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GUERNSEY FINANCIAL SERVICES COMMISSION

GUIDANCE NOTE FOR LICENSED INSURERS ON THE COMPLETION AND SUBMISSION OF ANNUAL RETURNS

1. INTRODUCTION

The Commission conducted a thematic review into Insurer Annual Returns and published its report in November 2018. This guidance is issued as a follow up to that review and is intended to improve the quality of regulatory reporting.

Annual returns are completed on the Commission's online portal, using form 133. Submission of the annual return is the responsibility of the General Representative, pursuant to section 1(b) of *The Insurance Business (Duties of General Representatives) Regulations, 2008*.

The Commission expects that Licensed Insurers and General Representatives will have robust policies, procedures and review processes to ensure that annual returns submitted to the Commission are complete and accurate. The thematic report contains examples of errors and of good practice and should be reviewed by anyone involved in the preparation and submission of annual returns to the Commission.

2. FORM 133. INSURER ANNUAL RETURN

This guidance is set out in the same order as form 133.

2.1 Start

This page records the entity details and should be double checked for accuracy. Please check that the correct category is displayed when you select the insurer. If you have any queries regarding the categorisation of an insurer please contact the Banking and Insurance Division using conduct@gfsc.gg.

Please ensure that the dates for the accounting period are correct. A change of accounting period should be notified to the Commission.

2.2 Financial Information

i) Signed Audited Financial Statements

The relevant **signed audited financial statements** should be uploaded.

The following question must then be answered, yes or no.

*"Have the audited financial statements, submitted with this return, received a qualified audit report from the auditors, and/or has the auditor reported on an emphasis of matter? **
This refers to a qualified opinion or an emphasis of matter detailed within the audited financial statements and not the auditors' management letter (excluding the derogation in respect of FRS 103 as agreed by the Commission)."

Select **Yes** only if:

- There is a modified audit report, including a qualified, adverse or disclaimer of opinion, and/or
- The audit report contains an emphasis of matter paragraph, **except** one relating to an FRS 103 derogation resulting in a properly prepared audit opinion.

Select **No** in all other circumstances, including where the insurer has received a derogation in respect of FRS 103 resulting in a properly prepared audit opinion.

ii) Solvency

The **Regulatory Solvency Assessment (RSA)** should be uploaded. Please note that only the most recent version of the RSA, as published on the Commission's website, is able to be uploaded therefore please ensure that you are completing the correct version.

The RSA contains guidance on completion within the spreadsheet. Click on the word 'info', wherever it appears, for explanatory notes. Each sheet also contains guidance to the right hand side or below the input sections. The RSA calculates the regulatory capital requirements and therefore it is important that it is completed correctly or the firm could be misreporting its capital requirement. Please review section 6.2.2 of the Commission's Thematic Report on Insurer Annual Returns for some examples of the misclassification of items in the RSA.

Check that the validation summary tab does not contain any error messages.

Note: RSA guidance on treatment of cash and bank deposits

The Commission acknowledges that there may be some ambiguity in the treatment of bank deposits within the RSA and this was discussed with industry when the RSA was introduced. Depending on the terms of the bank deposit they may be included either as cash, providing they can be easily broken without significant penalty, or as deposits. However money market instruments, such as certificates of deposit, must be shown as deposits and therefore subject to interest rate and spread risk. Cash is subject to credit and, potentially, currency risk.

Please ensure that the RSA can be easily reconciled to the other documents submitted. The accounting basis column of the regulatory balance sheet should reconcile to the audited balance sheet. Balance sheet items should not be netted off for the purposes of the regulatory balance sheet even if they have been netted off in the financial statements. For example, claims reserves and reinsurers share of reserves should each be shown separately on the balance sheet in order that the correct capital charges can be applied. Where there is a legally enforceable right of off-set this can be shown on the credit risk tab of the spreadsheet.

Where any basis adjustments have been applied to arrive at the regulatory basis column of the regulatory balance sheet, these should be clearly explained as per section 182 of *The Insurance Business (Solvency) Rules, 2015, as amended*. The 'Comments' box on the undertaking information tab of the spreadsheet should include sufficient explanations as to why each basis adjustment has been made and how the value of that adjustment has been calculated. This can cross-refer to other documents provided with the return.

The **Own Solvency Capital Assessment (OSCA)** should also be uploaded; if not then a reason must be provided. There is a text box to provide a reason for not uploading an OSCA but please note that this reason should be accompanied by the supporting rational as required by para 200(c) of the Insurance Business (Solvency) Rules, 2015. It is not acceptable to simply state that the board

of directors considers the PCR to be sufficient. The supporting rationale can be uploaded to the Additional Financial Information section if it will not fit into the text box.

Insurers that are required to produce a full **Own Risk and Solvency Assessment (ORSA)** should also upload it here.

For PCCS only:

Information for each cell must be uploaded individually. Please check that the cell is showing the correct solvency categorisation. The cell RSA and OSCA should be uploaded here – the requirement for an OSCA is the same for a cell as for a stand-alone entity.

Management accounts for the core and each cell should be uploaded. This should be consistent with the audited financial statements of the PCC.

The RSA and OSCA for the core should be uploaded.

The PCC Validation Summary should be uploaded.

iii) Key figures (in Sterling)

Please ensure that the figures are converted into **Sterling** using the exchange rate used by the firm at the balance sheet date. If the firm has not needed to use an exchange rate at the balance sheet date then please use the closing mid-rate as at the balance sheet date published in the FT to four decimal places.

Please also ensure that the figures input here can be easily reconciled to the audited financial statements and, if necessary, include a supplementary reconciliation which can be uploaded to the Additional Financial Information section. Management accounts may be uploaded here if they assist in the reconciliation.

