

Consultation Paper on Rules for Retail General Insurers

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In March 2023 the Commission consulted on proposed amendments to the rules affecting retail general insurers – that is insurers with retail customers as their policyholders. The Commission proposed changes in a number of areas including governance, disclosure of information and minimum capital requirements.

The feedback paper summarises the responses to the consultation and the revised rules. The Commission received significant feedback from the industry with 19 responses in total, all from interested stakeholders. As a result, the Commission has made a number of changes to its proposals, however, many of the proposals received broad support and the majority remain unchanged from the original CP.

Retail insurers have become an increasingly significant part of the insurance sector in Guernsey. They place different demands on the industry – the managers and intermediaries with which they operate and on the Commission itself as regulator – compared to other types of insurers.

The revisions published below ensure that our rules are up to date and appropriate for the Bailiwick and meet our obligations under international standards. In many cases the rules codify best practice in the industry. The rules now apply increased capital requirements, tougher governance arrangements and stricter requirements for the independence of non-executive directors for “RGIs” whose policyholders are ordinary retail customers.

In addition, as noted in the CP and Feedback paper, the Commission is proposing to make changes to the Licence fees charged to Retail General Insurers and the proposals consulted on here will be included in the Commission’s regular fees consultation paper in due course.

Files:

- [Feedback paper following Consultation on the Rules for Retail General Insurers](#), 376.3 KB (PDF document)
 - [Insurance Business Rules and Guidance, 2021 Consolidated version](#), 592.9 KB (PDF document)
 - [Insurance Business \(Solvency\) Rules and Guidance, 2021 Consolidated version](#), 1.0 MB (PDF document)
 - [Insurance Managers Rules and Guidance, 2021 Consolidated version](#), 411.2 KB (PDF document)
 - [Insurance Business \(Amendment\) Rules 2024](#), 371.2 KB (PDF document)
 - [Insurance Business \(Solvency\) \(Amendment\) Rules 2024](#), 308.6 KB (PDF document)
 - [Insurance Managers \(Amendment\) Rules 2024](#), 287.2 KB (PDF document)
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Overview

Purpose of the Consultation Paper

With a small life sector, the greater part of the insurance sector in Guernsey comprises retail and wholesale general (re) insurers. Whilst wholesale general (re) insurers (such as captives and Insurance-Linked Securities) make up the

bulk of Guernsey (re) insurers, this paper is concerned with the smaller retail general sector. In the past, this sector has consisted of mainly domestic insurers with a small number of insurers writing business outside of Guernsey. However, recent years have seen a modest growth in the latter; and the Bailiwick wishes to see this growth continue.

The Commission's rules generally do not differentiate between retail and wholesale general (re) insurers. However, recent experience with several retail general insurers have drawn the Commission's attention to areas where rules need to be expanded or made more specific to address the risks presented by retail insurance. These changes will enable the industry in Guernsey to grow safely and to provide insurance services to policyholders who otherwise might find such services difficult to access.

Most retail general insurers in Guernsey use the services of an insurance manager. Insurance managers have historically serviced the captive insurance market and may not have relevant expertise for retail general insurance. Nevertheless, such insurance managers have a key role to play in the expansion of this sector and would benefit from a more bespoke regulatory approach. The Commission is therefore proposing to add requirements to the Insurance Managers Rules in respect of managers who service retail general insurers.

The rules will be issued principally under Insurance Business Law for insurers. There will also be some amendments to the Insurance Managers Rules. If appropriate, concrete proposals on fees will be the subject of the separate annual consultation process.

This paper contains proposals relating to retail general insurers only. Arguably, some of these proposals may have equal validity for other insurance sectors – for example life. However, the recent experience of the Commission suggests that additional consumer protection is needed primarily in the retail general sector. Almost all retail general insurers in Guernsey are local legal entities. A branch should agree with the Commission the application of these rules.

Executive Summary

The following changes for retail general insurers are proposed (as set out in the paper below):

Scope

- If there is any doubt, an insurer must class itself as a retail rather than a wholesale general insurer.

Governance

- All board members to be present in the Bailiwick for at least one board meeting a year; though not necessarily at the same time.
- The board must include two Non-Executive Independent Directors (INEDs) rather than one.
- A former employee of the insurance manager cannot become an INED for an insurer managed by that insurance manager for at least three years after leaving that insurance manager.
- The independence of the INED to be reviewed annually after 9 years.
- There should be an annual internal audit of a retail general insurer.
- The board must ensure that the external auditor has the right skills to audit a retail general insurer.

Financial

- Capital floor to rise from £100,000 to £250,000.
- Capital floor to apply to PCC cells.
- Prescribed Capital Ratio requirement to increase from the current minimum of 105% to 135%.
- Removal of Own Risk Solvency Assessment exemptions.

- Regulatory Solvency Reporting to increase from yearly to half-yearly.
- Minimum re-insurance requirements to be applied.
- Differentiated fees for retail general insurers.

Systems and controls

- A retail general insurer should have a legal opinion that it can sell into the UK if it does this.
- Stronger controls over third party funds.
- More specific public disclosure requirements.
- Complaints to be considered by boards at least semi-annually.
- Bespoke regulatory reporting requirements.

Others

- Insurance Managers to ensure they have the skills necessary to service retail general insurers, to the extent they develop this line of business.
- Minimum capital requirement of insurance managers servicing retail general insurers to increase from £25,000 to £100,000.

Related

 [Consultation Paper on Rules for Retail General Insurers](#)

741.9 KB (PDF document)

Guernsey Financial Services Commission

**Feedback Paper following consultation on the Rules for
Retail General Insurers**

February 2024



Guernsey Financial
Services Commission

Contents

Feedback Paper following consultation on the Rules for Retail General Insurers.....	1
1. Introduction.....	3
2. Original Consultation.....	4
3. Feedback on the Consultation.....	6
3.1 Scope	6
3.2 Governance	7
3.3 Audit	10
3.4 Capital & Solvency.....	12
3.5 Annual Fees	17
3.6 Systems and Controls	18
3.7 Disclosure of information.....	20
3.8 Insurance Managers	24
3.9 Policyholder Protection Scheme	26

1. Introduction

This paper provides feedback on the responses received to the Commission's consultation paper on the Rules for Retail General Insurers, which was issued in March 2023.

Background

General retail insurers have become an increasingly significant part of the insurance industry in the Bailiwick. They place different demands on the industry and regulatory landscape compared to other areas of insurance and the Commission considers it essential that its rules are updated to reflect this important sector of the industry.

When the consultation paper was published in March 2023, there were 35 clearly identifiable retail general insurers licensed in Guernsey (28 companies and 7 cells). In practice, the overall figure is likely to be a little higher given that some insurers do not identify their activity as retail. This is for a number of reasons, for example:

- there is an intermediary between the insurer and the policyholders;
- the client base is restricted to a certain class of person; or
- the premium is collected directly from the ultimate insured individual by the owners of the insurer.

In fact, it is the Commission's understanding that all these cases are examples of retail general insurers. This highlights that one of the most significant issues for the industry is the correct identification of insurers which are retail rather than wholesale general insurers. This issue is addressed in the substance of the consultation, the Commission's objective is to ensure the appropriate rules and safeguards can be applied.

The Commission notes that it is not alone in tightening up the rules and requirements around various types of insurers. Regulators in other international finance centres are taking steps to safeguard customers. For example, the BMA in Bermuda is seeking to strengthen its own rules for certain types of insurer and is adopting a more prescriptive approach as to the types of investment it considers acceptable for long term insurers¹.

¹Bermuda – BMA White Paper: [Supervision and Regulation of Private Equity Insurers](#)

Bermuda Royal Gazette Article: [BMA to enhance regulation and supervision of PE insurers - The Royal Gazette](#)

2. Original Consultation

The Commission published its consultation paper on updates to its rules for Retail General Insurers in March 2023. After consultation and dialogue with industry, we received 19 responses. We have carefully considered the views expressed in reaching our conclusions and in deciding on the final updates to the Insurance Business Rules which are published along with this feedback paper. The original consultation sought to make changes in several areas set out in the following table:

Scope	<ul style="list-style-type: none"> • If there is any doubt, an insurer must class itself as a retail rather than a wholesale general insurer.
Governance	<ul style="list-style-type: none"> • All board members to be present in the Bailiwick for at least one board meeting a year; though not necessarily at the same time. • The board must include two Independent Non-Executive Directors (INEDs) rather than one. • A former employee of the insurance manager cannot become an INED for an insurer managed by that insurance manager for at least three years after leaving that insurance manager. • The independence of the INED to be reviewed annually after 9 years. • There should be an annual internal audit of a retail general insurer. • The board must ensure that the external auditor has the right skills to audit a retail general insurer.
Financial	<ul style="list-style-type: none"> • Capital floor to rise from £100,000 to £250,000. • Capital floor to apply to PCC cells. • Prescribed Capital Ratio (PCR) requirement to increase from the current minimum of 105% to 135%. • Removal of Own Risk Solvency Assessment exemptions. • Regulatory Solvency Reporting to increase from yearly to half-yearly. • Minimum re-insurance requirements to be applied. • Differentiated fees for retail general insurers.
Systems and controls	<ul style="list-style-type: none"> • A retail general insurer should have a legal opinion that it can sell into the UK if it does this. • Stronger controls over third party funds. • More specific public disclosure requirements. • Complaints to be considered by boards at least semi-annually. • Bespoke regulatory reporting requirements.
Other	<ul style="list-style-type: none"> • Insurance Managers to ensure they have the skills necessary to service retail general insurers, to the extent they develop this line of business. • Minimum capital requirement of insurance managers servicing retail general insurers to increase from £25,000 to £100,000.

The majority of the feedback received was positive and constructive. This is reflected in the recognition that there is a need to apply greater levels of protection and safeguarding in respect of general insurers which have retail customers as their policyholders. The industry has taken

a pragmatic approach in recognising that most of the changes proposed are reasonable and reflect existing good practice or are necessary to continue to operate as a well-regulated jurisdiction providing appropriate safeguards for customers while continuing to encourage new business to develop. In the majority of cases no changes are required to the proposals set out in the CP and the rules will be updated as set out in the draft accompanying the CP.

There were areas where the views expressed by respondents did not support the Commission's proposed approach. In most of these cases, where the majority of feedback did not support the proposed approach, the Commission has amended its proposals in light of the comments received. For example, in dropping proposals to require boards of insurers to seek specific legal advice and in reducing the length of the proposed cooling off period before individuals who previously worked for an insurance managers can be considered sufficiently independent to qualify as INEDs on the boards of insurers.

However, there are some areas where feedback did not support the approach proposed in consultation, but where the Commission takes the view that that it must nevertheless take forward its proposals. It does so to protect retail customers, to safeguard the reputation of the Bailiwick and comply with international standards in respect of Retail General Insurers. In this feedback paper the Commission has identified the areas where that is the case and where possible sought to balance its proposals against the concerns raised and to explain why it has adopted its chosen approach.

3. Feedback on the Consultation

3.1 Scope

Definition of Retail Insurers

The aim of this proposal was twofold. First, to offer a definition of retail for Retail General Insurers (RGIs) and second, to ensure that all RGIs within the Bailiwick are identified as such. To do this it was proposed that where there is ambiguity or doubt over the status of an insurer as to whether or not it should be considered an RGI, the Commission would make the presumption the insurer is an RGI unless it could demonstrate otherwise.

Q1: Do you have any comments on the definition of retail customer, and that if there is any doubt, then the entity should be treated as a retail insurer?

Responses were split. They were broadly supportive of the retail definition although a number objected or suggested preferred alternatives. Some suggested the definition was too broad but there was no clear consensus for any changes that should be made.

There was a more mixed response to the idea that the Commission would make the presumption an insurer was an RGI where there was any doubt about its status. Some noted this might be difficult for certain niche insurers, that the definition of retail was too broad (so would encompass too many insurers) or that the issue was already covered in the Insurance Business Rules. One response commented that the whole proposal was disproportionate, Guernsey was chosen by RGIs because it is flexible and does not impose the same requirements on retail insurers as some jurisdictions.

The Commission notes that its approach to supervision is well known and proportionate. This proposal responds to specific weaknesses that we have observed in relation to RGIs which IMs are not managing appropriately.

The Commission notes the responses, especially in relation to the relatively broad definition of retail. It considers it important that all RGIs in the Bailiwick are identified as such in order to ensure that the appropriate additional rules and safeguards can be applied. The Commission will adopt the rules as proposed in the absence of a superior alternative definition being proposed.

3.2 Governance

Directors Attendance at meetings in Guernsey

The Commission considers that all board members of a retail general insurer must attend at least one board meeting in Guernsey each year.

Q2: Do you have any comments on the proposal to require that all directors of a retail general insurer must be physically present in the Bailiwick for at least one meeting of the board per calendar year?

There was strong support for this proposal. A number of respondents sought clarification as to whether this meant that all directors would be required to attend a specific in person meeting, which could be difficult for some.

This proposal is adopted as set out in the consultation paper. For clarification, the requirement is for each director to attend at least one meeting in the Bailiwick in person each calendar year. There is no requirement that the directors all attend the same meeting in person.

Increasing the number of INEDs for RGIs

The Commission proposed that the number of INEDs for RGIs (and only RGIs) should be increased from one to two.

Q3: Do you have any comments on the proposal to increase the number of INEDs for retail general insurers to two?

Most responses were supportive, there was general agreement that this was a reasonable requirement in principle but there were a number of objections. One response considered the provisions to be excessive and anti-competitive (without being entirely clear as to why that was the case) others stated that the requirement was too onerous or unnecessary. Among those supporting the proposal several noted concerns over the scarcity of suitably qualified candidates for INED roles. It was suggested that if implemented, a longer transition period would be helpful.

The Commission notes the concerns raised over the transition period. It therefore adopts the proposal as published in the consultation paper but with an extension in the transition period from six to twelve months.

Cooling off period between leaving and IM and becoming an INED

The Commission proposed that individuals who had worked for an insurance manager in the past three years could not be considered an INED in respect of entities managed by that IM.

In combination with the previous proposal (increasing the number of INEDs) this seeks to encourage insurers to cast the net wider for individuals who may become directors of RGIs. It aims to ensure there is genuine independence and to avoid the concerns raised by the perception of a relatively small “closed shop” with a conveyor belt for those moving from IMs directly into INED roles with associated entities.

Q4: Do you have any comments on the proposal that an individual who worked for an insurance manager during the previous three years cannot be classed as an INED?

Responses to this question were divided, albeit with a majority supporting the Commission’s proposal. Among the objections, a number commented that it was simply not appropriate to apply such restrictions. Others were more specific. They noted that there was a limited pool of experienced individuals to fill the available roles and suggested that individuals employed by the IM but not directly involved with a particular insurer should still be permitted to be act as an INED.

We note that there might be scope for some individuals previously employed by an IM, but not directly involved in the operation or oversight of a particular insurer managed by that IM, to be considered sufficiently independent to act as an INEDs. However, it is neither practical nor desirable for the Commission to make such individual exceptions. There is a reasonable concern that even in the circumstance described, the close relationship with the IM may influence – however unintentionally – the objectivity of the INED. Since the purpose of this obligation is to ensure that INEDs are genuinely independent, the Commission does not consider such a carve out to be appropriate.

The Commission retains the requirement for a cooling off period for individuals employed by insurance managers before they can be classed as INEDs but the cooling off period is reduced from three to two years and the rules amended accordingly.

For clarification (and as noted in the CP), INEDs approved by the Commission before the new rules take effect will remain approved as a director for that retail general insurer; but they should reflect on whether they need to consciously assume a more critical stance in fulfilling their legal obligations.

Independence of long serving INEDs

There is an issue that after a sufficiently long period serving on the board of an insurer (or any other business) an individual may no longer be considered sufficiently independent to continue acting as an INED. Without imposing particular restrictions, the Commission proposed that after a substantial period (nine years) of service, the board should document whether an individual continues to be considered independent.

Q5: Do you have any comments on the proposal that retail general insurers should consider and document whether an INED remains independent after nine years, then annually thereafter?

The Commission's proposed approach was supported by most respondents. Several suggested that any ongoing review after the initial nine year period should take place only every two or three rather than annually. Others noted that this requirement formed part of the corporate governance code which they followed.

The Commission intends to implement the proposal as drafted. This broadly follows the UK Corporate Governance Code, which requires that the independence of any INED should be considered by the board once the individual has been a member for nine years and reconsidered annually thereafter. Such consideration must be clearly documented.

For the avoidance of doubt, this rule applies to all INEDs, not just those newly appointed from 2024, and there is no presumption that an INED should be resign after nine years.

3.3 Audit

Internal Audit

The Commission proposed that all RGIs should be required to maintain an internal audit function, independent of the insurer's general representative and the insurance manager. The internal audit function may be carried out in house or contracted out to an independent service provider. It should report annually as specified by the Commission.

Q6: Do you agree that a retail general insurer should maintain an internal audit function; that this function should be independent of the general representative or insurance manager where work is carried out by them, and that an internal report should be made at least once a year to the board?

This issue divides the industry. Similar numbers of responses opposed or suggested significant amendments to the proposed approach as were in favour. Several responses expressed the view that it was a matter for the board to decide whether internal audit was required and to determine the scope and frequency of such work. Others commented that the proposals were disproportionate and could add significant costs for businesses. Several said the requirement was impractical for small RGIs and the obligation was superfluous because of external audit.

Nevertheless, the Commission considers that the existence of an internal audit function and the availability of internal audit reports and information to the board of an RGI is essential for ensure that it is able to provide appropriate financial scrutiny and oversight.

Internal and external audit functions perform different roles and may examine different areas and internal auditors may identify different issues than external auditors, particularly when it comes to issues such as conduct risk.

This is not a completely new obligation. The Finance Sector Code of Corporate Governance ("the Code") applies to licensees including RGIs. It states (principle A:15) that "the insurer is required to have, or to have access to, an appropriate and effective internal audit function capable of providing the Board with independent assurance in respect of the insurer's governance, including its risk management and internal controls". The Code recognises different approaches to meeting the principles depending upon the nature, scale and complexity of the business.

The Commission recognises the potential impact of this requirement. It has therefore modified its original proposal. It continues to require that all retail general insurers must maintain an internal audit function (which may be outsourced), independent of its IM or general manager. However, instead of requiring annual reports it now requires the board should determine the frequency and scope of internal audits, subject to a minimum requirement for an internal audit at least once every three years.

