



BERMUDA

INSURANCE (SPECIAL PURPOSE INSURERS) (STATEMENTS,  
RETURNS AND SOLVENCY REQUIREMENT) RULES 2020

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## INSURANCE (SPECIAL PURPOSE INSURERS) (STATEMENTS, RETURNS AND SOLVENCY REQUIREMENT) RULES 2020

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

### *Preliminary*

#### Citation

1 These Rules may be cited as the Insurance (Special Purpose Insurers) (Statements, Returns and Solvency Requirement) Rules 2020.

#### Interpretation

2 In these Rules—

“the Act” means the Insurance Act 1978;

“GAAP” means generally accepted accounting principles;

“IFRS” means International Financial Reporting Standards;

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

“Special Purpose Insurer” has the meaning given in section 1(1) of the Act.

### *Statutory Financial Statements*

#### Statutory Financial Statements: General

3 (1) The Statutory Financial Statements, required under section 15 of the Act, shall be prepared in accordance with—

- (a) paragraphs 4 and 14, where the Special Purpose Insurer carries on general business;
- (b) paragraphs 5 and 14, where the Special Purpose Insurer carries on long-term business.

(2) A copy of the Statutory Financial Statements shall be filed with the Authority in accordance with section 17(4)(b) of the Act, accompanied with the Statutory Financial Return.

#### Special Purpose Insurer: General business

4 (1) Where a Special Purpose Insurer carries on general business, 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 as set out in Form 1A of Schedule I (“Forms”);
- (b) Statutory Statement of Income shall be as set out in Form 2A of Schedule I;

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- (c) Statutory Statement of Capital and Surplus shall be as set out in Form 8 of Schedule I.
- (3) The Forms referred to in subparagraph (2) shall be prepared—
  - (a) by populating the line items of the respective Forms with the corresponding line items in the GAAP financial statements as set out in paragraph 7; and
  - (b) in accordance with Schedule II (“Statutory Financial Statements: Instructions”).

Special Purpose Insurer: Long-term business

5 (1) Where a Special Purpose Insurer carries on long-term business, the Statutory Financial Statement 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 as set out in Form 4 of Schedule I (“Forms”);
  - (b) Statutory Statement of Income shall be as set out in Form 5 of Schedule I;
  - (c) Statutory Statement of Capital and Surplus shall be as set out in Form 8 of Schedule I.
- (3) The Forms referred to in subparagraph (2) shall be prepared—
  - (a) by populating the line items of the respective Forms with the corresponding line items in the GAAP financial statements as set out in paragraph 7; and
  - (b) in accordance with Schedule II (“Statutory Financial Statements: Instructions”).

*Statutory Financial Returns*

Statutory Financial Return: General

- 6 The Statutory Financial Return of every Special Purpose Insurer shall consist of—
- (a) GAAP financial statements prepared in accordance with paragraphs 7 and 14;
  - (b) a Cover Sheet prepared in accordance with paragraphs 8 and 14;
  - (c) the Statement of Control and Changes of Control prepared in accordance with paragraphs 9 and 14;
  - (d) the Solvency Certificate prepared in accordance with paragraphs 10 and 14;
  - (e) the Annual Statutory Declaration prepared in accordance with paragraphs 11 and 14;

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- (f) the Own-Risk Assessment prepared in accordance with paragraphs 12 and 14;
- (g) the Alternative Capital Arrangements prepared in accordance with Schedule III and paragraph 14;
- (h) the Cyber Risk Management prepared in accordance with Schedule IV and paragraph 14; and
- (i) the Compliance with Sanctions prepared in accordance with Schedule V and paragraph 14.

GAAP financial statements

7 (1) Every Special Purpose Insurer shall, in respect of its insurance business, prepare GAAP financial statements for each financial year in accordance with this paragraph.