Gross Written Premium – This figure should be the gross written premium, including both direct and reinsurance premiums and taking into account additional or return premiums. Do not deduct outwards reinsurance premiums.

Net Earned Premium – This figure should be net of reinsurance but should not take into account fronting fees or commissions.

Underwriting expenses (including claims) – this figure should include any expense from the underwriting account such as fronting fees, commissions, claims movements, reinsurance recoveries, claims handling expenses etc. but not operational expenses such as management fees, directors fees etc.

Non-underwriting expenses – this should include expenses from the P&L account such as management fees, directors fees, regulatory fees, legal fees, etc. Investment gains and losses or foreign exchange gains or losses should not be included in this figure.

Profit before tax – this should be the profit before deduction of any dividends that have been declared or paid.

Shareholders equity – this should include all shareholders' funds such as: share capital, share premium, retained earnings and other reserves attributable to shareholders, non-controlling interests, other components of equity, and non-redeemable voting preference shares. Do not include the value of any subordinated loans from shareholders. An entity without share capital, such as a

partnership or branch, shall instead include the value of net assets attributable to owners of that entity.

iv) Additional Financial Information

This section can be used to upload other relevant documents such as:

- Reconciliation of audited financial statements to the RSA and/or Key figures in sterling,
- Management accounts,
- Subsidiary accounts,
- Other group accounts

Life companies only:

v) Actuarial Valuation Report (if applicable)

The actuarial valuation for life companies should be uploaded.

vi) Annual Declaration by the Actuary (if applicable)

The annual declaration by the actuary should be uploaded.

2.3 Business Plan

Please upload the most recent business plan if the Commission does not already have a copy. Incremental changes to the business plan can accumulate over time such that, whilst no individual change is material, the cumulative effect is such that the Commission does not have a clear picture of the business being conducted. Most business plans are updated annually for the board and it is therefore expected that most firms will need to submit one.

Answer **Yes** if the Commission has already been provided with a copy of the most up to date business plan.

Answer **No** if the business plan has been updated, however minor the change, it can then be uploaded. Answering **No** to this question does not indicate any breach of the requirement to notify a material change of business plan.

Please do not use the annual return process to notify a material change of business plan; there is a form 213 for this purpose on the portal.

Life companies, other than those in run-off, should upload a summary of products to be offered and the markets in which those products are to be offered together with any other material factors relevant to the regulation of the insurer.

vii) Origin of the Insurance Risk

This relates to the location of the insured risk not that of the parent company or fronting company.

For PCCs only

Business plan information and Origin of the Insurance Risk are required separately for each cell and for the core

2.4 Statistical Information

viii) Does the firm have retail clients?

The Commission expects that only Category 1 or Category 3 insurers will answer yes to this question. If you believe a firm has retail clients but is not Category 1 or 3 please contact the Commission with a copy of the firm's business plan so that we can ensure the firm is correctly categorised.

A definition of retail customer can be found in the Licensed Insurer's (Conduct of Business) Rules, 2018.

ix) Complaints

Please enter the number of complaints and the number of those which were significant complaints.

Definitions of complaint and significant complaint can be found in the Licensed Insurer's (Conduct of Business) Rules, 2018.

2.5 Declaration

The General Representative should carefully consider the statements made in the declaration. The General Representative is responsible, under The Insurance Business (Duties of General Representatives) Regulations, 2008, for filing the annual return and business plan and for monitoring and reporting to the Commission on those matters included in the declaration.

The General Representative is required to certify on certain matters as follows:

1. That the insurer has, during the relevant period, complied with requirements regarding:

(a) The business plan filed with the Commission

If a material change of business plan has not been notified to the Commission then please answer No and submit a form 213 as soon as possible.

(b) Conditions or directions

A breach of a condition or direction is an offence and should be notified to the Commission immediately the General Representative becomes aware of it. If a breach of condition or direction has been notified to the Commission during the relevant period then No should be selected here.

(c) Code of Conduct

This has been replaced with the Conduct of Business Rules 2018 and the declaration should be considered accordingly.

(d) AML legislation.

Whilst General Insurers are not subject to the Handbook there is other financial crime legislation that does apply and therefore this question should still be considered carefully.

(e) Solvency requirements

Answer No if there has been any breach of solvency during the year, even if this has already been notified to the Commission and/or rectified.

2. Adequate books and records

The law requires that adequate books and records should be maintained in Guernsey. The General Representative should satisfy themselves that any outsourced functions outside of Guernsey are set up such that this requirement can be satisfied.

3. Complaints register

This should be maintained for all licensed insurers.

4. The annual return is a full and fair reflection of the business

The General Representative should carefully consider whether the annual return provides a full and fair reflection of the business and should provide further information or explanation where required.

5. Code of Corporate Governance

It is the responsibility of the directors to consider compliance with the Code but the General Representative is required to confirm to the Commission that they have done so.

3. SUBMISSION

Once submitted, the form 133 is automatically checked and a series of alerts is provided to the supervisory team. They may contact you for further information or clarification or, if there are significant errors in a return, then the supervisory team will return it to the General Representative and require it to be corrected and resubmitted.

Returns that are submitted late are automatically subject to a late filing penalty as set out in the Financial Services Commission (Administrative Financial Penalties) (Bailiwick of Guernsey) Regulations 2016, as amended. The imposition of an administrative financial penalty does not preclude further supervisory or enforcement action against a firm if necessary. Persistently late or extremely late returns are often an indicator of more serious underlying problems and the Commission will investigate and take action as appropriate.

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