External Audit

All licensed insurers are required to appoint an auditor and to notify the Commission of the appointment. Following the 2021 revisions to the *Insurance Business (Bailiwick of Guernsey) Law, 2002*, the Commission no longer maintains a statutory list of approved auditors. Nevertheless, the Commission wishes to ensure that RGIs use auditors who are sufficiently knowledgeable and experienced to be able to carry out effective audits of retail general insurance. It has become clear to the Commission that some RGIs have used external auditors who do not have relevant expertise.

Q7: Do you agree that retail general insurers should be required to document in detail the reasons why they appointed a particular auditor?

The response on this issue was mixed but the majority supported the proposal. Objections were along the lines that this was an issue for the auditor to consider for themselves and that the board of the insurer should not be required to replicate considerations made by the auditor.

The board is responsible for ensuring that the auditors which it appoints have the appropriate skills, knowledge and experience to carry out an effective audit of retail general insurance². It must document the reasons for appointing a particular auditor to ensure that RGI appoints an external auditor for its knowledge and experience of retail general insurance rather than, for example, price.

The Commission is retaining this requirement as proposed.

² The Commission expects that auditors putting themselves forward to conduct audits of RGIs will be suitably qualified and experienced, which is an issue for the auditors themselves as well as for the board of the RGI

3.4 Capital & Solvency

Minimum Capital Requirements

The capital and solvency rules for insurers are laid out in the Insurance Business (Solvency) Rules and Guidance, 2021. These proposals consider the Capital Floor, the Minimum Capital Requirement (“MCR”) and Prescribed Capital Requirements (“PCR”).

The Solvency Rules require that insurers maintain minimum shareholders’ funds of at least 75% of the Capital Floor, or an equivalent sum, in any currency acceptable to the Commission. The purpose of the 75% is to allow for periodic losses and exchange rate movements. The existing minimum requirements are laid out below:

Insurer carrying on:	Capital Floor £	Shareholders’ funds £ (or ccy. equiv.)
General business	£100,000	£75,000
Long term and general business	£250,000	£187,500

An RGI needs sufficient capital to withstand underwriting losses or deterioration in value of capital. Even if a firm with the minimum level of capital were to survive the loss, the costs of operating the company (directors fees, staff or insurance manager fees, legal and accounting costs, audit fees etc.), would likely make it insolvent before the business had run-off. In theory, the firm could be re-capitalised, but the Commission’s experience is that the shareholders of retail general insurers in distress are not normally willing to provide additional capital.

The current requirements do not differentiate between RGIs and other insurers. It is proposed that the minimum capital requirement for RGIs should be increased. This is especially necessary as the current capital floor was set in 1986 and has not been increased since then.

In the CP it was proposed that for RGIs the capital floor should be increased so that minimum levels of paid-up share capital and shareholders’ funds for RGIs be increased as set out below:

Insurer carrying on:	Capital Floor £ (or ccy. equivalent)	Shareholders’ funds £ (or ccy. equiv.)
Retail general insurers	£250,000	£187,500

Q8: Do you agree that minimum levels of paid-up share capital and shareholders’ funds for general retail insurers should be increased to £250,000? Do you agree that existing firms should have three years to comply with the rules?

Most responses were in favour of the change, some proposing it go further or that the amount should be tailored to the nature of the business. Industry had previously noted that an increased

capital requirement may be a barrier to entry and restrict new or innovative business. The Commission acknowledges the comments but notes that new and innovative firms are as likely to fail as established ones, if not more so.

A capital level of £250,000 is not unreasonable for shareholders who are fully committed to establishing a robust and enduring retail general insurance company. In fact, very few firms at present would be unable to meet this requirement.

The Commission will adopt this requirement as set out in the CP. Companies already licensed at the date the rules become effective and whose paid-up share capital and shareholders' funds are less than the new minimum will have three years to meet this requirement. Firms licensed after rule changes come into effect will be required to meet them from the point of licensing.

Capital – Protected Cell Company Cells

The protected cell company structure originated from a desire to provide captive services to firms which are not large enough to justify a stand-alone captive, and they have found other uses as wholesales vehicles such as for Insurance-Linked Securities. A small number of cells write general business, including retail general insurance.

At present there is no minimum capital floor requirement for a PCC cell. To ensure that clients of retail general insurers structured as PCCs benefit from the same level of prudential and conduct protections as a standard company, the Commission proposed that the rules for retail general insurance companies should also apply to retail general cells.

Q9: Do you have any comment on the proposal that PCC cells which write retail general insurance should meet the same standards as a retail general insurance company?

Responses noted that the proposal diminishes the benefit of PCC structures, and it was suggested that the standard should apply at the level of the PCC rather than individual cells. Another suggested that cells should not be permitted to write RGI business. Overall there was a general consensus in favour of consistency of treatment of RGIs irrespective of whether structured as a PCC or a separate company.

The Commission will adopt the proposal without further changes.

Solvency - Prescribed Capital Ratio (PCR) requirement

The PCR requirement for a commercial general insurer is the capital required to ensure that the licensed insurer can meet its obligations over the next 12 months with a probability determined at a 99.5% confidence level. Whilst the calculation is specific to commercial insurers, that category is itself broad. It does not differentiate between the non-payment of a loss for a large company which understood the risk profile of the insurer from whom it was purchasing cover and a member of the public who had not such ability and assumed a retail policy would be rock

solid under all circumstances. The Commission therefore proposes to increase capital required to meet the PCR for RGIs.

The Commission operates a ladder of intervention approach for all insurers. Any ratio below 105% triggers regulatory intervention; although the Commission can – and does – apply a higher percentage in certain cases.

In the consultation, the Commission proposed applying a higher PCR of 135% across-the-board to all RGIs. There is no scientific reason for choosing this number. However, the Commission is aware that several other regulators in practice apply a generic number – ranging from 135% to 155% - for some insurance sectors. Very few RGIs in Guernsey have a PCR requirement of less than 135%, so the application of this approach is feasible and it will have an impact on a relatively small number of RGIs where it will make a difference.

It is also better to be transparent about this approach so that prospective insurers are clear about what is required of them. This higher number will enable the Commission to act at an earlier stage than otherwise if a retail general insurer begins to have solvency problems. It also links into more frequent reporting of the ratio; as detailed below.

It was proposed that any RGI with a PCR falling below the new minimum level of 135% would be expected to come up to that number within two years.

Q10: Do you agree that retail general insurers should have a higher minimum capital requirement than wholesale general insurers?

There was strong support for increasing the minimum capital level for retail general insurers.

The Commission therefore intends to adopt the approach set out in the CP. The minimum PCR for RGIs is raised to 135% in all cases. Any RGI whose PCR is below the new 135% minimum when the new rule comes into effect is required to come up to that number within two years.

This change will be implemented by applying the “Stage 1 - Early Warning” to retail general insurers with between 100% and 135% of the PCR requirement in the Commission’s Guidance Note on Supervisory Ladder of Intervention.

Own Risk Solvency Assessment (ORSA)

The Commission’s approach to ORSAs is one of ‘horses for courses’, namely that a relatively simple business can best be served by a straight-forward and short ORSA; and one of practical use to the board. The process for calculating the ORSA requires the identification and quantification of all the risks facing an insurer, together with any mitigants. The Commission has become aware of some small RGIs having inadequate risk management even though they may have many retail policyholders. The ORSA is an important part of the firm’s risk

management but at present about half of current RGIs do not complete an ORSA because of de minimis exemption. The Commission no longer considers exemptions permitting small RGIs to avoid assessing their risk management and future capital requirements to be appropriate. Subject to any other exceptions in the Solvency Rules, all RGIs should produce an ORSA.

Q11: Do you have any comments on the proposal that the current exception which allows general retail insurers with MCR's below £1,500,000 to prepare an OSCA and not an ORSA be removed for retail general insurers?

There was broad support for this proposal, with only a few seeing no benefit from this approach.

The Commission adopts the proposal as set out in the CP. The requirements for all other (non RGI) insurers remain the same.

Reporting frequency - Six monthly reports

The CP proposed that six-monthly reporting should be a requirement for all relevant insurers by including it in the Insurance Business Rules (IBR); rather than simply making a request. This proposal will also include all RGIs. It is intended to ensure that the financial status of retail general insurers is as current and transparent to the Commission as reasonably possible; and that there is a formal obligation of firms to submit accurate data for regulatory purposes.

Q12: Do you agree with making reporting as specified; and with making this a formal requirement for all those having to submit an ORSA?

There was strong support for regularising six monthly reporting as proposed.

The Commission adopts the proposal in the CP and amends the IBR accordingly. In line with the existing timetable and reporting deadlines for half year returns, six monthly reports must be submitted within two months of the end of the half year period, and will be subject to the existing requirements for the timing and sufficiency of reporting.

Reinsurance

The Commission is concerned that the failure of a reinsurer could cause an insurer to be unable to pay claims to its customers. It has seen examples of reinsurance arranged with reinsurers with weak capital positions. This is unusual as many insurers would only contemplate using a rated reinsurer.

In addition, retail insurers often use reinsurance for excess loss coverage. In that case the failure of a reinsurer could have a crippling impact on the solvency of the insurer. To protect retail policyholders, the Commission is proposing to strengthen the rules for retail general insurers.

The Commission is proposing that retail general insurers may only place reinsurance with reinsurers that meet at least one of the following requirements³:

1. Licensed by the Commission;
2. Licensed in a member state of the G-10;
3. Licensed in Bermuda;
4. Licensed in the Republic of Ireland;
5. Maintains an acceptable credit rating (please see below);
6. Not rated but is a 100% owned subsidiary of a (re)insurer which is rated, in which case the reinsurer can be assumed to have the same rating as its rated ultimate parent; or
7. The potential exposure is protected by collateral representing the full exposure under the contract. The collateral must be held in cash by a bank with a credit rating equal to or above, the ratings listed below; or in investment-rated bonds by an investment-rated custodian. The insurer must have legal advice confirming that the collateral agreement will be effective in the event of default by the reinsurer.

An acceptable credit rating is one which is the same or higher than those listed below:

Rating Firm	Minimum Rating
AM Best	bbb-
Fitch	BBB-
Moody's	Baa3
Standard & Poor's	BBB-

The requirements will also apply to those reinsurers within the same group as the insurer. These reinsurers pose an additional risk that the insurer may be obliged to do business with them and therefore will not carry out proper due diligence or apply adequate mitigation.

Q13: Do you have any comments on the proposal that retail general reinsurers may only use reinsurers as specified in the above table?

The majority of responses favoured adopting this approach. Some suggested it should be a guide rather than a rules. One suggested there should be no restrictions, the choice of reinsurer is an issue for the ORSA and the firm's decisions on the appropriate level of capital resources.

The Commission is concerned that left to their own discretion, some insurers have chosen to use reinsurers with a weak capital position, and this is not appropriate for RGIs. The Commission therefore adopts the proposals as set out in the CP.

For clarification, these requirements apply to reinsurers within the same group as the insurer, as set out in the CP. Such reinsurers pose the additional risk that the insurer may be obliged to use them and may not therefore carry out proper due diligence or apply adequate mitigation.

For the avoidance of doubt, the rules apply to insurers regardless of how much risk is retained. There is no exemptions for firms which consider themselves to be a "fronter" for a reinsurer.

³Note that this is not the same as the List of Recognised Insurers (which is for local insurance purposes).

3.5 Annual Fees

Annual Fees

RGIs have a greater ability than other insurers to damage the reputation of the Bailiwick through not fulfilling contracts with policyholders. Over recent years, the Commission has had to dedicate substantial and increasing amounts of time to mitigating the risks which have crystallized around individual RGIs. To the extent that it is not covered by fees from RGIs themselves, the cost of this work is borne by other licence holders through their annual fees.

Fees should reflect the risks incurred by the industry and the effort applied by the Commission in supervising the sector. On this basis, because of the significant risks posed by RGIs and the substantial resources dedicated by the Commission to resolving specific issues and problems that have arisen with RGIs, fees should be increased appropriately. In addition, since they pose the same risk and potential for significant additional costs to resolve, the fees for RGI cells should be brought into line with those for RGIs which are stand-alone companies.

The purpose of this change is not to shift supervisory resources from one sector to another but to increase the resources available for retail general insurers. It is worth noting that the 2019 International Association of Insurance Supervisors' inspection (IAIS) report on Guernsey remarked how thin were our insurance supervisory resources⁴.

Q14: Do you agree that, as a matter of principle, retail general insurers should pay a higher fee than other insurers to reflect their greater risk and therefore greater use of resources by the Commission?

The majority of respondents agreed, at least in principle, with the proposed approach to changes to the fees for RGIs. A small number of responses favoured rebalancing fees rather than an overall increase or fees based on the scale of regulated activity.

The Commission intends to adopt the change in approach to fee proposals set out in the CP and will set out its proposals within the usual fee consultation process during 2024. Any changes will be highlighted in the fee consultation paper to be published in 3Q 2024 and will not come into effect until 1 January 2025.

⁴ 'Detailed Assessment of Observance IAIS Insurance Core Principles (ICPs) Bailiwick of Guernsey' p42; GFSC website

3.6 Systems and Controls

Legal opinion

Guernsey retail insurers serve policyholders in several jurisdictions across the world. The most pertinent jurisdiction is the UK where Guernsey insurers are accessed primarily through UK intermediaries. It is important for the Guernsey insurer itself and for the wider reputation of the Bailiwick that a Guernsey insurer does not become an unlicensed UK insurer. For this reason, most Guernsey retail insurers operating in this market already secure a legal opinion that they are not acting in this capacity. Several of the changes in this paper, for example, around transparency, should further mitigate this risk. In the original CP the Commission proposed to make obtaining a legal opinion of this nature mandatory. In practice, most Guernsey retail insurers already obtain such a legal opinion, but some do not.

Q15: Do you agree that a legal opinion be required for the UK and either a legal opinion or some other form of documentation for other jurisdictions?

While opinion was split on this issue, a significant majority of respondents were opposed to this requirement. They considered that it would add costs and would potentially offer false security without achieving any substantial benefit for customers.

The Commission recognises that a legal opinion is far from foolproof, that its utility will depend on the nature and scope of the request made and it may conflict with other legal advice or opinions.

The Commission notes the arguments put forward against its previously proposed approach and has decided not to take forward this proposal.

This does not detract from the existing obligations on the business and specifically the board and its members to ensure that the insurer may carry out its activities in the targeted jurisdiction. As such, Boards may wish to gather legal advice or opinions but will not be compelled to do so through a new rule at this juncture.

Cash Management

In the CP the Commission proposed that where funds are held by a third party, the arrangement must be governed by a written agreement. This must identify whether the funds are being held by a third party as claims fund, float or other arrangement and sets out the basis on which funds will be paid to or returned to the insurer. The board must, at least annually, review the purpose of the funds, verify the amounts held and the mitigants. Where the amount transferred is excess to requirements for the purpose, or the mitigants are considered insufficient, the insurer should take appropriate action.

Q16: Do you have any comments on the proposal that there should be a written agreement between the retail general insurer and a third party relating to the transfer of funds to the third party, and that such an arrangement should be reviewed annually?

This proposal was supported by the majority of respondents. One respondent commented that while such arrangements might be appropriate for the UK, they were overly burdensome for Guernsey because insurers had chosen to locate in the Bailiwick in order to avoid such requirements being imposed by the FCA.

Given the balance of responses and the Commission's view that it considers appropriate governing agreements are important, it will implement the arrangements as proposed in the CP.

Payments to third parties

In the CP it was proposed that any payment or transfer of funds to a third party should be approved by a Guernsey resident director or manager of the company, or a similarly resident employee of the insurer's general representative.

Q17: Do you have any comments on the proposal that any transfer or payment of a retail general insurer's funds to a third party must be signed or electronically approved by a Guernsey resident director or manager of the company, or a Guernsey resident employee of the general representative?

This proposal was supported by the almost all respondents. A number noted that it reflected the existing approach in place for most insurance managers.

The Commission intends to implement the requirement as proposed in the CP.

3.7 Disclosure of information

Disclosure of Information

Consumer transparency – which allows consumers to make up their own mind as to whether to buy a financial product based on public data – is an important part of any regulatory framework⁵. The Insurance Business Rules currently lay out the requirements for the public disclosure of information by insurance companies.

Nevertheless, there are several exemptions in the public disclosure rules. Although fewer than half of retail general insurers qualify for specific de minimis exemptions, very few RGIs fulfil the existing public disclosure requirements.

Q18: Do you agree the current exemptions on public disclosure should be withdrawn for retail general insurers, that non-compliance as currently set out should be subject to Commission agreement, and that the above additional data should also be required?

A majority of responses were opposed to proposals to require disclosure and to the removal of the exemptions on which RGIs could rely. Some objected in principle, on the basis that it would be detrimental because it requires the disclosure of sensitive material. Several wanted to retain the ability to redact certain information, they noted that disclosure could place monoline insurers at a competitive disadvantage, or it could be of concern for insurers providing niche security related insurance. Others noted that disclosure was required by the UK FCA and there was no need for Commission to also require disclosure.

The Commission does not consider the status quo provides a sustainable way forward; not least because it would not be consistent with the Bailiwick's compliance with the relevant international standards under ICP 20. All RGI policyholders – and their brokers – have a right to know where the insurer is based and its financial status. Retail customers should not be expected to rely primarily on requirements from regulators in other jurisdictions to ensure disclosure by Guernsey RGIs; particularly given industry's desire to expand this sector.

In line with this, the Commission is proceeding as set out in the CP. The current exemptions from disclosure are removed for RGIs. However, the Commission recognises the concerns arising from the removal of automatic exemptions and that this may be a particular issue for certain types of RGI. While the Commission is unlikely to agree blanket exemptions for RGIs, it will consider applications by individual insurers for exemptions from publishing specific pieces of information on a case by case basis.

⁵ See section 5 of the Principles of Conduct of Finance Business; and, more generally, section 7.3 of the Insurance Business Rules for the fair treatment of customers.