- (2) The GAAP financial statements shall be prepared in accordance with—
  - (a) IFRS;
  - (b) GAAP that applies in Bermuda, Canada, the United Kingdom or the United States of America;
  - (c) Condensed GAAP prepared in accordance with the Insurance Accounts Rules 2016; or
  - (d) such other GAAP as the Authority may in writing recognize.
- (3) Where a Special Purpose Insurer writes—
  - (a) unrestricted special purpose business, the GAAP financial statements shall be audited;
  - (b) restricted special purpose business, the GAAP financial statements shall be unaudited.

Cover sheet

- 8 The cover sheet shall set out—
- (a) the name of the Special Purpose Insurer and bear the title “Statutory Financial Return”;
  - (b) the Insurer’s certificate of registration number;
  - (c) the period covered by the Return;
  - (d) 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 shown;
  - (e) the name of the Insurer’s ultimate parent;
  - (f) the name of the Insurer’s parent company;

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- (g) the industry sector of the Insurer's parent company;
- (h) 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);
- (i) the Insurer's company structure;
- (j) the nature of the insurance business carried on by the Insurer, including but not limited to—
  - (i) whether the Insurer is an affiliated reinsurer;
  - (ii) whether the Insurer is a member of an insurance group;
  - (iii) whether the Insurer has segregated accounts;
  - (iv) whether the Insurer is in run-off;
- (k) the conditions, if any, which have been imposed on the Insurer's registration by the Authority under section 4 of the Act;
- (l) the particulars, if any, of any direction issued by the Authority under the Act;
- (m) the lines of business written and separated by Line of Business type, Gross Premium Written, Premium Ceded, Net Premium Written, Net Earned Premium, Net Loss and Loss Expense Provision, and Net Loss Incurred but Not Reported;
- (n) any non-Bermuda branches or subsidiaries within the insurance group, if applicable;
- (o) the names of all of the Insurer's directors, the effective date of appointment of each director, the title and position held by each director, if applicable, and the effective date any director ceased to act; and
- (p) the names of all of the Insurer's officers, the effective start date of employment of all officers, the title and position held by all officers, and the date any officer ceased to act.

Statement of Control and Changes of Control

9 The Statement of Control and Changes of Control shall—

- (a) confirm changes to all shareholder controllers since the filing of the last Statutory Financial Return;
- (b) state the year-end date;
- (c) attach a register of shareholder controllers of the Special Purpose Insurer, confirming the following—
  - (i) any increase or decrease in the number of shareholder controllers;

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- (ii) changes to the position that a controller is appointed to or holds an office in;
- (iii) changes in the ownership percentage of a shareholder controller (whether increased or decreased);
- (iv) the date a person became a new shareholder controller; and
- (v) the date a person ceased to be a shareholder controller;
- (d) state the name of the ultimate parent company;
- (e) state the industry of operation of the ultimate parent company;
- (f) state the jurisdiction of the parent company; and
- (g) state the jurisdiction of the ultimate parent company.

Solvency Certificate

- 10 (1) The Solvency Certificate shall state—
- (a) whether the Special Purpose Insurer has prepared Statutory Financial Statements in respect of the relevant year;
  - (b) whether a copy of the Statutory Financial Statements—
    - (i) are available at the Insurer's principle office in Bermuda pursuant to section 17(1) of the Act; and
    - (ii) have been filed with the Authority pursuant to section 17(3) of the Act;
  - (c) whether 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 Financial Return for the relevant year, in this subparagraph called "the statutory financial return assets value", and whether in the opinion of those signing the Solvency Certificate—
    - (i) the statutory financial return assets value was determined in accordance with the requirements of the Act and of any applicable Rules and Regulations; and
    - (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 Financial Return assets value;
  - (e) whether, in the opinion of those signing the Solvency Certificate, the aggregate amount of the Special Purpose 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 Statutory Financial Statements for that year;

