adopted by the Insurer) in the consolidated Statutory Balance Sheet and the consolidated Statutory Statement of Income; and

(b) prepare the Statutory Balance Sheet and the Statutory Statement of Income on an unconsolidated basis.

(5) The Notes to the Statutory Financial Statements shall set forth the matters called for in Schedule III to these Rules on an unconsolidated basis.

(6) The Auditor's Report shall be signed by the Class IIGB Insurer's approved auditor, addressed to the Authority, and shall state whether, in the auditor's own opinion, the Statutory Balance Sheet, the Statutory Statement of Income, the Statutory Statement of Capital and Surplus, and accompanying Notes to the Statutory Financial Statements have been prepared in accordance with the Act and these Rules.

(7) Where any event specified in subparagraph (8) occurs in relation to an audit, the auditor shall qualify his report accordingly and include in his report such observations, whether of fact or opinion, as he considers necessary for bringing the nature and effect of the qualifications to the attention of the Authority.

(8) The events referred to in subparagraph (7) are that—

(a) there were deficiencies in the general purpose financial statement audit consisting of—

- (i) an inability of the auditor to obtain essential information;
- (ii) restrictions on the scope of the audit; or

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

- (iii) some other deficiency or deficiencies;
- (b) the auditor disagreed with any valuation made in the general purpose financial statements;
- (c) in some respect or respects the Statutory Financial Statements do not, in the auditor's opinion, comply with the requirements of the Act or any applicable Rule;
- (d) the auditor considered that there was a significant doubt as to the Insurer's ability to continue as a going concern.

Statutory Financial Return

5 (1) The Statutory Financial Return shall consist of the Class IIGB Insurer Information Cover Sheet.

(2) The Class IIGB Insurer Information Cover Sheet shall state—

- (a) the name of the Insurer and bear the title "Statutory Financial Return";
- (b) the Insurer's certificate of registration number;
- (c) whether or not the Insurer's Statutory Financial Statements are available at the Insurer's principal office in Bermuda, pursuant to section 17(1) of the Act, and have been filed pursuant to section 17(3) of the Act;
- (d) the period covered by the Insurer's Statutory Financial Statements;
- (e) the currency in which amounts are shown in the Insurer's Statutory Financial Statements, and whether that currency is the currency in which those amounts are required by paragraph 6(2) to be shown;
- (f) the rate or rates of exchange used in compliance with paragraph 6(4) for the purposes of the Statutory Financial Statements;
- (g) the name of the Insurer's ultimate parent company;
- (h) the name of the Insurer's parent company;
- (i) the industry sector of the Insurer's parent company;
- (j) the Insurer's ownership structure (for example, mutual company; company limited by shares; limited partnership; permit company; branch insurer; trust company; owned by a government or a government agency);
- (k) the Insurer's company structure;
- (l) the nature of the insurance business carried on by the Insurer, including—
 - (i) whether the Insurer is a member of an insurance group;
 - (ii) whether the Insurer has segregated accounts;

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

- (iii) the amount prescribed by paragraph 7 as the minimum margin of solvency for general business insurers, and whether such margin was met;
- (iv) whether or not the minimum liquidity ratio applicable to the Insurer for the relevant year was met;
- (m) the conditions, if any, which have been imposed on the Insurer's registration by the Authority under section 4 of the Act;
- (n) whether or not the Insurer has complied with every condition attached to its certificate of registration;
- (o) the particulars of any direction issued or any other approvals granted by the Authority;
- (p) if any statement in clause (l)(iii), (iv) or (m) has been confirmed in the negative, whether or not the Insurer has taken corrective action in any case and, where the Insurer has taken such action, describe the action in a statement attached to the Return.

General requirements

6 (1) The Statutory Financial Statements, the Statutory Financial Returns and all other documents required to be prepared under paragraphs 4 and 5 shall be prepared in the English language.