In addition to financial disclosures, the new rules require that RGIs disclose prominently on their website, all marketing material and communication with customers and potential customers some basic details, namely:

1. postal address of the insurer's registered office or branch, whichever is appropriate;
2. e-mail or telephone number for the insurer (not a service company or any related company such as a broker);
3. postal address and e-mail address or telephone number for complaints against the insurer;
4. the existence of the Channel Islands Financial Ombudsman, and details of its website;
5. whether the insurer and the producer (i.e. broker, intermediary or other similar party) share a common controller (as defined by IBL).

The required data should be made available publicly on a website (the detail of which is addressed below) with pages specific to Guernsey and the insurer. Firms will be permitted a period of six months to ensure that the relevant information is disclosed or to apply for an appropriate exemption or derogation from the rules.

For the avoidance of doubt, all the above applies to all RGIs, including individual RGI cells.

RGI website

In the CP it was proposed that all RGIs should have a dedicated website on which to publish information and to make the disclosures required by these rules.

Q19: Do you agree that all retail general insurers should have a dedicated website on which they disclose the information required by these rules?

The majority of responses opposed this approach, either because they did not agree with disclosure in the first instance or because they did not see the need for a specific website.

Noting the responses, the Commission will not insist that RGIs maintain a dedicated website for such disclosures. Disclosure may be made on an appropriate group or other website provided that the information made available is sufficiently prominent and accessible to all customers, regardless of which route they use to access the insurer.

Conduct risk – Complaints

The Insurance Business Rules and Guidance 2021 ("IBR"), define a complaint as:

“any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide a financial service, or

product, which alleges that the complainant has suffered, or may suffer, financial loss, material distress, or material inconvenience; a complaint may involve, but is different from, a claim and does not include a pure request for information”

Complaints are a key indicator of whether customers feel they are being treated fairly. The Commission has seen examples where complaints are dealt with by outsourced companies and insufficient information is considered by the board, or complaints are not considered at all.

The IBR already include requirements for the general representative around the maintenance of the complaints register and acting as a point of contact for complaints on behalf of the insurer. The CP proposed that an additional requirement be introduced such that the board of every retail insurer consider, and document, at least every six months, its consideration of complaints (either individually or in aggregate), including outcomes. It was not intended that rules should be prescriptive about the format for the reporting of complaints to the board. A board may appoint a complaints sub-committee to deal with the details of complaints, but it must report to the board at least half-yearly.

Q20: Do you have any comments on the proposal that boards of retail general insurers will consider, and document, consideration of complaints regularly and at least half yearly?

The majority of responses were comfortable with the proposed approach and noted that they would expect this to be carried out already. A small number of responses disagreed on the basis that it should be for the board to decide the approach to complaints.

The Commission adopts the proposals set out in the CP and amends the IBR accordingly.

Data

At present, the Commission receives relatively little data on the details of general retail insurance; with most regulatory data focussing on prudential risk. For example, there is no requirement for RGIs to report to the Commission on the number of policyholders insured. This makes it difficult for the Commission to assess either the absolute or the relative riskiness of each insurer when allocating supervisory resources.

In the CP the Commission set out a reporting proposal for Guernsey RGIs based on information it would expect the RGI to have available for its own business reasons. The information required is set out in Annex 1.

Q21: Do you agree that retail general insurers should provide additional data to the Commission? Do you agree with the above list?

While a majority of responses were supportive, some expressed reservations either in the volume of information or the manner it was being collected. They suggested the Commission should limit its data collection to only information which it specifically required and that it should consider using other routes – such as incorporating it into the ORSA process – or that the data be provided in response to a specific request from the Commission. In general, firms recognised that the information identified would be available and required to manage their business.

There appeared to be general recognition that the information was data which firms would require themselves and would therefore be easily available to be reported. Relying on firms to provide information by other routes means that important information may not be up to date when it is required, while annual returns ensure that information is accurate and updated at least annually and is on hand for the Commission without the need for a specific data request.

On the basis of this and the responses, the Commission will require retail general insurers to provide the data specified in the CP to the Commission on an annual basis.

3.8 Insurance Managers

Insurance Manager (IM) Resources, Skills and Knowledge

Guernsey has a well-established captive insurance sector. Individual captives often outsource various functions to insurance managers. This model generally works well for captive insurers but the Commission has seen examples of IMs taking on RGI clients without having adequate resources, knowledge or skills to manage the different business model and risks presented by the business. The requirements for an RGI are different to those of a captive insurer or even a commercial insurer.

To ensure IMs can manage RGIs adequately the Commission proposed to add rules to the Conduct of Business section of the Insurance Manager Rules and Guidance 2021 (“IMR”), in respect of RGI clients only, to ensure that the manager can manage the insurer effectively its board must carry out and document a gap analysis between the IM’s resources, skills and knowledge and the requirements of the RGI. Areas that the manager should consider as part of its gap analysis should include but are not limited to:

- Resources required to manage the insurer effectively;
- Knowledge and experience, including understanding the risks of:
 - a. the products to be sold;
 - b. distribution channels;
 - c. the markets into which the products are sold;
 - d. claims handling;
 - e. reserving methodology; and
 - f. the relevant reinsurance market.

Q22: Do you agree with the proposed amendments to the Insurance Managers Rules in respect of managers dealing with retail general insurers?

There was a broad consensus in favour of making the proposed changes to the Insurance Manager rules. The small number opposed indicated that they did not consider that the insurance manager should be responsible for issues with the underlying insurer and the insurer should be the focus of the Commission’s efforts.

The Commission notes the comments and, of course, that the insurer is only one focus of its efforts when problems arise. However, this in itself is not sufficient and where there is an IM in place, it must have sufficient skill and knowledge to carry out its functions and to understand in detail the underlying insurance business.

The Commission therefore adopts this proposal and the changes to the IMR as described in the consultation paper.

Insurance Manager (IM) Capital Assessment

When an insurer is in financial difficulties it may require more resources from its general representative, and the insurer's difficulties may be such that the general representative is unable to recover all its costs. Most general representatives are licensed IMs and the current minimum capital requirement for an insurance manager is £25,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher. This amount was set several years ago and is no longer adequate for managers managing RGIs. It also does not allow for the situation whereby the manager is required to continue servicing an insurer but is no longer able to recover costs from the insurer.

In the CP the Commission proposed increasing the minimum capital requirement for insurance managers that manage RGIs to £100,000. Most, but not all, IMs already meet this proposed requirement. Conceptually, the Commission sees this capital as acting as a buffer of sorts in the circumstances outlined above. If drawn upon with the permission of the Commission in such circumstances, the Commission would look to agree an appropriately graduated plan with the IM for its restoration over a suitable period of time.

Q23: Do you agree that the minimum capital requirement for insurance managers dealing with retail general insurers should be increased to £100,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher?

While a majority of respondents did not support this proposal, opinions were divided. It was noted that in many cases IMs already meet this threshold and that there was no greater likelihood of failure in a retail insurer than any other. Responses also commented that it was not reasonable that an IM should be expected to provide financial support to RGIs by, for example, continuing to provide information or carry on reporting where an RGI was not able to cover the relevant costs incurred by the IM.

The concern for the commission is that while the probability of failures may indeed be no higher for RGIs than for other types of insurer, the consequences for affected customers can be serious. It is in these circumstances that it is particularly important that the IM is sufficiently capitalised to continue in place even if they may not be able to derive continued financial support from the underlying insurer.

The Commission considers that in this case, the requirement to ensure continued performance of its duties by the IM/general representative as the case may be is essential. Therefore the increased capital requirement for IMs is justified – and rather than reflecting the IM supporting the insurer, is a recognition that additional resources may not be forthcoming from the insurer.

The Commission therefore adopts the proposal set out in the CP and the minimum capital requirement for IMs dealing with RGIs is increased accordingly.

3.9 Policyholder Protection Scheme

In the Bailiwick, there is a deposit protection scheme for customers of Guernsey banks and there is a tied asset scheme for customers of long-term insurers⁶. There is nothing equivalent for general insurance policyholders of an insurer licensed in Guernsey if it is unable to meet its liabilities. For the avoidance of doubt, there is no scope for Guernsey insurers to buy into the UK policyholder protection scheme.

A policyholder protection scheme can give comfort to policyholders if their insurer can no longer pay claims. Its existence may make Guernsey more appealing to some types of policy holder.

This part of the paper and the following question were highlighted as having the status of a discussion paper rather than a formal consultation paper proposing a definitive solution to a problem.

Q24: Do you think that a policyholder protection fund should be created? How do you consider that the scheme might be arranged? Please include scope of coverage, funding, limits and governance in your response. Do you have any comment on the fund being financed by a post-event levy paid by all insurer entities at an amount equivalent to the annual fee paid to the Commission for the relevant year? Do you have any suggestions for an alternative arrangement that would enable the creation of a policyholder protection fund?

This was an area in which the Commission was seeking input from industry on the practicalities of implementing in limited form a policy holder protection fund.

There was a range of responses expressing mixed views. There was a small majority of responses in favour of pursuing such a limited arrangement amongst those who gave a view. However, this represented fewer than half of the overall responses received with a number that were non-committal or ambivalent in view.

The Commission will take this under further consideration but, given the nature of this discussion progress that has been made in introducing policyholder priority in the event of insolvency, it does not propose at this point in time to take forward proposals for an insurance protection fund.

⁶ Through the standard condition applied to long term insurers which requires that assets representing at least 90% of policyholder liabilities must be held in trust.

Annex 1: Information to be collected from retail general insurers annually

- 1) Underwriting
 - a) number of clients by class of insurance;
 - b) gross and net written premium income by class;
 - c) expense ratio by class;
 - d) brokerage, commission or related charges paid to associated companies; and
 - e) reinsurance premiums paid to associated companies.
- 2) Persistency
 - a) percentage of policyholders lapsing / not renewing by class of insurance.
- 3) Claims
 - a) net claims ratios by class; and
 - b) percentage of claims rejected by class.
- 4) Location of policyholders
 - a) list of all jurisdictions in which policyholders are resident by class of insurance; and
 - b) Notification of what action has been to ensure that the insurer is allowed to carry on business in each jurisdiction into which it writes business.
- 5) Intermediaries
 - a) list of intermediaries with total amount of gross premium;
 - b) list of intermediaries which are an associated party of the insurer; and
 - c) location and licensed status of all intermediaries contracted by the firm.
- 6) Outsourcing
 - a) details of all functions that are outsourced (including to associated entities) including the name, jurisdiction, regulatory status and relationship with the insurer.
- 7) Reinsurance
 - a) Details of each reinsurer with balances at the year end, including:
 - i) credit rating;
 - ii) amounts that are outstanding at year end;
 - iii) amounts that are outstanding for more than three months by reinsurer; and
 - iv) any right of offset and whether the insurer has legal advice which confirms that it is enforceable.
- 8) Complaints
 - a) total number of complaints received during the year, broken down by type;
 - b) no. of complaints taking more than 90 days to resolve to the satisfaction of the complainant;
 - c) number of complaints referred to CIFO or another ombudsman;
 - d) details of complaints where an ombudsman has found in favour of the complainant; and
 - e) for each complaint where the ombudsman has found in favour of the complainant, an explanation of what actions have been taken by the firm to prevent a repeat of the failings which led to the finding.

Annex 2 – Insurance Business Rules Amendments

The following rules are included:

The Insurance Business (Amendment) Rules 2024

The Insurance Business (Solvency) (Amendment) Rules 2024

The Insurance Managers (Amendment) Rules 2024

All of which were originally published with the March 2023 CP.

THE INSURANCE BUSINESS RULES and GUIDANCE, 2021

CONSOLIDATED VERSION

This consolidated version of the Rules incorporates amendments listed in the footnote below¹. It is prepared for the Guernsey Law website and is believed to be up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use.

¹ S.I. No. 137 amended by The Insurance Business (Amendment) Rules, 2024.

Contents

PART 1 INTRODUCTION	5
1.1 Application.....	5
PART 2 LICENSING	7
2.1 Application for licences.....	7
2.2 Non-locally incorporated domestic insurers.....	12
PART 3 ANNUAL RETURNS AND AUDITS.....	13
3.1 Annual returns	13
3.2 Consolidated accounts	16
3.3 Annual returns in a non-standard format	16
3.4 Audit.....	16
PART 4 PUBLIC DISCLOSURE OF INFORMATION.....	18
4.1 Application of Part 4.....	18
4.2 Public disclosure of information.....	20
4.3 Disclosure of information to persons with a valid interest.....	22
4.4 Disclosure policy	22
PART 5 DUTIES OF GENERAL REPRESENTATIVES.....	23
5.1 Duties of general representatives	23
5.2 Communication to the Commission.....	24
5.3 Power of the Commission to impose conditions	24
5.4 Waiver or modification of requirements	24
PART 6 SPECIAL PURPOSE INSURERS.....	25
6.1 Controllers, collateral, and participation.....	25
6.2 Applications, consents, and requirements	26
PART 7 CONDUCT OF BUSINESS.....	27
7.1 Application of Part 7.....	27
7.2 Due skill, care, and diligence when dealing with customers.....	28
7.3 Fair treatment of customers.....	29
7.4 Conflicts of interest.....	29
7.5 Dealing with intermediaries to ensure the fair treatment of customers	30
7.6 Development and distribution of insurance products.....	33
7.7 Promotion of products and services in a manner that is clear, fair, and not misleading.....	34

7.7.1	Introduction	34
7.7.2	General promotion.....	35
7.7.3	Independent review.....	36
7.7.4	Inaccurate, unclear, or misleading material	36
7.7.5	Overseas promotion and advertising.....	37
7.8	Provision of timely, clear, and adequate pre-contractual and contractual information to customers.....	37
7.9	Advice.....	40
7.10	Servicing and disclosure in relation to policies	40
7.10.1	Introduction	40
7.10.2	Renewal notices.....	43
7.11	Timely, fair, and transparent claims handling.....	44
7.11.1	Introduction	44
7.11.2	Claims disputes	45
7.11.3	Outsourcing	45
7.11.4	Interest.....	45
7.12	Timely and fair manner complaints handling	46
7.13	Cash management.....	48
PART 8	GENERAL PROVISION.....	50
8.1	Interpretation.....	50
PART 9	SAVINGS, REVOCATIONS, CITATION, AND COMMENCEMENT	53
9.1	Savings.....	53
9.2	Revocations.....	53
9.2.1	Revocation of The Insurance Business (Accounts, Annual Return and Approved Eurobonds) Regulations, 1987.....	53
9.2.2	Revocation of The Insurance Business (Public Disclosure of Information) Rules, 2010	53
9.2.3	Revocation of The Insurance Business (Public Disclosure of Information) Rules, 2018	53
9.2.4	Revocation of The Licensed Insurer's (Conduct of Business) Rules, 2018.....	53
9.2.5	Revocation of The Insurance Business (Special Purpose Insurer) Rules, 2016..	54
9.2.6	Revocation of The Insurance Business (Licensing) Regulations, 2010	54
9.2.7	Revocation of The Insurance Business (Annual Returns) Regulations, 2008	54

9.2.8	Revocation of the Insurance Business (Duties of General Representatives)	
	Regulations, 2008.....	54
9.3	Citation and commencement.....	54
Schedule 1	Information to be disclosed.....	55
Schedule 2	The Principles of Conduct of Finance Business.....	57
Schedule 3	Annual Returns for General Retail Insurer.....	64

PART 1 INTRODUCTION

1.1 Application

- (1) The Insurance Business Rules 2021 replace The Insurance Business (Accounts, Annual Return and Approved Eurobonds) Regulations, 1987², The Insurance Business (Licensing) Regulations, 2010³, The Insurance Business (Annual Return) Regulations, 2008⁴, The Insurance Business (Public Disclosure of Information) Rules, 2010⁵, The Insurance Business (Public Disclosure of Information) Rules, 2018, The Insurance Business (Duties of General Representatives) Regulations, 2008⁶, The Licensed Insurer's (Conduct of Business) Rules, 2018⁷ and The Insurance Business (Special Purpose Insurer) Rules 2016.
- (2) The Commission may in its absolute discretion, by written notice to a licensee, exclude or modify the application of any provision of these Rules.
- (3) The Commission may issue supplementary guidance regarding the standards of conduct and practice expected in relation to any aspect of the regulatory framework. Such guidance will not constitute rules of the Commission.

² G.S.I. No. 4 of 1987.

³ G.S.I. No. 18 of 2010.

⁴ G.S.I. No. 15 of 2008.

⁵ G.S.I. No. 19 of 2010.

⁶ G.S.I. No. 16 of 2008.

⁷ G.S.I. No. 45 of 2018.

Guidance Note: This document take a two-level approach –

- the Rules set out the standards to be met; and
- guidance notes present suggested ways of showing compliance with the Rules.

Licensees may adopt alternative measures to those set out in the guidance so long as it is possible to demonstrate that such measures achieve compliance.

The text contained in shaded boxes contains guidance from the Commission and does not form part of the Rules.