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- (f) the following amounts as shown in the Special Purpose Insurer's Statutory Financial Statements on Forms 2A and 5 of Schedule I for the relevant year—
    - (i) the aggregate amount of the gross premiums written;
    - (ii) the aggregate amount of the reinsurance premiums ceded; and
    - (iii) the aggregate amount of—
      - (A) the net premiums written shown on line 3 of Form 2A of Schedule I (where the Insurer carries on general business); or
      - (B) the premiums and other considerations shown on line 19(d) of Form 5 of Schedule I (where the Insurer carries on long-term business);
  - (g) whether any accounts of the Insurer for the relevant year have been audited for any purpose other than the purposes of the Act or any other Rules and Regulations;
  - (h) the minimum margin of solvency prescribed by paragraph 13, and whether that margin was met;
  - (i) whether the Insurer's business is fully collateralized in accordance with the definition of "special purpose business" in section 1(1) of the Act;
  - (j) the aggregate amount of the statutory capital and surplus as shown on line 3 of Form 8 of Schedule I 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) whether the rate of exchange used is in compliance with paragraph 14(4), for the purposes of any statement called for by this paragraph; and
  - (m) if any statement in subparagraph (c), (h) or (i) has been confirmed in the negative, whether 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 Solvency Certificate.
- (2) The Solvency Certificate shall be signed by at least two directors of the Special Purpose Insurer, and by the Insurer's principal representative in Bermuda.

Annual Statutory Declaration

- 11 (1) The Annual Statutory Declaration shall state—
- (a) whether the information in the Statutory Financial Statements, including any supporting attachments, fairly represents the financial condition and position of the Special Purpose Insurer in all material respects and are in compliance with the Act, any applicable Rules and Regulations, the Insurance Code of Conduct, and any direction, condition or restriction imposed on the Special Purpose Insurer by the Authority;

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- (b) whether the Special Purpose Insurer has sufficient resources as at the date of the Statutory Financial Statements to enable the Insurer to continue as a going concern, and to satisfy its obligations as and when they fall due for a period of twelve months past the date of the relevant Statutory Financial Statements; and
- (c) if any statement in clause (a) or (b) has been confirmed in the negative, whether the Special Purpose 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 Declaration.

(2) The Annual Statutory Declaration shall be signed by at least two directors of the Special Purpose Insurer, and by the Insurer's principal representative in Bermuda.

### Own-Risk Assessment

12 The Own-Risk Assessment shall set out—

- (a) an overview of the Special Purpose Insurer's insurance program (including but not limited to, affiliated, third party, source of business, and details of policy limits or aggregate limits);
- (b) details of any significant changes planned for the next 12 months;
- (c) confirmation of fronting insurer or insurers, if applicable;
- (d) details of any collateral including but not limited to—
  - (i) collateral posted to contracts written to policy limits;
  - (ii) collateral (for example, funds withheld or letters of credit);
  - (iii) form of collateral;
  - (iv) amount of collateral provided; and
  - (v) amount of assets encumbered;
- (e) details of the number of employees of the Special Purpose Insurer residing in Bermuda;
- (f) details of known or notified legal actions, disputes or arbitration;
- (g) risk register;
- (h) risk appetite; and
- (i) investment guidelines.

### *Minimum Margin of Solvency and General Provisions*

#### Minimum margin of solvency

13 The minimum margin of solvency for the purposes of section 6 of the Act by which the prescribed amount of a Special Purpose Insurer's assets must exceed the amount of its liabilities is \$1.00.



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### General requirements for Statements and Returns

14 (1) The Statutory Financial Statements, the Statutory Financial Return and all other documents required to be prepared under paragraphs 4 to 12 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 Special Purpose 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 the Insurer's 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 Special Purpose Insurer (other than a statutory open year business revenue statement), there shall be shown the corresponding amounts for the immediately preceding financial year.

### Commencement

15 These Rules come into operation on 30 April 2020.

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SCHEDULES

*Schedules I, II, III, IV and IV referred to in paragraphs 4, 5, 6 and 10 of these Rules have been omitted from these Rules and published on the Authority's website, [www.bma.bm](http://www.bma.bm), in accordance with section 6A(8) of the Insurance Act 1978.*

Made this 28th day of April 2020

Chairman  
The Bermuda Monetary Authority

[Operative Date: 30 April 2020]