(2) All amounts which, for any purposes of these Rules, are to be shown in any account of the Class IIGB Insurer shall be shown in a single currency, and that currency shall be the currency in which the books and records of the Insurer are kept in its principal office in Bermuda or, where different books and records are kept in different currencies in that office, then the currency in which the majority of those books and records are kept.

(3) Notwithstanding subparagraph (2), where the Authority pursuant to section 17(1) of the Act directs the production of Statutory Financial Statements and amounts in those Statements are shown in a foreign currency, those amounts must be converted into their Bermudian equivalent before the Statements are produced.

(4) For the purposes of subparagraphs (2) and (3), the Bermudian equivalent of an amount in a foreign currency shall be the Bermudian dollar equivalent of that amount as converted into Bermudian dollars at the rate of exchange used by any licensed bank in Bermuda or any central bank in relation to purchases by that bank of that foreign currency on the last day of the relevant year.

(5) For all items shown in any account of the Class IIGB Insurer (other than a statutory open year business revenue statement) there shall be shown the corresponding amounts for the immediately preceding financial year.

Minimum margin of solvency

7 (1) For the purposes of section 6 of the Act, the minimum amount by which the value of the statutory assets of a Class IIGB Insurer must exceed its statutory liabilities is

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

the greatest of figure A, figure B, figure C and figure D, where those letters represent values calculated in accordance with Schedule IV to these Rules.

(2) The minimum amount prescribed by subparagraph (1) shall not be less than that of figure D, where this letter represents a value calculated in accordance with Schedule IV to these Rules.

Minimum liquidity ratio

8 (1) The minimum proportion that the liquid assets of a Class IIGB Insurer carrying on may bear to such an Insurer's liabilities (in these Rules called "the minimum liquidity ratio") shall be in accordance with this paragraph.

(2) The value of the relevant assets of a Class IIGB Insurer shall be not less than seventy-five per centum of the amount of its relevant liabilities.

(3) In this paragraph—

"relevant assets" means the assets required in Column A to be shown on lines 1, 2(f), 3(b), 5(a), 9 and 10 of Form 1SFS of Schedule I to these Rules including any other assets which the Authority, on application in any particular case made to it with reasons, accepts for the purposes of this definition in that case;

"relevant liabilities" means the aggregate of the Class IIGB Insurer's liabilities required in Part I Column A to be shown on lines 19 and 38 of Form 1SFS of Schedule I to these Rules, of the Statutory Balance Sheet less the aggregate of the Insurer's liabilities required to be shown on Lines 34 and 37 of Form 1SFS of Schedule I to these Rules.

Commencement

9 These Rules come into operation on 30 April 2020 and apply to financial years commencing on or after 31 December 2019.

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

SCHEDULE I

(paragraph 4)

FORMS

Schedule I has been omitted from these Rules and published on the Authority's website, www.bma.bm, in accordance with section 6A(8) of the Insurance Act 1978.

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

SCHEDULE II

(paragraph 4)

INSTRUCTIONS AFFECTING THE STATUTORY BALANCE SHEET

Schedule II has been omitted from these Rules and published on the Authority's website, www.bma.bm, in accordance with section 6A(8) of the Insurance Act 1978.

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

SCHEDULE III

(paragraph 4)

NOTES TO STATUTORY FINANCIAL STATEMENTS

Schedule III has been omitted from these Rules and published on the Authority's website, www.bma.bm, in accordance with section 6A(8) of the Insurance Act 1978.

INSURANCE (TECHNICAL STANDARDS) (CLASS IIGB INSURERS)
(STATEMENTS, RETURNS, AND CAPITAL SOLVENCY) RULES 2020

SCHEDULE IV

(paragraph 7)

CALCULATING MINIMUM MARGIN OF SOLVENCY

Schedule IV has been omitted from these Rules and published on the Authority's website, www.bma.bm, in accordance with section 6A(8) of the Insurance Act 1978.

Made this 28th day of April 2020

Chairman
Bermuda Monetary Authority

[Operative Date: 30 April 2020]