PART 2 LICENSING

2.1 Application for licences

- (1) An application for a licence under section 6 of the Law must include –
 - (a) a fully completed application form; in the standard format determined by the Commission and as published on its website;
 - (b) the appropriate fee;
 - (c) details of ownership, including –
 - (i) sufficient information to confirm the ultimate ownership of the proposed applicant;
 - (ii) sufficient information to confirm the applicant's controllers;
 - (iii) a list of the applicant's current shareholders and proposed shareholders on licensing, if different;
 - (iv) an organisation chart; in sufficient detail to identify all holdings between the applicant and its ultimate holding company and all material associated parties with whom the applicant will trade;
 - (v) the latest audited financial statements of the applicant and, where applicable, the ultimate holding company and the controller;
 - (vi) a short narrative outlining the background of the ultimate holding company and controller;

- (vii) where a trust is involved in the ownership chain, the following –
 - (A) a copy of the trust deed;
 - (B) the names and current addresses of the beneficiaries;
 - (C) the names and current addresses of the settlors;
 - (D) the names and current addresses of the trustees; and
 - (E) the relationship of the settlors to the beneficiaries;
- (viii) the proposed method of capitalisation, whether by way of share capital, letter of credit, subordinated loans, or otherwise;
- (ix) any other information that is relevant to a full understanding of the control or ownership of the applicant; or as may be requested by the Commission;
- (x) in the case of protected cell companies (“PCCs”) this information must be provided for each new cell applicant unless approval has been given, on a product or class basis, and the Commission has confirmed, in writing, that such information is not required for new cells covered by the product or class approval;
- (d) a business plan, in the standard format determined by the Commission, including –
 - (i) financial projections, covering at least the first three years of operations of the applicant following licensing; to include appropriate stress and testing including –

- (A) forecast profit and loss account; broken down into a technical account and non-technical account;
 - (B) forecast balance sheet;
 - (C) forecast statement of solvency at each year end; and
 - (D) for long term business, forecast statement approved by an actuary;
- (ii) a description of the nature of the risks which the applicant intends to write;
 - (iii) an explanation of the applicant's strategy for managing risks associated with carrying on insurance business, particularly in relation to reinsurance;
 - (iv) details of any loss history; identifying the source of the information and past actuarial studies, as appropriate;
 - (v) confirmation that financial projections are consistent with the loss history and actuarial studies and where these cannot be provided an explanation of why this is the case;
 - (vi) the rationale for setting up the company in the Bailiwick;
 - (vii) a summary of any proposed portfolio transfers together with an actuarial valuation establishing transfer value;
 - (viii) the investment policy to be adopted by the applicant together with the names of any investment managers to be utilised;
 - (ix) an outline, consistent with the business plan, of exposures to be underwritten, reinsurance to be obtained, and the dividend policy to be pursued, where known;

- (x) a summary of the reinsurance programme detailing –
 - (A) reinsurers;
 - (B) security ratings; and
 - (C) attachment points;
- (xi) for protected cell companies; where the cell applicant is to be reliant on the core for solvency, a solvency projection showing the allocation of core capital to all individual cells;
- (xii) for general business only –
 - (A) a summary of the fronting arrangements detailing fronters, security ratings, and commission structures;
 - (B) a summary of how loss reserves are to be calculated and accounted for;
- (xiii) for long term business only –
 - (A) the names and addresses of the parties providing services in relation to policyholder protection agreements;
 - (B) copies of the agreements between the parties in relation to the policyholder protection arrangements;
- (xiv) details of any other forms of business to be undertaken;
- (e) information required in respect of the applicant's personal and third party service providers including –

- (i) the names and addresses of the current and proposed –
 - (A) directors;
 - (B) officers;
 - (C) managers;
 - (D) general representative;
 - (E) consultants;
 - (F) money laundering reporting officer, where they are not the money laundering reporting officer of the general representative; and
 - (G) compliance officer, where they are not the compliance officer of the general representative;
- (ii) for all current and proposed directors, and general representatives, a Personal Questionnaire, in the standard format determined by the Commission, or a statement from the current or proposed general representative confirming that the Personal Questionnaire already held by the Commission is correct;
- (iii) the name, address, date of birth, qualifications, and employment history of insurance representatives to be authorised by the applicant;
- (iv) a copy of the auditor's acceptance to act for the applicant;
- (v) a copy of the actuary's acceptance to act for the applicant;
- (vi) details of any other relevant third party service providers; including claims handlers and loss adjusters;

- (f) the memorandum and articles of association;
- (g) the certificate of incorporation;
- (h) the details of the bank mandate signing powers; and
- (i) confirmation that share capital has been received and that letters of credit and subordinated loans are in place and available to the applicant.

Guidance Note:

General Representative – details of the general representative need not be submitted where they are already an insurance manager licensed under the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002.

Other individuals

The Commission may require Personal Questionnaires to be completed by other individuals as it sees fit.

Auditors

The auditors acceptance letter should be on headed paper and include their name and address.

2.2 Non-locally incorporated domestic insurers

- (1) The Commission may, by written agreement, waive or modify these requirements in the case of an insurer writing only domestic business, within the Bailiwick of Guernsey, which is incorporated and regulated in another jurisdiction.

PART 3 ANNUAL RETURNS AND AUDITS

3.1 Annual returns

- (1) A licensed insurer's annual returns must include –
 - (a) an up-to-date business plan, including –
 - (i) for non-life business –
 - (A) a spreadsheet showing unaudited financial projections, in the standard format determined by the Commission, showing the anticipated operations of the licensed insurer for the twelve months following the financial year end to which the annual return relates;
 - (B) a written summary of the licensed insurer's proposed insurance programme with sufficient detail to fully describe the exposure accepted by them;
 - (C) a summary of the reinsurance programme; detailing the reinsurers, security ratings, and attachment points; and
 - (D) any other material factors that may be relevant to the regulation of the licensed insurer in the twelve months following the last financial year-end;
 - (ii) for life business –

- (A) a summary of the products to be offered and confirmation that the actuary has approved all such products in a form as specified by the Commission;
 - (B) a summary of the markets in which the products are to be offered;
 - (C) a valuation report, prepared by the actuary, in a form agreed with the Commission and in accordance with the standards set by the Commission;
 - (D) unaudited financial projections, in a form to be agreed with the Commission, showing the anticipated operations of the licensed insurer for the three years following the financial year-end to which the annual return relates; including premium volume, sums at risk, reinsurance, and capital requirements; and
 - (E) any other material factors that may be relevant to the regulation of the licensed insurer in the three years following the last financial year-end;
- (b) a completed declaration of reliance on reinsurers, in the standard format determined by the Commission, and, where a licensed insurer is a PCC, a separate declaration must be completed for each individual cell;
 - (c) a copy of the auditor's management letter or confirmation, from the general representative, that the auditors have confirmed that no auditor's management letter is required to be issued;
 - (d) a summary of the extent of adherence to the Corporate Governance principles set out in the Licensed Insurers' Corporate Governance Code;

- (e) a completed declaration signed by the general representative and in the standard format determined by the Commission;
 - (f) a note explaining how the insurance reserves, including reserves in respect of incurred but not reported, or insufficiently reported, claims are calculated. Any actuarial report used for this purpose must be prepared in accordance with the standards set by the Commission; and
 - (g) further financial information including –
 - (i) for a PCC; management accounts that include a breakdown by cell;
 - (ii) a summary of claims paid and outstanding, as at the end of the period covered by the annual insurance return, in a form agreed, with the Commission, as appropriate to the underwriting activity; and
 - (iii) a schedule of bank deposits and investments broken down by asset class.
- (2) [Retail general insurers must also include in their annual return all information set out in the requirements at Schedule 3⁸].

Guidance Note:

Licensees should note that the annual return is in addition to the returns requirements set out in the Insurance Business (Solvency) Rules, 2021.

⁸ Inserted by The Insurance Business (Amendment) Rules, 2024.

3.2 Consolidated accounts

- (1) Where the Commission has imposed a condition on a licensed insurer requiring the preparation of consolidated accounts, it may require all or any of the information and documents, required under this Part, to be prepared and submitted on a solo and consolidated basis.

3.3 Annual returns in a non-standard format

- (1) The Commission may, on application, consider the acceptance of the annual returns in a format other than the standard format. Non-standard format annual returns will only be accepted following written confirmation from the Commission.

Guidance Note:

The Commission will not provide confirmation in cases where the proposed format does not include all of the information required on the standard format.

3.4 [Audit

- (1) A licensee offering retail insurance services must maintain an internal audit function.
- (2) An internal audit function, in compliance with (1) –
 - (a) must be undertaken at a frequency to be determined by the board of the insurer but no less than once in every three year period;
 - (b) must address the relevant processes, governance and controls appropriate to the business of the licensee;

- (c) must be undertaken by an auditor whom the board is satisfied has the relevant knowledge and experience;
- (d) may be outsourced to a group internal audit function;
- (e) may be outsourced to an independent third party; and

all decisions of the board must be clearly documented.

- (3) All insurers must appoint an external auditor in accordance with the Law and, on appointment, the board must detail the reasons for the appointment of the chosen auditor, to include their consideration of the knowledge and experience of that auditor in respect of general retail insurance.^{9]}

Guidance Note:

Retail general insurers should maintain an internal audit function – reporting to the board of the insurer and focussing on the key risks to the firm.

The general representative or insurance manager will not normally be considered to be independent and would not be able to carry out this function, however, where it is a group internal function, independent of the Guernsey office, it would be considered to be acceptable.

⁹ Inserted by The Insurance Business (Amendment) Rules, 2024.

PART 4 PUBLIC DISCLOSURE OF INFORMATION

4.1 Application of Part 4

- (1) This Part does not apply to –
- (a) Category 5 licensed insurers as categorised under the Insurance Business (Solvency) Rules 2021 (“Solvency Rules”);
 - (b) Category 6 licensed insurers as categorised under the Solvency Rules;
 - (c) PCCs, [unless that PCC provides general retail insurance¹⁰]; or
 - (d) licensed insurers not incorporated in the Bailiwick.
- (2) In this Part, “relevant insurer” means a licensed insurer other than –
- (a) a Category 1 licensed insurer, Category 2 licensed insurer, Category 3 licensed insurer, or Category 4 licensed insurer, as categorised under the Solvency Rules, [which does not offer retail general insurance, and which has]¹¹ with either –
 - (i) annual gross written premium income not exceeding £500,000;
or
 - (ii) gross assets not exceeding £2,500,000,

¹⁰ Inserted by The Insurance Business (Amendment) Rules, 2024.

¹¹ *Ibid.*

providing that, if the insurer is in run off (by which it is no longer taking on new business but still has outstanding liabilities to existing policyholders), it would have met these conditions in its last full year of underwriting;

- (b) a licensed insurer, [which does not offer retail general insurance,]¹² that has reinsured 75% or more of its insurance risk with a group insurer and where that insurance group makes public disclosures equivalent to those required in these Rules;
- (c) a Category 2 licensed insurer, or a Category 4 licensed insurer, as categorised in the Solvency Rules and writing insurance for related group insurers only;
- (d) a Category 2 licensed insurer, or a Category 4 licensed insurer, as categorised under the Solvency Rules and writing a single class of reinsurance for one fronting insurer in relation to a specific product or arrangement; or
- (e) a licensed insurer, [which does not offer retail general insurance,]¹³ with a small number of commercial policyholders only.

¹² Inserted by The Insurance Business (Amendment) Rules, 2024.

¹³ Inserted by The Insurance Business (Amendment) Rules, 2024.

4.2 Public disclosure of information

- (1) [All relevant insurers, which are retail general insurers, must publicly disclose their annual audited financial statements, the information set out at Schedule 1, and any further information which would be of use to the customer including that set out at rule 4.2A. The information must be available, online and on web pages identified for the relevant insurer, for a minimum period of three years from the filing date.

Guidance Note:

Examples of information that would be of use to the customer include example policies and information on conduct of business.

- (1A) All other relevant insurers with a website must publish its annual audited financial statements, together with the information set out in Schedule 1, on that website. This information must be available for a minimum period of three years from the filing date¹⁴].
- (2) A relevant insurer, [which is not a retail general insurer,¹⁵] may withhold, redact, or summarise, all or any part of the information required by this rule where –
- (a) the disclosure of such information would enable their competitors to gain undue advantage or otherwise cause detriment;
 - (b) there are obligations to policy holders, or other counterparty relationships, binding the relevant insurer to secrecy or confidentiality;
 - (c) the disclosure of such information would prejudice their position by making confidential information public; or

¹⁴ Amended by The Insurance Business (Amendment) Rules, 2024.

¹⁵ Inserted by The Insurance Business (Amendment) Rules, 2024.

- (d) where the disclosure of such information is prohibited by any jurisdiction's legislation; or it breaches a direction issued by the Commission or any other relevant overseas authority; [and

where that insurer is a retail general insurer, such action may only be taken with the prior written consent of the Commission¹⁶].

- (3) Where a relevant insurer withholds, redacts, or summarises any information, in accordance with this rule, they must provide the Commission with written notification, explicitly approved by their board of directors, of the information to be withheld, redacted, or summarised and the reason why this is necessary.
- (4) A relevant insurer must file, with the Commission, on or before the filing date an electronic version of the relevant information.
- (5) A relevant insurer must publish the relevant information within fourteen days of the date of filing the relevant information with the Commission.

4.2A [Further disclosure requirements for retail general insurers

- (1) All retail general insurers must ensure that the following information is prominently displayed on their website, on all marketing materials, and all communications with both customers and potential customers –
 - (a) the postal address of the insurer's registered office or, where the insurer is a branch, the postal address of the branch;
 - (b) the email address or telephone number for direct communication with the insurer;
 - (c) the postal address and either the email address or telephone number for lodging complaints against the insurer;

¹⁶ Inserted by The Insurance Business (Amendment) Rules, 2024.

- (d) details for contacting the Channel Islands Financial Ombudsman;
- (e) whether the insurer and producer share a common controller.^{17]}

4.3 Disclosure of information to persons with a valid interest

- (1) A licensed insurer, to which this Part applies, must make its annual audited financial statements available to persons with a valid interest; including current and prospective policyholders and professional advisers.

4.4 Disclosure policy

- (1) A licensed insurer must prepare, and keep periodically under review, a disclosure policy that –
 - (a) identifies the parties responsible for drafting and reviewing the disclosures;
 - (b) sets out the processes for completion of the various disclosure requirements; and for review and approval by management;
 - (c) identifies necessary disclosures, additional to the financial statements, and the method of disclosure of such information; and
 - (d) identifies the specific information for which the disclosure is withheld and the basis on which the information has been withheld.

¹⁷ Inserted by The Insurance Business (Amendment) Rules, 2024.

PART 5 DUTIES OF GENERAL REPRESENTATIVES

5.1 Duties of general representatives

- (1) A general representative of a licensed insurer must –
 - (a) act as the principal point of contact within the Bailiwick for all communications with the Commission;
 - (b) be responsible, on behalf of the licensed insurer, for filing the licensed insurer's annual return and business plan;
 - (c) be responsible for monitoring and reporting to the Commission on the licensed insurer's compliance with–
 - (i) the business plan filed;
 - (ii) any conditions or directions issued by the Commission;
 - (iii) Part 7 (Conduct of Business), where appropriate, and any other relevant legislation, Code of Conduct or Code of Practice;
 - (iv) The AML and CFT Handbook and any other anti-money laundering procedures and guidelines imposed by the Bailiwick; and
 - (v) solvency requirements imposed by law or the Commission;
 - (d) where appropriate, provide a money laundering reporting officer, resident in the Bailiwick, on behalf of the licensed insurer;
 - (e) where appropriate, provide a money laundering compliance officer, resident in the Bailiwick, on behalf of the licensed insurer;

- (f) ensure that adequate books and records, in relation to the business of the licensed insurer carried out through its place of business in the Bailiwick, are maintained in the Bailiwick and available for inspection by the Commission;
- (g) be responsible for marketing literature and advertisements issued in or from within, the Bailiwick by that licensed insurer; and
- (h) be responsible for maintaining a register of any complaint made against the licensed insurer, in respect of business conducted in the Bailiwick, acting as the initial point of contact and address for such complaints.

5.2 Communication to the Commission

- (1) The provisions of section 82(4) of the Law apply in respect of communications between the general representative and the Commission as they apply in respect of communication between an auditor, or actuary of a licensed insurer, and the Commission.

5.3 Power of the Commission to impose conditions

- (1) The Commission may, at its discretion, at the time of granting a licence to an insurer, impose upon the general representative further duties or responsibilities in relation to that licensed insurer as a condition of the licence.

5.4 Waiver or modification of requirements

- (1) The Commission may, at its discretion, agree to waive or modify any provisions of this Part.

PART 6 SPECIAL PURPOSE INSURERS

6.1 Controllers, collateral, and participation

- (1) Special purpose insurer may only raise capital for underwriting –
 - (a) from qualified investors; whether via subscription for, or purchase of, debt or equity instruments or otherwise;
 - (b) by listing of securities; whether debt, equity, or derivative instruments, issued by the special purpose insurer on an investment exchange licensed by the Commission or a recognised investment exchange; or
 - (c) by such other means, or from such other persons, as may be approved in writing by the Commission.
- (2) The capital utilised for underwriting, by a special purpose insurer, may include the following contingent assets, as approved by the Commission –
 - (a) Type 1 letters of credit;
 - (b) reinsurance;
 - (c) partly paid shares.

6.2 Applications, consents, and requirements

- (1) An applicant for the licensing of a new insurer or the creation of a new cell, which meets the definition of a special purpose insurer, must notify the Commission within the relevant application. It must provide the Commission with any information necessary to demonstrate compliance with this Part, the Law, and any associated legislation or codes.
- (2) Upon application by a PCC, the Commission may grant a single consent for the formation of further special purpose insurer cells, whether generally or limited in extent, without further or additional application to the Commission, providing the following conditions apply –
 - (a) that the business of initial and further cells complies, and will continue to comply, with the terms and limits of the business plan submitted to the Commission;
 - (b) that the ownership of further cells will be restricted to owners of the cells of the special purpose insurers previously approved;
 - (c) that, within seven calendar days of the effective date of insurance underwritten by a further cell, the general representative of the special purpose insurer must notify the Commission and provide them with –
 - (i) a completed application form in such form as the Commission prescribes;
 - (ii) a narrative business plan;
 - (iii) the relevant fee; and
 - (iv) confirmation of the effective date of insurance.
- (3) The authorisation of at least one Guernsey resident signatory is required for all bank payments made by a special purpose insurer.

PART 7 CONDUCT OF BUSINESS

7.1 Application of Part 7

- (1) Part 7 applies to all Category 1 and Category 3 licensed insurers with respect to business with retail customers.

7.1A [Governance]

- (1) This rule applies to licensees offering retail general insurance.
- (2) A licensee offering retail insurance services must ensure that all directors must physically attend at least one board meeting, in the Bailiwick, per annum.
- (3) Each board must include, at a minimum, two Independent Non-Executive Directors (“INEDs”).
- (4) Non-executive directors will not be considered to be independent directors of that entity , by the Commission, where –
 - (a) they have been employed by the insurance manager of that entity at any time within the two years prior to their appointment; or
 - (b) they have been employed by any previous insurance manager of that entity –
 - (i) who have acted as insurance manager of that entity within the previous two years; and
 - (ii) no less than three years have elapsed, prior to the appointment, since that insurance manager ceased to be the insurance manager for that entity; and

- (c) this sub-rule does not apply to INEDs appointed prior to this rule coming into force¹⁸.

Guidance Note:

INEDs who were already appointed to the board of a licensee, prior to rule 7.1A(4) coming into force, will be able to retain their appointments even in cases where they have previously worked for an insurance manager of that entity within the previous three years.

- (5) The independent status of an INED –
 - (a) must be reviewed, by the board, on the occasions that the INED has been a member of that board for a period of nine years;
 - (b) must be reviewed, by the board, on an annual basis thereafter; and
 - (c) such reviews must be clearly documented by the board.^{19]}

7.2 Due skill, care, and diligence when dealing with customers

- (1) A licensed insurer must act with due skill, care, and diligence when dealing with customers.
- (2) A licensed insurer must have policies and procedures in place to ensure that employees and agents meet high standards of ethics and integrity and act with due skill, care, and diligence when dealing with customers.

¹⁸ This Rule came into force on 2nd February 2024.

¹⁹ Inserted by The Insurance Business (Amendment) Rules, 2024.

Guidance Note:

Boards of general retail insurers are reminded that they have a duty to ensure that policyholders are treated fairly.

7.3 Fair treatment of customers

- (1) A licensed insurer must establish and implement policies and procedures on the fair treatment of customers as an integral part of its business culture.
- (2) A licensed insurer must adopt the fair treatment of customers as an integral part of their business culture and policies and procedures, to support this objective, must be properly embedded in the organisation.

7.4 Conflicts of interest

- (1) A licensed insurer must avoid, or properly manage, any potential conflicts of interest.
- (2) A licensed insurer must take all reasonable steps to identify and avoid, or properly manage, conflicts of interest in its dealings with customers and must communicate these through appropriate policies and procedures.
- (3) Where conflicts of interest cannot be managed satisfactorily the licensed insurer must decline to act.

- (4) In cases where the Commission have concerns about the ability of a licensed insurer to manage conflicts of interest adequately, the Commission may consider requiring other measures.

Guidance Note:

Appropriate disclosure can provide an indication of potential conflicts of interests; enabling the customer to determine whether the sale may be influenced by financial or non-financial incentives. It can help in managing conflicts of interest where it empowers customers to identify and challenge, or avoid, potentially poor advice or selling that may arise through the conflict of interest. However, managing conflicts of interest through disclosure, or obtaining informed consent from customers has limitations, including where the customer does not fully appreciate the conflict or its implications, and this could be seen to place an unreasonable onus on the customer.

7.5 Dealing with intermediaries to ensure the fair treatment of customers

- (1) A licensed insurer must have arrangements in place, in dealing with intermediaries, to ensure the fair treatment of customers.
- (2) A licensed insurer conducting business with intermediaries must do so only with intermediaries that are licensed in the Bailiwick or, if outside the Bailiwick, licensed in their home jurisdiction where such a licensing regime is in place.
- (3) Where a licensed insurer grants term of business to intermediaries they must –
- (a) have in place a documented procedure for the appointment of new intermediaries;
 - (b) verify that the intermediaries have the appropriate knowledge and ability;
 - (c) establish that the intermediaries, both generally and in respect of their dealings with the licensed insurer, comply with applicable laws and regulatory requirements which are relevant to the services being provided to the customer;

- (d) have an application form, completed and signed by the intermediary, applying for introducer terms. The application form will require the applicant to disclose certain facts about its directors, its principals, and its partners, and as a minimum must include –
 - (i) verification of identity; and
 - (ii) experience and qualifications;
- (e) have a terms of business agreement, completed and signed by the intermediary applying for introducer terms, setting out that the intermediary -
 - (i) warrants that the agreement does not breach the provisions of the laws of the Bailiwick, or any other legal obligation in any relevant jurisdiction,
 - (ii) will only act as agent of the customer and not for or on behalf of the licensed insurer;
 - (iii) will observe the conditions of the agreement at all times; and
 - (iv) will clearly explain the risks inherent in the product to the customer;
- (f) ensure that the terms of business agreement promotes the fair treatment of customers and clarifies the respective roles of the licensed insurer and the intermediary including, where relevant –
 - (i) product development;
 - (ii) product promotion;
 - (iii) the provision of pre-contractual and point of sale information to customers;

- (iv) post sale policy servicing;
 - (v) claims notification and handling;
 - (vi) management information and other documentation required by the licensed insurer;
 - (vii) remedial measures; and
 - (viii) any other matters related to the relationship with customers;
- (g) require an intermediary outside the Bailiwick to further warrant that they will maintain every obligatory licence, authorisation, and registration and comply with, or procure compliance by its officers and agents with, all applicable laws and regulations of jurisdictions where they operate; and
- (h) take measures to monitor the performance of the intermediary including; quality of the business, persistency of the business, anticipated and actual levels and patterns of business, financial exposure to the intermediary, and complaints made against the intermediary.

7.6 Development and distribution of insurance products

(1) A licensed insurer must take into account the interests of different types of consumers when developing and distributing insurance products.

[(1A) Where Guernsey retail general insurers provide insurance in jurisdictions other than the UK, the Board must agree an approach for each separate jurisdiction.²⁰]

Guidance Note:

The board should give appropriate consideration to the legal and regulatory environment in any jurisdiction in which they intend to offer insurance.

(2) A licensed insurer must ensure that products and distribution strategies are developed in accordance with the following principles –

- (a) development of products and distribution strategies must include the use of adequate information to assess the needs of different consumer groups;
- (b) product development, including a product originating from a third party, must provide for a thorough assessment of the main characteristics of a new product, and of the related disclosure documents, by every appropriate department of the licensed insurer;
- (c) before bringing a product or service to the market, the licensed insurer must carry out a diligent review and testing of the product in relation to its business model, the existing rules and regulations, and its risk management approach. The policies, procedures, and controls put into place must enable the licensed insurer to –
 - (i) offer a product that delivers the reasonably expected benefits;

²⁰ Inserted by The Insurance Business (Amendment) Rules, 2024.

- (ii) target the customers for whose needs the product is likely to be appropriate whilst preventing, or limiting, access by customers for whom the product is likely to be inappropriate;
 - (iii) ensure that distribution methods are appropriate for the product, particularly in light of the legislation in force, and whether or not advice should be provided;
 - (iv) assess the risks resulting from the product by considering changes associated with the financial environment, or stemming from the licensed insurer's policies, that could harm customers; and
 - (v) monitor a product after its launch to ensure it still meets the needs of target customers; assess the performance of the various methods of distribution used, with respect to sound commercial practices, and take the necessary remedial action;
- (d) a licensed insurer must provide relevant information, to its intermediaries, to ensure that they understand the target market, reducing the risk of miss-selling;
 - (e) a licensed insurer must seek information from its intermediaries, on the types of customers to whom the product meets the needs of in that target market, in order to enable the licensed insurer to assess whether its target market is appropriate and to revise its distribution strategy for the product, or the product itself, when needed.

7.7 Promotion of products and services in a manner that is clear, fair, and not misleading

7.7.1 Introduction

- (1) A licensed insurer must promote products and services in a manner that is clear, fair, and not misleading.

7.7.2 General promotion

- (1) A licensed insurer must ensure that any materials promoting or advertising its products or services –
 - (a) are clear, fair, and not misleading;
 - (b) do not contain any statement, promise, or forecast which is untrue;
 - (c) are not designed in such a way as to distort or conceal any relevant subject material;
 - (d) are clearly recognisable as an advertisement;
 - (e) are easily understandable;
 - (f) accurately identify the product provider;
 - (g) include the regulatory status of the licensed insurer;
 - (h) are consistent with the coverage offered;
 - (i) are consistent with the result reasonably expected to be achieved by the customers of that product;
 - (j) state prominently the basis for any claimed benefits and any significant limitations;
 - (k) do not hide, diminish, or obscure important statements or warnings;
 - (l) where appropriate, state that the investment value is not guaranteed or that the value may fluctuate, and;
 - (m) in the case of long term business –

- (i) do not employ phrases such as “tax-free” or “tax-paid” without making clear which taxes are being referred to;
 - (ii) do not contain information about past performance unless it contains a warning that past performance is not necessarily a guide to future performance; and
 - (iii) where appropriate, state that a whole of life or endowment policy is intended to be a long term contract and that surrender values, especially in early years, are frequently less than the total amount of premiums paid.
- (2) The above requirements apply to information upon which intermediaries may also rely.

7.7.3 Independent review

- (1) Before a licensed insurer promotes or advertises an insurance product it must take reasonable steps to ensure that the information provided is accurate, clear, and not misleading.
- (2) Procedures must provide for an independent review of promotional material intended for customers other than by the person or organisation that prepared or designed it.

Guidance Note:

For example, where promotional material is developed by an intermediary on behalf of a licensed insurer, the licensed insurer should verify the accuracy of the promotional material and compliance with the requirements of these Rules before it is used.

7.7.4 Inaccurate, unclear, or misleading material

- (1) If a licensed insurer becomes aware that the promotional or advertising material is not accurate and clear, or is misleading, it must –

- (a) inform the party responsible for that material;
- (b) withdraw the material; and
- (c) notify any person that it knows to be relying on the information as soon as reasonably practicable.

7.7.5 Overseas promotion and advertising

- (1) A licensed insurer must take all reasonable steps to ensure that, in addition to compliance with these Rules, any form of promotion or advertising outside the Bailiwick is in accordance with the legislation in force in that country or territory.

7.8 Provision of timely, clear, and adequate pre-contractual and contractual information to customers.

- (1) A licensed insurer must provide timely, clear, and adequate pre-contractual and contractual information to customers.
- (2) The licensed insurer must take reasonable steps to ensure that a customer is given appropriate information about a product in order that the customer can make an informed decision about the arrangements proposed.

Guidance Note:

Such information is also useful in helping customers understand their rights and obligations after sale.

- (3) Where a licensed insurer uses intermediaries for the distribution of insurance products they must be satisfied that the intermediaries are providing information, to customers, in a manner that will assist them in making an informed decision.

- (4) The information provided must be sufficient to enable customers to understand the characteristics of the product they are buying and help them understand whether it meets their requirements.
- (5) While the level of product information required may vary, it must include information on the key features including, where appropriate –
 - (a) the name of the licensed insurer, its legal form, and the group to which it belongs;
 - (b) the type of insurance contract on offer; including the policy benefits;
 - (c) a description of the risk insured by the contract and of the excluded risks;
 - (d) the level of the premium, the due-date, and the period for which the premium is payable; the consequences of late or non-payment; and provisions for premium reviews;
 - (e) the type and level of charges to be deducted from, or added to, the quoted premium; and any charges to be paid directly by the customer;
 - (f) the circumstances in which interest would accrue after the insurance has matured;
 - (g) whether or not there are rights to surrender values in the contract and, if so, what those rights are;
 - (h) when the insurance cover begins and ends; and

- (i) prominent and clear information on significant or unusual exclusions or limitations. A significant exclusion or limitation is one that would tend to affect the decision of consumers generally to buy. An unusual exclusion or limitation is one that is not normally found in comparable contracts. In determining what exclusions or limitations are significant, a licensed insurer must consider the exclusions or limitations that relate to the significant features and benefits of a policy and factors which may have an adverse effect on the benefit payable under it.

Guidance Note:

Examples of significant or unusual exclusions or limitations may include –

- deferred payment periods;
- exclusion of certain conditions, diseases, or pre-existing medical conditions;
- moratorium periods;
- limits on the amounts of cover;
- limits on the period for which benefits will be paid;
- restrictions on eligibility to claim such as age, residence, or employment; and
- excesses.

- (6) Where an intermediary is not used for the distribution of insurance products the licensed insurer must seek to gather sufficient information so that adequate disclosure or, where appropriate, a fair presentation of risk can be made by the customer.
- (7) “Fair presentation of risk” means to disclose every material circumstance which the customer knows, or ought to know, or to provide the licensed insurer with sufficient information to put that insurer on notice that it needs to make further enquiries for the purpose of revealing those material circumstances. In relation to disclosure of a circumstance “material “ means it would influence the judgment of a prudent insurer in determining whether to accept the risk and on what terms.
- (8) A licensed insurer, conducting long term business, must provide a cancellation notice to long term policyholders offering the policyholder an appropriate cooling off period.

7.9 Advice

- (1) Where a licensed insurer provides advice to a customer in relation to an insurance contract they must take into account the customer's disclosed circumstances.
- (2) Where a licensed insurer engages an intermediary in relation to the provision of insurance contracts, and the intermediary provides advice to a customer in relation to an insurance contract, the licensed insurer must require that the intermediary take into account the customer's disclosed circumstances.

7.10 Servicing and disclosure in relation to policies

7.10.1 Introduction

- (1) A licensed insurer must –
 - (a) service policies appropriately, through to the point at which all obligations under the policy have been satisfied;
 - (b) disclose, to the policyholder, information on any contractual changes during the life of the contract; and
 - (c) disclose, to the policyholder, further relevant information depending on the type of insurance product.
- (2) A licensed insurer must satisfy its obligations, under a policy, in an appropriate manner and in accordance with the contractually agreed terms and legal provisions. This must include fair treatment in the case of switching between products or an early cancellation of a policy.

- (3) Licensed insurers must maintain a relationship with the customer throughout the policy lifecycle.
- (4) Where there is an ongoing relationship between the customer and the intermediary, the licensed insurer remains ultimately responsible for servicing policies throughout the lifecycle and ensuring that intermediaries have appropriate policies and procedures in place, in respect of the policy, servicing activities that they perform on the licensed insurer's behalf.

Guidance Note:

Policy servicing includes the provision of relevant information to customers throughout the life of the policy.

- (5) Information which must be disclosed to the policyholder includes –
 - (a) any change in the name of the licensed insurer, its legal form, or the address of its head office and any other offices, as appropriate;
 - (b) any acquisition, by another undertaking, resulting in organisational changes as far as the policyholder is concerned; and
 - (c) where applicable, information on a portfolio transfer; including policyholder's rights in this regard.
- (6) Licensed insurers must provide evidence of cover to the policyholder, including policy inclusions and exclusions, promptly after inception of a policy.

- (7) Information to be provided by or on behalf of a licensed insurer on an ongoing basis, including changes in policy terms and conditions, or amendments to the legislation applicable to the policy, will vary by type of policy.

Guidance Note:

Information to be provided, dependant on the type of policy, may cover –

- the main features of the insurance benefits; in particular details on the nature, scope, and due-dates of benefits payable by the licensed insurer;
- the total cost of the policy, expressed appropriately for the type of policy and in monetary terms where possible, including all taxes and other cost components; premiums should be stated individually if the insurance relationship comprises several independent insurance contracts or, if the exact cost cannot be provided, information provided on its basis of calculation to enable the policyholder to verify the cost;
- changes to the cost structure, if applicable, stating the total amount payable and any possible additional taxes, fees, and costs not levied via or charged by the licensed insurer; as well as any costs incurred by the policyholder for the use of communication methods if such additional costs are chargeable;
- duration of the contract; terms and conditions for (early) termination of the contract and contractual consequences;
- means of payment of premiums and duration of payments;
- premiums for each benefit; both main benefits and supplementary benefits;
- information to the policyholder about the need to report depreciation/appreciation;
- information to the policyholder about other unique circumstances related to the contract;
- information on the impact of a switch option of an insurance contract;
- information on a renewal of the contract;
- information on the ongoing suitability of the product, if such a service is provided by the licensed insurer.

- (8) The licensed insurer must provide, or must ensure that the intermediary provides, the following information to a retail customer regarding products with an investment element, at least annually which, at a minimum, includes –

- (a) participation rights in surplus funds;

- (b) basis calculation and state of bonuses;
 - (c) the current surrender value;
 - (d) premiums paid to date; and
 - (e) for unit-linked life insurance; a report on the performance and investment strategy of each underlying investment fund and a statement of changes of the investments, including the number and value of the units and movements during the past year, administration fees, taxes, charges, and current status of the portfolio of investments underlying the insurance contract.
- (9) The above requirements do not apply to the licensed insurer, in respect of a customer, where the customer has self-service access to a statement service and the policyholder has agreed for these requirements not to apply.

Guidance Note:

Self-service access, e.g. where statements are available via the internet.

- (10) Where there are changes in terms and conditions, the licensed insurer must notify the policyholder of their rights and obligations regarding such changes and obtain the policyholder's consent as appropriate.

7.10.2 Renewal notices

- (1) A licensed insurer, in respect of general insurance business only, must –
- (a) not unduly withhold renewal notices if they are ordinarily used; and
 - (b) ensure that renewal notices contain a warning about the duty of disclosure; including the necessity to advise changes affecting the policy which have occurred since the policy inception or last renewal date, whichever was the later.

7.11 Timely, fair, and transparent claims handling

7.11.1 Introduction

- (1) A licensed insurer must handle claims in a timely, fair, and transparent manner.
- (2) A licensed insurer must have fair and transparent claims handling and claims dispute resolution policies and procedures in place.
- (3) Licensed insurers must maintain written documentation on their claims handling procedures which include all steps from the claim being raised to its settlement. Such documentation may include expected timeframes for these steps, which might be extended in exceptional cases.
- (4) A licensed insurer must ensure that –
 - (a) claimants are informed about procedures, formalities, and common timeframes for claims settlement;
 - (b) claimants are given information about the status of their claim in a timely and fair manner;
 - (c) claim-determinative factors such as depreciation, discounting, or negligence are illustrated and explained in clear language to claimants. The same applies where claims are denied in whole or in part.
- (5) A licensed insurer must ensure that the claims assessment process is fair. At the minimum this requires avoidance of conflicts of interest, as well as competence and ongoing training of the staff involved, appropriate for the type of insurance policy and the level of technical and legal expertise required in relation to the insurance policy and the claim.

7.11.2 Claims disputes

- (1) Where there is a dispute between the claimant and the licensed insurer in the course of a claims settlement on the claims settlement amount, or coverage, the licensed insurer must ensure that the staff handling claims disputes are experienced in claims handling and appropriately qualified.
- (2) The licensed insurer must ensure that its dispute resolution process follows a balanced and impartial approach.

Guidance Note:

The process should consider the legitimate interests of all the parties involved. Such procedures should avoid being overly complicated, such as having burdensome paperwork requirements.

- (3) Decisions must include the reasoning, relating closely to the specific disputable issues, in clear language.

7.11.3 Outsourcing

- (1) If the licensed insurer outsources, whether in part or in full, any of the claims handling processes they remain ultimately responsible for the provision of fair and transparent claims handling, claims dispute resolution, and compliance with these Rules.
- (2) The licensed insurer must maintain close oversight over outsourced processes.

7.11.4 Interest

- (1) In respect of long-term insurance business only; when the payment of a claim is delayed by more than two months the licensed insurer must pay interest on the cash sum due, or make an equivalent adjustment to the sum due, unless the amount of such interest would be immaterial.

- (2) Subject to the satisfaction of applicable customer due diligence requirements; the two month period must run from the date the licensed insurer is notified of the insured event and after all conditions for payment of the claim are met, or, in the case of a unit-linked policy, from the date on which the licensed insurer became liable for payment if later.
- (3) Interest will be calculated at the relevant market rate from the end of the two month period until the actual date of payment of the claim.

7.12 Timely and fair manner complaints handling

- (1) A licensed insurer must handle complaints in a timely and fair manner.
- (2) A licensed insurer must have in operation, and ensure compliance with, a written procedure for the effective consideration, and fair and proper handling, of any complaints relating to their insurance business.
- (3) A licensed insurer must ensure that each of its officers and employees responsible for dealing with customers is, at all times, aware of this procedure and of the obligation to follow it.
- (4) Licensed insurers must make information, on their policies and procedures on complaints handling, available to its customers.
- (5) Licensed insurers must respond to complaints without delay.
- (6) Complainants must be kept informed about the progress of their complaint.
- (7) Licensed insurers must send a written response, in relation to the complaint, prior to the complaint response date. A final response must –
 - (a) accept the complaint and offer any appropriate redress or remedy;
 - (b) offer redress or remedy without accepting the complaint; or

- (c) reject the complaint and give clear reasons for doing so.
-
- (8) Licensed insurers must, in the final response, inform the complainant that if they remain unsatisfied they can refer the complaint to the Channel Islands Financial Ombudsman and also advise the complainant that they may inform the Commission directly of the complaint.
 - (9) If the licensed insurer fails to issue a final response, by the complaint response date, they must inform the Commission within fourteen days after the complaint response date.
 - (10) A licensed insurer must inform the Commission within fourteen days of it first becoming aware of a significant complaint and must advise the complainant that it may inform the Commission directly of the complaint.
 - (11) A licensed insurer must maintain a register of complaints received, along with sufficient detail to allow it to be able to demonstrate that it has dealt with, or is dealing with, complaints in accordance with these Rules and any other applicable provisions of the Law.
 - (12) Licensed insurers must analyse the complaints they receive to identify failings, trends, and recurring risks, and to identify and enable them to correct any common root causes.
 - (13) Licensed insurers must analyse complaints that they receive against intermediaries, in respect of products that the intermediaries have distributed on their behalf, to enable them to assess the complete customer experience and identify any issues that need to be addressed.
 - (14) [The board of a retail general insurer must –
 - (a) consider all complaints, either individually or in aggregate, and the outcome of such complaints; and
 - (b) document all such consideration,on a regular basis and not less than half-yearly.

- (15) Where the board of a retail general insurer appoints a sub-committee to deal with the detail of complaints, in accordance with (14), that sub-committee must report to the board on a regular basis and no less than half-yearly.

Guidance Note:

The board may appoint a sub-committee to deal with the details of complaints but this sub-committee is required to report back to the board on a half-yearly basis.

7.13 Cash management

- (1) Rule 7.13 applies to all retail general insurers.
- (2) All funds held by third parties must be governed by a written agreement which –
- (a) clearly identifies whether the funds are being held by a third party as claims fund, float, or other agreement; and
 - (b) sets out the basis on which funds will be paid or returned to the insurer.
- (3) The board must, at least annually –
- (a) review the purpose of the fund;
 - (b) verify the amounts held; and
 - (c) review and verify the mitigants, including consideration of the solvency position of the transferee.
- (4) Where an amount transferred is in excess to requirements for the purpose, or the mitigants are considered insufficient, the insurer must take appropriate action.

- (5) Payments to facilitate transfers to third parties require the approval of at least one signatory, or electronic approver who is either –
- (a) a Guernsey resident director or manager of the licensee; or
 - (b) a Guernsey resident employee of the general representative.^{21]}

Guidance Note:

An example of intra-group lending which would not be considered to be prudent would be allowing an associated broker to retain premium for more than three months, or allowing an associated claims management company to hold a fund which is materially greater than the average paid out in every claims settlement period, e.g. if the average claims paid in a three month period is £100,000 a float of £150,000 would be reasonable; a float of £500,000 would not.

The board will be expected to be able to provide the Commission with proof as to how the amount of a deposit, float, or similar arrangement was agreed as reasonable and necessary.

²¹ Inserted by The Insurance Business (Amendment) Rules, 2024.

PART 8 GENERAL PROVISION

8.1 Interpretation

(1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.

(2) In these Rules the following definitions should be followed -

“acceptable rating agency” means a rating agency prescribed in Schedule 5 of the Insurance Business (Solvency) Rules 2021;

“customer” means a client, policyholder, or potential policyholder with whom a licensed insurer, or intermediary, interacts and includes other beneficiaries and claimants with legitimate interest in the policy;

“complaint” means any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide a financial service, or product, which alleges that the complainant has suffered, or may suffer, financial loss, material distress, or material inconvenience; a complaint may involve, but is different from, a claim and does not include a pure request for information;

“complaint response date” means three months from the date which the complaint is first received by the licensed insurer, or the licensed insurer first becomes aware of the complaint, whichever date is earlier;

“filing date” means the date six months after the licensed insurer’s financial year end;

“fully funded special purpose insurer” means an insurer or cell which satisfies the following requirements –

- (a) the insurer or cell has, at all times, assets the value of which are equal to or exceed its aggregate maximum risk exposure and the insurer or cell is able to pay the amounts it is liable for as they fall due;

- (b) the proceeds of the debt or equity issuance or other financing mechanism are –
 - (i) fully paid-in; or
 - (ii) in the form of contingent assets where the finance provider has achieved a financial rating (counterparty, credit, or financial strength as applicable) of at least A- as of the date of the application and as determined by an acceptable rating agency;
 - (iii) in the form of contingent assets where the finance structure has been approved by the Commission;
- (c) according to the terms of such financing mechanism, the claims of participants in any such mechanism, against the assets of the insurer or the cell, are subordinate to the claims of creditors under the contracts of insurance underwritten by the insurer or the cell;
- (d) the insurer or cell only enters into contracts, or otherwise assumes obligations or contingent liabilities, which are solely necessary for it to give effect to the purposes set out in its agreed business plan; and
- (e) to the extent that more than one insurance contract is in place within the insurer or cell; each of the insurance contracts is structured so that the insurer or cell meets the fully funded requirements, as described in this definition, individually for each contract;

“microenterprise” means an enterprise which employs fewer than ten persons and whose annual turnover does not exceed £2 million;

“qualified investor” means –

- (f) a Government, local authority, public authority, or supra-national body (in the Bailiwick or elsewhere);
- (g) a person, partnership, unincorporated association, or body corporate which has total assets of at least £5,000,000;
- (h) Guernsey registered or authorised collective investment schemes; or
- (i) a company quoted on an investment exchange licensed by the Commission or a Recognised Investment Exchange;

“Recognised Investment Exchange” means a recognised investment exchange as defined under The Protection of Investors (Bailiwick of Guernsey) Law, 2020;

“relevant information” means the financial statements and information required to be published, by a relevant insurer, under these Rules;

“retail customer” means a customer who is –

- (a) an individual who, in relation to a licensed insurer, is acting for purposes other than that individual's trade, business, or profession;
- (b) a microenterprise; or
- (c) a charity other than a Non-Governmental Organisation (NGO); [and

in cases where it is not clear whether an individual qualifies as a retail customer, in accordance with this definition, they must be treated as a retail customer²²];

“significant complaint” means a complaint alleging a breach of the Law, *mala fides*, malpractice, or impropriety, or repetition or recurrence of a matter previously complained of (whether significant or otherwise);

“special purpose insurer” means an insurer or cell of a protected cell company which conducts insurance business and is a fully funded special purpose insurer funded from the proceeds of one or more of the following –

- (a) a debt or equity issuance; or
- (b) some other financing mechanism approved by the Commission;

“Type 1 letter of credit” means a Type 1 letter of credit as defined in the Insurance Business (Solvency) Rules 2021.

²² Inserted by The Insurance Business (Amendment) Rules, 2024.

PART 9 SAVINGS, REVOCATIONS, CITATION, AND COMMENCEMENT

9.1 Savings

- (1) Any exclusion or modification granted by the Commission, under the regulations or rules revoked by rule 9.2, will continue to apply where the Law and these Rules provide the scope for such exclusions or modifications.

9.2 Revocations

9.2.1 Revocation of The Insurance Business (Accounts, Annual Return and Approved Eurobonds) Regulations, 1987

- (1) The Insurance Business (Accounts, Annual Return and Approved Eurobonds) Regulations, 1987 are revoked.

9.2.2 Revocation of The Insurance Business (Public Disclosure of Information) Rules, 2010

- (1) The Insurance Business (Public Disclosure of Information) Rules, 2010 are revoked.

9.2.3 Revocation of The Insurance Business (Public Disclosure of Information) Rules, 2018

- (1) The Insurance Business (Public Disclosure of Information) Rules, 2018 are revoked.

9.2.4 Revocation of The Licensed Insurer's (Conduct of Business) Rules, 2018

- (1) The Licensed Insurer's (Conduct of Business) Rules, 2018 are revoked.

9.2.5 Revocation of The Insurance Business (Special Purpose Insurer) Rules, 2016

- (1) The Insurance Business (Special Purpose Insurer) Rules, 2016 are revoked.

9.2.6 Revocation of The Insurance Business (Licensing) Regulations, 2010

- (1) The Insurance Business (Licensing) Regulations, 2010 are revoked.

9.2.7 Revocation of The Insurance Business (Annual Returns) Regulations, 2008

- (1) The Insurance Business (Annual Returns) Regulations, 2008 are revoked.

9.2.8 Revocation of the Insurance Business (Duties of General Representatives) Regulations, 2008

- (1) The Insurance Business (Duties of General Representatives) Regulations, 2008 are revoked.

9.3 Citation and commencement

- (1) These rules may be cited as the Insurance Business Rules.
- (2) These rules come into force on 1st November 2021.

SCHEDULE 1

INFORMATION TO BE DISCLOSED

[This Schedule applies, in full, to PCCs providing retail general insurance. In addition, paragraphs 4 to 8 apply to each cell, within the PCC, offering retail insurance.²³]

1. PROFILE OF THE INSURER

Disclosures must include appropriately detailed information about the company profile; including the nature of its business, a general description of its key products, the external environment in which it operates, and information on the relevant insurer's objectives and the strategies in place to achieve them.

2. CORPORATE GOVERNANCE

Disclosures must include the key features of the relevant insurer's corporate governance framework, management controls, and risk management framework including how these are implemented.

3. TECHNICAL RESERVES

Detailed quantitative and qualitative information about the determination of technical provisions must be disclosed.

4. INSURANCE RISK

Appropriately detailed quantitative and qualitative information on all reasonably foreseeable and relevant material insurance risk exposures and their management must be disclosed; including the use of reinsurance.

²³ Inserted by The Insurance Business (Amendment) Rules, 2024.

5. FINANCIAL PERFORMANCE

Disclosure must include appropriately detailed quantitative and qualitative information on financial performance; in total and by segmented financial performance. Where relevant, disclosures must include a quantitative source of earnings analysis, claims statistics including claims development, pricing adequacy and information regarding returns on investment assets and components of such returns.

6. CAPITAL ADEQUACY

Disclosure about the financial position of the relevant insurer must include appropriately detailed quantitative and qualitative information about capital adequacy. A licensed insurer must disclose information that enables users to evaluate their objectives, policies and processes for managing capital, and to assess its capital adequacy. This information encompasses the Prescribed Capital Requirement and the Minimum Capital Requirement of the relevant insurer. If an internal model is used to determine capital resources and requirements, information about the model must be provided, having due regard to proprietary or confidential information.

7. FINANCIAL INSTRUMENTS

Disclosure about the financial position of the relevant insurer must include appropriately detailed quantitative and qualitative information about financial instruments and other investments by class.

8. ENTERPRISE RISK MANAGEMENT AND ASSET-LIABILITY MANAGEMENT

Disclosure about the financial position of the relevant insurer must include appropriately detailed quantitative and qualitative information about enterprise risk management including asset-liability-management in total and, where appropriate, at a segmented level.

SCHEDULE 2

THE PRINCIPLES OF CONDUCT OF FINANCE BUSINESS

1. **Integrity**

A licensee should observe high standards of integrity and fair dealing in the conduct of its business.

2. **Skill, Care, and Diligence**

A licensee should act with due skill, care, and diligence towards its customers and counterparties.

3. **Conflicts of Interest**

A licensee should either avoid any conflict of interest arising or, where a conflict arises, should ensure fair treatment to all its customers by disclosure, internal rules of confidentiality, declining to act, or otherwise. A licensee should not unfairly place its interests above those of its customers and, where a properly informed customer would reasonably expect that the firm would place their interests above its own, the firm should live up to that expectation.

4. **Information about Customers**

A licensee should seek from customers it advises, or for whom it exercises discretion, any information about their circumstances and investment objectives which might reasonably be expected to be relevant in enabling it to fulfil its responsibilities to them.

5. **Information for Customers**

A licensee should take reasonable steps to give a customer it advises, in a comprehensible and timely way, any information needed to enable them to make a balanced and informed decision. A licensee should similarly be ready to provide a customer with a full and fair account of the fulfilment of its responsibilities to them.

6. Customer Assets

Where a licensee has control of, or is otherwise responsible for, assets belonging to a customer which it is required to safeguard, it should arrange proper protection for them, by way of segregation and identification of those assets or otherwise, in accordance with the responsibility it has accepted.

7. Market Practice

A licensee should observe high standards of market conduct and should also comply with any code of standard as in force and issued or approved by the Commission.

8. Financial Resources

A licensee should ensure that it maintains adequate financial resources to meet its finance business commitments and to withstand the risks to which its business is subject.

9. Internal Organisation

A licensee should organise and control its internal affairs in a responsible manner, keeping proper records, and where the firm employs staff or is responsible for the conduct of finance business by others, should have adequate arrangements to ensure that they are suitable, adequately trained and properly supervised and that there are well-defined compliance procedures.

10. Relations with Guernsey Financial Services Commission

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

SCHEDULE 3

ANNUAL RETURNS FOR GENERAL RETAIL INSURERS

The information that general retail insurers must provide may include, but will not be limited to –

1. Underwriting

- a. number of clients by class of insurance;
- b. gross and net written premium income by class;
- c. expense ratio by class;
- d. brokerage, commission, or related charges paid to associated companies; and
- e. reinsurance premiums paid to associated companies.

2. Persistency

- a. percentage of policyholders lapsing/not renewing by class of insurance.

3. Claims

- a. net claims ratios by class; and
- b. percentage of claims rejected by class.

4. Location of policyholders

- a. list of all jurisdictions in which policyholders are resident by class of insurance; and
- b. confirmation that regulatory approval has been given to carry on business in all jurisdictions, or appropriate legal advice has been received which confirms that the insurer can write business in each jurisdiction for that class of insurance.

5. Intermediaries

- a. list of intermediaries with total amount of gross of premium;
- b. list of intermediaries which are an associated party of the insurer; and
- c. location and licensed status of all intermediaries contracted by the firm.

6. Outsourcing

- a. details of all functions that are outsourced (including to associated entities) including the name, jurisdiction, regulatory status, and relationship with the insurer.

7. Reinsurance

- a. Details of each reinsurer with balances at year end, including –
 - i. credit rating;
 - ii. amounts that are outstanding at year end;
 - iii. amount that are outstanding for more than three months by reinsurer; and
 - iv. any right of offset and whether the insurer has legal advice which confirms that it is enforceable.

8. Complaints

- a. total number of complaints received during the year broken down by type;
- b. total number of complaints that took more than 90 days to resolve to the satisfaction of the complainant;
- c. number of all complaints referred to the Channel Islands Financial Ombudsman or any other ombudsman;
- d. details of all complaints where an ombudsman has found in favour of the complainant; and
- e. for each complaint where the ombudsman has found in favour of the complainant, an explanation of what actions have been taken by the firm to prevent a repeat of the failings which led to the finding.

THE INSURANCE BUSINESS (SOLVENCY) RULES and GUIDANCE, 2021

CONSOLIDATED VERSION

The Insurance Business (Solvency) Rules, made in accordance with the Insurance Business (Bailiwick of Guernsey) Law, 2002¹ (“the Law”), are set out in this document. Guidance, provided by the Guernsey Financial Services Commission (“the Commission”) can be found in shaded boxes.

This consolidated version of the Rules incorporates amendments listed in the footnote below². It is prepared for the Guernsey Law website and is believed to be up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use.

¹ Order In Council No. XXI of 2002.

² S.I. No. 136 amended by The Insurance Business (Solvency) (Amendment) Rules, 2023.

Contents

PART 1 INTRODUCTION	5
1.1 Application.....	5
PART 2 CAPITAL ADEQUACY	7
2.1 General Rules.....	7
2.2 Regulatory Capital Resources	9
2.3 Regulatory Capital Resources of a PCC.....	10
PART 3 MCR	13
3.1 General insurers and reinsurers.....	13
3.2 Life Business	14
3.3 Composite insurers and reinsurers	15
3.4 MCR for a PCC	15
3.5 Category 6 Insurer MCR	15
PART 4 PCR.....	16
4.1 General application.....	16
4.2 General Business - PCR standard formula	19
4.3 Life Business – Standard Formula	26
PART 5 INTERNAL MODEL.....	35
5.1 Introduction	35
5.2 Model Validation Criteria	36
5.3 Model Documentation Criteria	44
PART 6 VALUATION.....	51
6.1 Regulatory balance sheet	51
6.2 Economic valuation	51
6.3 Basis Adjustments.....	51
PART 7 INVESTMENT	54
7.1 Investment.....	54
PART 8 RISK MANAGEMENT AND OWN RISK SOLVENCY ASSESSMENT	57
8.1 Risk Management.....	57
8.2 Own Risk Assessment	58
PART 9 GREEN ASSETS	63

9.1	Green Assets	63
PART 10 GENERAL PROVISION		66
10.1	Interpretation	66
PART 11 SAVINGS, REVOCATIONS, CITATION AND COMMENCEMENT		69
11.1	Savings.....	69
11.2	Revocations	69
11.3	Citation and commencement.....	69
Schedule 1 Recognised Accounting Standards.....		70
Schedule 2 General Business Lines of Business.....		71
Schedule 3 Recognised Standard Formulae		75
Schedule 4 Acceptable Rating Agencies		76
Schedule 5 Recognised Territory		77
Schedule 6 Supranational Agencies.....		78
Schedule 7 General Business Risk Capital Factors.		79
Schedule 8 General Business Diversification Adjustment.....		83
Schedule 9 Life Business Stresses and Risk Capital Factors.....		85
Schedule 10 Life Business Diversifications Adjustment		95
Schedule 11 Green Criteria.....		98
Schedule 12 Transitional Arrangements.....		99

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PART 1 INTRODUCTION

1.1 Application

Guidance Note: This document take a two-level approach –

- the Rules set out the standards to be met; and
- guidance notes present suggested ways of showing compliance with the Rules.

Licensees may adopt alternative measures to those set out in the guidance so long as it is possible to demonstrate that such measures achieve compliance.

The text contained in shaded boxes contains guidance from the Commission and does not form part of the Rules.

- (1) The Insurance Business (Solvency) Rules 2021 replace The Insurance Business (Solvency) Rules 2015.
- (2) The Commission may in its absolute discretion, by written notice to a licensee, exclude or modify the application of any provision of these Rules.
- (3) The Commission may issue supplementary guidance regarding the standards of conduct and practice expected in relation to any aspect of the regulatory framework. Such guidance will not constitute rules of the Commission.
- (4) For the purposes of these Rules each insurance licensee will fall under one of the following categories –
 - (a) Category 1 – Commercial Life Insurers – a long-term insurer with any element of unrelated party business;
 - (b) Category 2 – Commercial Life Reinsurers – a long-term reinsurer with any element of unrelated party business;

- (c) Category 3 – Commercial General Insurers – a general insurer with any element of unrelated party business;
- (d) Category 4 – Commercial General Reinsurers – a general reinsurer providing reinsurance to a commercial insurer, whether or not part of the same group, and with no direct business;
- (e) Category 5 – Captive (Re)insurers – a life or general insurance or reinsurance entity created and owned, directly or indirectly, by one or more industrial, commercial, or financial entities or associations the purpose of which is to provide insurance or reinsurance cover for risks, other than commercial risks, of the entity or entities to which it belongs, or for entities connected to those entities; and
- (f) Category 6 – Special Purpose Entities –
 - (i) Special Purpose Insurers, as defined under the Insurance Business Rules; or
 - (ii) entities that the Commission agrees, in writing, may fall into this category.

Guidance Note:

Category 6 is primarily intended for insurers whose underwriting and counterparty Credit risk are effectively eliminated.
Examples of these would include transformer cells, fully collateralised catastrophe cells, ILS cells, and fully funded entities.

- (5) In the case of a Protected Cell Company (“PCC”), each cell and the core must be allocated to one of the above categories.

Guidance Note:

Where an insurer does not fit any of the precise definitions above, they should contact the Commission to agree the appropriate category to be used. The Commission will deal with such requests on a case by case basis, with a key determinant being the consideration of risk to unrelated parties.

PART 2 CAPITAL ADEQUACY

2.1 General Rules

- (1) A licensed insurer must, at all times, hold regulatory capital resources greater than or equal to its Minimum Capital Requirement (“MCR”).
- (2) A licensed insurer must, at all times, hold regulatory capital resources greater than or equal to its Prescribed Capital Requirement (“PCR”).
- (3) It is a requirement of section 32 of the Law that -
 - (a) a licensed insurer which is a company must maintain a paid up share capital of not less than the Capital Floor, or an equivalent sum, in any currency acceptable to the Commission; and
 - (b) a licensed insurer which is a company shall maintain minimum shareholders’ funds of at least 75% of the Capital Floor, or an equivalent sum, in any currency acceptable to the Commission.
- (4) The Capital Floor of a licensed insurer is -
 - (a) £100,000 for a licensed insurer carrying on general business [other than retail general business;
 - (aa) £250,000 for a licensed insurer carrying on retail general business;]³
 - (b) £250,000 for a licensed insurer carrying on long term business;
 - (c) £250,000 for a licensed insurer carrying on both long term business and general business; or

³ Inserted by The Insurance Business (Solvency)(Amendment) Rules, 2024.

- (d) an amount specified in writing by the Commission.
- (5) For PCCs, [which do not provide retail general insurance,⁴] the Capital Floor only applies to the overall PCC. There is no Capital Floor for each cell or the core.
- (5A) [For PCCs providing retail general insurance, the Capital Floor applies to each cell providing retail general insurance.⁵]
- (6) The MCR of a licensed insurer must be no less than the Capital Floor.
- (7) The Commission may, at any time by notice in writing served on a licensed insurer, a class of licensed insurers, or licensed insurers generally, modify the requirements to be used for computations of solvency; and in modifying the requirements the Commission may consider –
 - (a) the nature and classes of business involved;
 - (b) the spread of risk and the historic and industry based claims data;
 - (c) the size and complexity of business and business risks of the licensed insurer, and
 - (d) any other information which is available to the Commission and which it considers relevant.

⁴ Inserted by The Insurance Business (Solvency) (Amendment) Rules, 2024.

⁵ Inserted by The Insurance Business (Solvency) (Amendment) Rules, 2024.

- (8) A licensed insurer must calculate its PCR, and report the results of that calculation to the Commission, at least once a year. A regulatory capital resources calculation must be submitted as part of a licensed insurer's annual return and be calculated and reported, where the Guernsey standard formula is used, using the standard format determined by the Commission and published on its website.
- (9) A licensed insurer must monitor the amount of its regulatory capital resources and its MCR on an ongoing basis.
- (10) If the licensed insurer's risk profile deviates significantly from the risk profile detailed in its last reported PCR, the licensed insurer must recalculate its PCR without delay and report it to the Commission.
- (11) A licensed insurer must recalculate the PCR if requested by the Commission.

2.2 Regulatory Capital Resources

- (1) The regulatory capital resources must be determined as set out in these Rules. Alternative definitions, which may be specified by other regulatory regimes, are not permitted.
- (2) The regulatory capital resources of a licensed insurer must meet the following PCR and the MCR definitions respectively –
 - (a) the regulatory capital resources to meet the PCR are equal to –
 - (i) the difference between assets and liabilities on the basis of their determination in accordance with Recognised Accounting Standards; plus
 - (ii) the value of any basis adjustment; less
 - (iii) the value of any regulatory adjustment determined by the Commission; and

- (b) the regulatory capital resources to meet the MCR are equal to –
 - (i) the regulatory capital resources to meet the PCR; less
 - (ii) the sum of –
 - (A) the value of type 2 letters of credit;
 - (B) the value of issued but uncalled capital; and
 - (C) the value of any other off-balance sheet assets; plus
- (c) the value of any regulatory adjustment determined by the Commission.

2.3 Regulatory Capital Resources of a PCC

- (1) The total regulatory capital resources of a PCC is the sum of notional regulatory capital resources of each cell and the core, pursuant to these Rules.
- (2) For a cell, the notional regulatory capital resources to meet the notional PCR must be calculated as if it were a stand-alone insurer, subject to a maximum of the PCR for that cell, and in accordance with these Rules.

Guidance Note:

For example, excess cell capital is not available to meet the total PCR of the PCC.

- (2A) [For a cell which carries on retail general insurance business, the notional regulatory capital resources must be, at least, £250,000 or currency equivalent.⁶]

⁶ Inserted by The Insurance (Solvency) (Amendment) Rules, 2024.

- (3) For a cell, where the notional regulatory capital resources to meet the notional PCR are less than the notional PCR and the cell has recourse to the capital of the core, core capital may be notionally allocated to the cell.
- (4) For the core, the notional regulatory capital resources to meet the notional PCR must be calculated as if it were a stand-alone insurer, less the total of any capital notionally allocated to the cells, and in accordance with these Rules.
- (5) The total core capital notionally allocated to all cells must not exceed the core's own regulatory capital resources, before any reallocation, over that required to meet its own notional PCR.
- (6) Where the total PCR for the PCC is equal to the total MCR for the PCC, which is itself bound by the Capital Floor, the total regulatory capital resources for the PCC may include any core or cell capital, subject to a maximum of the total PCR for the PCC.
- (7) For a cell, the notional regulatory capital resources to meet the notional MCR must be calculated as if it were a stand-alone insurer, subject to a maximum of the MCR for that cell, and in accordance with these Rules.

Guidance Note:

For example, excess cell capital is not available to meet the total MCR of the PCC.

- (8) For a cell, where the notional regulatory capital resources to meet the notional MCR are less than the notional MCR and the cell has recourse to the capital of the core, core capital may be notionally allocated to the cell.
- (9) For the core, the notional regulatory capital resources to meet the notional MCR must be calculated as if it were a stand-alone insurer, less the total of any capital notionally allocated to the cells, and in accordance with these Rules .
- (10) The total core capital notionally allocated to all cells must not exceed the core's own regulatory capital resources, before any reallocation, over that required to meet its own notional MCR.

- (11) Where the total MCR for the PCC is bound by the Capital Floor, the total regulatory capital resources for the PCC include any core or cell capital, subject to a maximum of the total MCR for the PCC.

PART 3 MCR

Guidance Note:

The MCR is determined as set out by this Part.

The MCR is intended to be the capital required to ensure that the licensed insurer should be able to meet its obligations over the next twelve months with an 85% probability.

3.1 General insurers and reinsurers

- (1) The MCR of a licensed insurer carrying on general business is an amount of, not less than the higher of, –
 - (a) 12% of that licensed insurer's gross written premiums during the previous financial year, net of –
 - (i) the amount of any premium taxes, rebates, refunds, and commissions accrued by the licensed insurer; and
 - (ii) subject to (2), the gross amount of any reinsurance premiums, after deduction of any rebates or commissions receivable by the licensed insurer, ceded by the licensed insurer in respect of general business during that preceding financial year;
 - (b) 12% of the value of claims reserves and premium reserves, net of reinsurance and amounts reserved to maximum; and
 - (c) the Capital Floor.

- (2) Any funds received for the assumption, by a licensed insurer, of insurance obligations under a novation, portfolio transfer, or other scheme or arrangement must be included in the gross written premium income computation unless the novation, transfer, or other scheme or arrangement is supported by an actuarial opinion acceptable to the Commission. In the event that the funds received, in respect of the assumption of insurance obligations, were not determined on an arms-length basis, the amount to be included in the gross written premium income computation must be the market value for such an assumption, determined on a basis acceptable to the Commission.
- (3) Reinsurance ceded by a licensed insurer to an associated party must not be taken into account for the purposes of the MCR calculation unless –
 - (a) the associated party is a licensed insurer and meets the solvency requirements as defined in these Rules; or
 - (b) the Commission, in any particular case, consents in writing to it being taken into account.

3.2 Life Business

- (1) The MCR of a licensed insurer writing life business is the higher of-
 - (a) 2.5% of total reserves, net of reinsurance; and
 - (b) the Capital Floor.
- (2) Where a licensed insurer has entered into contracts providing for the payment of linked benefits, in accordance with section 42(2) of the Law, the value of the total reserves referred to above must be reduced by the value of the linked liabilities.
- (3) Reinsurance ceded by a licensed insurer to an associated party must not be taken into account for the purposes of the MCR calculation unless –

- (a) the associated party is a licensed insurer and meets the solvency requirements as defined in these Rules; or
- (b) the Commission, in any particular case, consents in writing to its being so taken into account.

3.3 Composite insurers and reinsurers

- (1) The appropriate method of calculation of the MCR for a composite licensed insurer, carrying on both general business and long term business, must be agreed with the Commission on a case by case basis.

3.4 MCR for a PCC

- (1) The MCR of a PCC is the sum of the notional MCR of each cell and of the core, subject to a minimum of the capital floor, determined in accordance with these Rules.
- (2) The notional MCR of each cell and of the core of a PCC must be calculated as if the cell, or core, was a stand-alone licensed insurer, and in accordance with these Rules.

Guidance Note:

For the purpose of clarity – the capital floor for each cell or the core is nil.

3.5 Category 6 Insurer MCR

- (1) The MCR does not apply to a Category 6 insurer, provided that the entity continues to qualify for inclusion in this category on an ongoing basis.

PART 4 PCR

4.1 General application

4.1.1 General provisions

- (1) The PCR of an insurer equals –
 - (a) an amount determined either –
 - (i) by applying the ‘Guernsey standard formula’;
 - (ii) by applying a ‘recognised standard formula’;
 - (iii) by using an internal model developed by the company to reflect the circumstances of its business;
 - (iv) by using a partial internal model which is a combination of the approaches specified in (i) and (iii) or (ii) and (iii); or
 - (v) by using any one of (i) to (iv) above and modifying it to take account of the Green Discount set out in these Rules; provided the insurer meets all of the requirements set out in Part 9 of these Rules; plus
 - (b) any regulatory adjustment specified in writing by the Commission.
- (2) The PCR is the capital required to ensure that the licensed insurer can meet its obligations over the next 12 months with a probability as defined by the following specified confidence levels –
 - (a) Category 1 - Commercial Life Insurers- the PCR is determined at a 99.5% confidence level;

- (b) Category 2 - Commercial Life Reinsurers - the PCR is determined at a 97.5% confidence level;
- (c) Category 3 - For Commercial General Insurers - the PCR is determined at a 99.5% confidence level;
- (d) Category 4 - Commercial General Reinsurers - the PCR is determined at a 97.5% confidence level;
- (e) Category 5 - Captive (Re)insurers - the PCR is determined at a 90% confidence level, and

regardless of the method used, a licensed insurer's PCR cannot be less than its MCR.

Guidance Note:

Where a Category 3 insurer writes all of its business into a single foreign jurisdiction then the insurer may seek the Commission's permission to calibrate the Guernsey standard model with reference to the relevant, applicable, confidence level applied in the regulatory capital framework of that foreign jurisdiction (where this can be clearly determined). In considering such a request the Commission will consider the overall level of protection available to policyholders under such an agreement.

- (3) The PCR determined, applying the Guernsey standard formula, is to be calculated in accordance with –
 - (a) rule 4.2 in respect of a general business; and
 - (b) rule 4.3 in respect of life business.
- (4) A licensed insurer may use a recognised standard formula, applied in full, to calculate its PCR in place of the Guernsey standard formula without the prior written approval of the Commission. A list of recognised standard formula is provided at Schedule 3.

- (5) If the recognised standard formula is not applied in full then it will be deemed a partial internal model.
- (6) Where a licensed insurer using a recognised standard formula to calculate its PCR applies the Green Discount, in accordance with these Rules, the recognised standard formula must not be deemed a partial internal model.
- (7) A licensed insurer may use a standard formula of a country not on the list of recognised standard formulas as if it were a recognised standard formula subject to the prior written approval of the Commission. The Commission must be satisfied that the standard formula provides a similar level of policyholder and beneficiary protection, for capital adequacy purposes, as provided by the Commission's standard formula relevant to that insurer.

4.1.2 PCR for a PCC

- (1) The PCR of a PCC is the sum of the notional PCR of each cell and of the core; subject to a minimum of the MCR for the PCC.
- (2) The notional PCR of each cell and of the core of a PCC must be calculated as if the cell or core was a stand-alone licensed insurer, and in accordance with these Rules.

4.1.3 Composite Insurers

- (1) The appropriate method of calculation of the PCR for a composite licensed insurer, carrying on both general business and long term business, must be agreed with the Commission on a case by case basis.

4.1.4 Category 6 Insurer PCR

- (1) The PCR does not apply to a Category 6 insurer provided that the entity continues to qualify for inclusion in this category on an ongoing basis.

4.2 General Business - PCR standard formula

4.2.1 General Application

- (1) The PCR for general business, determined using the standard formula, is equal to –
 - (a) the capital requirement for market risk; plus
 - (b) the capital requirement for counterparty default risk; plus
 - (c) the capital requirement for premium risk; plus
 - (d) the capital requirement for reserve risk; less
 - (e) a diversification adjustment as determined in accordance with Schedule 8; plus
 - (f) any regulatory adjustment specified in writing by the Commission.
- (2) For each risk and risk component the resulting capital requirement must not be negative.

4.2.2 Market Risk Capital – Introduction

- (1) The capital requirement in respect of market risk is equal to –
 - (a) the capital requirement for interest rate risk; plus
 - (b) the capital requirement for spread risk; plus
 - (c) the capital requirement for currency risk; plus
 - (d) the capital requirement for other market risks; less

- (e) a diversification adjustment as determined in accordance with Schedule 8.

4.2.3 Market Risk Capital - Interest Rate Risk Capital

- (1) The capital requirement for interest rate risk is the sum of the absolute value of interest sensitive assets less liabilities, in each duration band, multiplied by the Interest Rate Risk Capital Factor applicable to that duration band as determined in accordance with Schedule 7.

4.2.4 Market Risk Capital - Spread Risk Capital

- (1) The capital requirement for spread risk is the sum of the absolute value of spread sensitive assets less liabilities, in each duration band, multiplied by the Spread Risk Capital Factor applicable to that spread duration band as determined in accordance with Schedule 7.

4.2.5 Market Risk Capital - Currency Risk Capital

- (1) The capital requirement for currency risk is the sum of the absolute value of assets less liabilities denominated in currencies other than the reporting currency of the licensed insurer, multiplied by the Currency Risk Capital Factor, as determined in accordance with Schedule 7.

4.2.6 Market Risk Capital - Other

- (1) The capital requirement for other market risks is the sum of the capital required in respect of –
 - (a) equity risk; the sum of the exposure of each equity type, multiplied by the Equity Risk Capital Factor applicable to that equity type, as determined in accordance with Schedule 7;

- (b) property risk; the sum of the total exposure to real estate multiplied by the Property Risk Capital Factor, as determined in accordance with Schedule 7;
- (c) derivative risk; the exposure to derivatives multiplied by the Derivative Risk Capital Factor, as determined in accordance with Schedule 7;
- (d) other investments subject to market risk but not elsewhere classified; equal to the value of other investment exposures multiplied by the Other Investments Capital Factor, as determined in accordance with Schedule 7.

4.2.7 Counterparty default risk capital – introduction

- (1) The capital requirement for counterparty default risk is equal to –
 - (a) the capital requirement for receivable default risk; plus
 - (b) the capital requirement for other default risk.

4.2.8 Counterparty default risk capital - receivable default risk capital

- (1) The capital required for receivable default risk must be determined for each receivable type and in each of the days overdue bands as the gross exposure, less any amounts offset in case of default, multiplied by the applicable Receivable Capital Factor as determined in accordance with Schedule 7.

4.2.9 Counterparty default risk capital - other

- (1) The capital requirement for other default risk must be determined for each counterparty and each exposure type as the value of the gross exposure, less any amount offset in case of default, multiplied by $(1 - \text{Recovery Rate})$ and the Other Default Risk Capital Factor. The Recovery Rate and the Other Default Risk Capital Factors are as determined in accordance with Schedule 7.

[4.2.9A Counterparty default risk capital – reinsurance

- (1) Retail general insurers must only place reinsurance with reinsurers that meet at least one of the following requirements –
 - (a) they are licensed by the Commission;
 - (b) they are licensed by a member state of the G-10;
 - (c) they are licensed in Bermuda;
 - (d) they are licensed in the Republic of Ireland;
 - (e) they maintain an acceptable credit rating, where such rating is the same of higher than –
 - (i) an AM Best rating of bbb-;
 - (ii) a Fitch rating of BBB-;
 - (iii) a Moody's rating of Baa3; or
 - (iv) a Standard & Poor's rating of BBB-;
 - (f) if not rated, they are a 100% wholly owned subsidiary of a reinsurer, or insurer, which is rated, in which case the reinsurer can be treated as having the same rating as its ultimate parent; or
 - (g) the potential exposure is protected by collateral representing the full exposure under the contract and the collateral is held –
 - (i) in cash, by a bank with a credit rating equal or above the ratings listed at (e); or
 - (ii) in investment-rated bonds, by an investment rated custodian, and

the insurer must have legal advice confirming that the collateral agreement will be effective in the event of default by the reinsurer;
and

these requirements also apply to reinsurers within the same group as the insurer seeking reinsurance.^{7]}

Guidance Note:

Occasionally an insurer may act as ‘fronter’ for a reinsurance company whereby most or all of a particular risk is passed onto the reinsurer.

The rules for retail general insurers will apply to all insurers regardless of how much of the risk is retained, and no exemptions will be given for firms because they consider themselves to be a ‘fronter’ for a reinsurer.

4.2.10 Counterparty default risk capital - offset in the case of default

- (1) For the purpose of determining the exposure to each counterparty, the gross exposures may be reduced by liabilities towards the same counterparty and by collateral posted against the same counterparty, to the extent that they could be offset or recovered in the event of default. Liabilities to one counterparty cannot be used to reduce the net residual exposure to another counterparty unless they are to a counterparty which belongs to the same group. A written legal right of set-off must be in place.

4.2.11 Premium risk capital – introduction

- (1) The capital requirement for premium risk is equal to –
 - (a) the sum of premium risk capital requirement for each line of business; less

⁷ Inserted by The Insurance Business (Solvency) (Amendment) Rules, 2024.

- (b) a diversification adjustment as determined in accordance with Schedule 8.

4.2.12 Premium risk capital per line of business

- (1) The premium risk capital for a line of business is equal to the lower of –
 - (a) the gross premiums expected to be written on business commencing during the following twelve months, net of commission, and ceded written premium, multiplied by the Premium Risk Capital Factor; and
 - (b) the expected risk gap on business commencing during the following twelve months; where the risk gap is determined as –
 - (i) the maximum net aggregate exposure; less
 - (ii) the net written premium determined in accordance with (a).

Guidance Note:

The Premium Risk Capital Factors are as determined in accordance with Schedule 8.

4.2.13 Premium risk capital - lines of business

- (1) For the purpose of determining the premium risk capital the lines of business are defined in Schedule 2.

4.2.14 Reserve risk capital

- (1) The capital requirement for reserve risk is equal to –
 - (a) the sum of reserve risk capital for each line of business; less

- (b) a diversification adjustment as determined in accordance with Schedule 8.
- (2) The capital requirement for reserve risk must be determined for each line of business as –
 - (a) the gross claim reserves plus the gross premium reserves, net of amounts recoverable from reinsurance contracts and any ‘reserved to maximum’ amount, multiplied by the Reserve Risk Capital Factor; less
 - (b) an ‘almost reserved to maximum’ amount.

Guidance Note:

The Reserve Risk Capital Factors are as determined in accordance with Schedule 8.
The lines of business are defined in Schedule 2.

4.2.15 Reserve risk capital - reserved to maximum amount

- (1) For those lines of business reserved up to the maximum future amount, payable under the policy terms for that line of business, there can be no further adverse deterioration in those reserves and so no capital requirement. The Reserve to Maximum Amount is the maximum future amount payable.

4.2.16 Reserve risk capital - almost reserved to maximum amount

- (1) For those lines of business that are almost reserved up to the maximum future amount payable under the policy terms for that line of business, there can only be limited further adverse deterioration in those reserves. The Almost Reserved to Maximum Amount is equal to –
 - (a) the reserve risk capital determined in accordance with these Rules; less

- (b) the maximum future amount payable under the policy terms, less the sum of the gross claim reserves, plus the gross premium reserves, net of amounts recoverable from reinsurance contracts.

4.3 Life Business – Standard Formula

4.3.1 General application

- (1) The PCR for life business, determined using the Guernsey standard formula, is equal to –
 - (a) the capital requirement for market risk; plus
 - (b) the capital requirement for counterparty default risk; plus
 - (c) the capital requirement for underwriting risk; less
 - (d) a diversification adjustment as determined in accordance with the Schedule 10; plus
 - (e) any regulatory adjustment specified in writing by the Commission.
- (2) The capital requirement for each risk and each risk component is determined as –
 - (a) the unstressed value of the assets less the unstressed value of the liabilities; less
 - (b) the stressed value of the assets less the stressed value of the liabilities,

subject to a minimum of zero.

- (3) When determining the capital requirement for each risk the licensed insurer may make allowances for management actions that it would reasonably expect to take in response to the risk being considered, subject to the management actions being determined –
 - (a) in an objective and consistent manner;
 - (b) realistic and consistent with the licensed insurer's current business plan;
 - (c) reflective of any legal, regulatory, or contractual requirements; and
 - (d) where there is business with a profits participation clause, they consider policyholder's reasonable expectations.
- (4) Licensed insurers may simplify the stresses set out in these Rules to the extent that it is proportionate to the nature, scale, and complexity of the risk being considered.

4.3.2 Market risk capital

- (1) The capital requirement for market risk is equal to –
 - (a) the capital requirement for real interest rate risk; plus
 - (b) the capital requirement for inflation rate risk; plus
 - (c) the capital requirement for spread risk; plus
 - (d) the capital requirement for currency risk; plus
 - (e) the capital requirement for equity risk; plus
 - (f) the capital requirement for property risk; less

- (g) a diversification adjustment as determined in accordance with Schedule 10.

4.3.3 Market risk capital - general conditions

- (1) The market stresses are applied either directly to asset values or by way of changes to economic variables that in turn affect the value of both assets and liabilities. Some assets and liabilities may be impacted by more than one of the six stress tests and will need to be considered in each relevant stress test.
- (2) For the purposes of rule 4.3.2, no risk capital component may be negative. Consequently, if there is no fall in capital resources due to the application of the stresses, the risk capital component is assumed to be zero.

4.3.4 Market risk capital - real interest rate risk capital

- (1) Real interest rate risk exists for assets and liabilities whose values are sensitive to changes in real interest rates. Real interest rates are the part of the nominal interest rate after allowing for expected inflation and assets and liabilities whose values are dependent on nominal rates are also sensitive and must be included under this stress.
- (2) The capital requirement for real interest rate risk is the higher of the capital requirements determined by applying the following two stresses –
 - (a) an instantaneous increase in nominal interest rates at each maturity;
and
 - (b) an instantaneous decrease in nominal interest rates at each maturity.
- (3) The increases and decreases to be applied at each maturity are as determined in accordance with Schedule 9. These changes are defined in terms of a change in the nominal interest rate but the resulting stress must be applied to both the real interest rates and nominal interest rates as appropriate.

4.3.5 Market risk capital - inflation rate risk capital

- (1) Inflation rate risk exists for assets and liabilities whose values are sensitive to changes in inflation rates. To avoid double counting, the stress described in (2) must only be applied to those assets and liabilities included in the real interest rate risk calculation and not those which are included in the equity, property, or other market risk calculations.
- (2) The capital requirement for inflation rate risk is determined by applying the stresses as determined in accordance with Schedule 9 and must be applied to both real interest rates and nominal interest rates.

4.3.6 Market risk capital - spread risk capital

- (1) Spread rate risk exists for assets and liabilities whose values are sensitive to changes in credit spreads which measures the extent of financial default risk. Bonds issued by or explicitly backed by –
 - (a) Governments; or
 - (b) supranational organisations listed in Schedule 6,are excluded from this stress.
- (2) The capital requirement for spread risk exposures must be determined for each asset type by applying a credit spread stress, dependent on credit rating, to the current yield and then multiplying the reduced value of the asset by $(1 - \text{Default Factor})$. The credit spread stresses and Default Factors are determined in accordance with Schedule 9.
- (3) For the purpose of applying this stress to the liabilities; the stressed value of the assets determined in accordance with (2) should be used to derive a revised discount rate.

4.3.7 Market risk capital - currency risk capital

- (1) Currency risk exists for assets and liabilities whose values are sensitive to changes in exchange rates compared to the reporting currency of the licensed insurer.
- (2) The capital requirement for currency risk is determined as the higher of the capital requirements determined by applying the following two stresses –
 - (a) an instantaneous increase in exchange rates compared to the reporting currency; and
 - (b) an instantaneous decrease in exchange rates compared to the reporting currency.
- (3) The stresses to be applied are as determined in accordance with Schedule 9.

4.3.8 Market risk capital - equity risk capital

- (1) Equity risk exists for assets and liabilities whose values are sensitive to changes in equity prices. It also applies to other financial assets which are not covered under any of the other market risks.
- (2) The capital requirement for equity risk is determined by applying the stresses as determined in accordance with Schedule 9.

4.3.9 Market risk capital - property risk capital

- (1) Property risk exists for assets and liabilities whose values are sensitive to changes in real estate prices.
- (2) The capital requirement for property risk is determined by applying the stresses as determined in accordance with Schedule 9.

4.3.10 Counterparty default risk capital

- (1) The capital requirement for counterparty default risk is equal to –
 - (a) the capital requirement for receivables; plus
 - (b) the capital requirement for other default risk exposures.

4.3.11 Counterparty default risk capital - receivable default risk capital

- (1) Receivable default risk exists where there is exposure to default of amounts receivable.
- (2) The capital requirement for receivable default risk must be determined for each receivable type and in each of the days overdue bands as the gross exposure, less any of amounts offset in case of default, multiplied by the Receivable Capital Factor as determined in accordance with Schedule 9.

4.3.12 Counterparty default risk capital – other

- (1) Other default risk exists where there is exposure to default of counterparties.
- (2) The capital requirement for other default risk exposures must be determined for each counterparty and each exposure type as the value of the gross exposure, less any amount offset in case of default, multiplied by $(1 - \text{Recovery Rate})$ and the Other Default Risk Capital Factor. The Recovery Rate and Other Default Risk Capital Factors are as determined in accordance with Schedule 9.

4.3.13 Counterparty default risk capital - offset in the case of default

- (1) For the purpose of determining the exposure to each counterparty the gross exposures may be reduced by liabilities towards the same counterparty and by collateral posted against the same counterparty, to the extent that they could be offset or recovered in the event of default.

4.3.14 Underwriting risk capital – general application

- (1) The capital requirement for underwriting risk is equal to –
 - (a) the capital requirement for mortality risk; plus
 - (b) the capital requirement for longevity risk; plus
 - (c) the capital requirement for disability/morbidity risk; plus
 - (d) the capital requirement for lapse risk; plus
 - (e) the capital requirement for expense risk; plus
 - (f) the capital requirement for catastrophe risk; less
 - (g) a diversification adjustment as determined in accordance with Schedule 10.

4.3.15 Underwriting risk capital - mortality risk capital

- (1) Mortality risk exists for liabilities which are sensitive to increases in mortality rates which leads to an increase in liabilities.
- (2) The capital requirement for mortality risk is determined by applying the instantaneous stresses as determined in accordance with Schedule 9.

4.3.16 Underwriting risk capital - longevity risk capital

- (1) Longevity risk exists for liabilities which are sensitive to decrease in mortality rates which leads to an increase in liabilities.
- (2) The capital requirement for longevity risk is determined by applying the instantaneous stresses as determined in accordance with Schedule 9.

4.3.17 Underwriting risk capital - disability/morbidity risk capital

- (1) Disability/morbidity risk exists for liabilities which are sensitive to increases in disability/morbidity rates.
- (2) The capital requirement for disability/morbidity risk is determined by applying the instantaneous stresses as determined in accordance with Schedule 9.

4.3.18 Underwriting risk capital - lapse risk capital

- (1) Lapse risk exists for liabilities which are sensitive to changes in policyholder options. This includes full or partial termination, full or partial surrender, any decrease, restriction, or suspension of cover; to the extent that they are legal or contractual policyholder rights.
- (2) Lapse risk also exists for liabilities where there is a risk of a one-off mass lapse event.
- (3) The capital requirement for lapse risk is determined as the higher of the capital requirements determined by applying the following three stresses –
 - (a) an instantaneous permanent increase in lapse rates; for policies where exercising the option would lead to an increase in liabilities; and
 - (b) an instantaneous permanent decrease in lapse rates; for policies where exercising the option would lead to a decrease in liabilities; and
 - (c) a one-off mass lapse event which leads to an increase in liabilities.
- (4) The stresses to be applied are as determined in accordance with Schedule 9.

4.3.19 Underwriting risk capital - expense risk capital

- (1) Expense risk exists for liabilities which are sensitive to increases in expense cost associated with servicing the policies.
- (2) The capital requirement for expense risk is determined by applying the instantaneous stresses as determined in accordance with Schedule 9.

4.3.20 Underwriting risk capital - catastrophe stress

- (1) Catastrophe risk exists for liabilities which are sensitive to extreme or irregular events that are not captured by the other underwriting risks.
- (2) The capital requirement for catastrophe risk is equal to –
 - (a) the capital requirement for life pandemic risk; for policies where increasing mortality rates leads to an increase in liabilities; plus
 - (b) the capital requirement for disability/morbidity pandemic risk; for policies where increasing disability/morbidity rates leads to an increase in liabilities; plus
 - (c) the capital requirement for mass accident risk; for policies where the mass event leads to an increase in liabilities; less
 - (d) a diversification adjustment as determined in accordance with Schedule 10.
- (3) The capital requirement for each catastrophe risk is determined by applying the instantaneous stresses as determined in accordance with Schedule 9.

PART 5 INTERNAL MODEL

5.1 Introduction

- (1) An insurer may use a partial or full internal model to calculate its PCR subject to the prior written approval of the Commission.
- (2) An insurer may use a partial model for the calculation of –
 - (a) one or more risk components of the standard formula;
 - (b) one or more risk components of a recognised standard formula.
- (3) A partial model may be applied to the whole business of the insurer or only to one or more major business units.
- (4) An internal model cannot be used to determine an insurer's MCR or determine its regulatory capital resources.
- (5) An insurer does not require Commission approval, initial or ongoing, for the use of its internal model in determining its own economic capital needs or management.
- (6) To obtain prior written approval for the use of an internal model to calculate its PCR, the Commission must be satisfied that the model is well designed, the analysis and assumptions used are sound, and that the results of applying the model are reasonable from a prudential viewpoint. The criteria to obtain and retain Commission approval relate to model validation and model documentation. These criteria are set out in these Rules.
- (7) This Part applies to undertakings determining their PCR using either –
 - (a) a partial internal model; or
 - (b) a full internal model.

Guidance Note:

The Commission uses the term “internal model” to refer to either (a) or (b) above.

- (8) An internal model is defined as a risk measurement system developed by a licensed insurer to analyse its overall risk position, to quantify risks, and to determine the economic capital required to meet those risks. A partial model captures a subset of the risks borne by the licensed insurer using an internally developed measurement system which is used in determining the licensed insurer's economic capital.
- (9) A licensed insurer is required to have its internal model independently validated against the model validation and model documentation criteria.

5.2 Model Validation Criteria

5.2.1 General provisions

- (1) A licensed insurer must validate its internal model by subjecting it to, as a minimum, the following tests –
 - (a) a statistical quality test;
 - (b) a calibration test; and
 - (c) a use test.

Guidance Note:

To obtain Commission approval to use an internal model the Commission must have sufficient confidence that the results being produced by the model provide adequate and appropriate measures of risk and capital.

The statistical quality test and the use test enable the Commission to gain an understanding of how the undertaking has embedded its internal model within its business.

The calibration test is used by the Commission to assess the results from the internal model in comparison to the undertaking's PCR as determined using the applicable standard formula and the PCR of other undertakings in the same license category.

5.2.2 Statistical quality test – general

- (1) A licensed insurer must demonstrate that the PCR, using the internal model, addresses the overall risk position of the licensed insurer subject to the nature, scale, and complexity of the licensed insurer and its risk exposures.
- (2) A licensed insurer must demonstrate the theoretical validity of the internal model including –
 - (a) the suitability of model structure, data including completeness and accuracy, and estimation within the licensed insurer's business context;
 - (b) the appropriateness of the internal model basis within the industry context; including methodological benchmarking to alternatives and best practice;
 - (c) the appropriateness of the parameter estimations. It should be demonstrated that the parameter estimations are appropriate within the market and industry context and parameter uncertainty is addressed to the extent possible; and
 - (d) the consistency, soundness, and justification of the methodologies, distributions, aggregation techniques, and dependencies within and among risk categories adopted.

- (3) A licensed insurer must demonstrate the analytical validity of the internal model including –
- (a) the statistical process for validating that the results of the model are fit for the purpose for which they are used;
 - (b) the implementation of the model given the theoretical basis, goodness of fit, forecasting capability for out-of sample observations (back-testing), sensitivity to changes in key underlying assumptions, and stability of outputs;
 - (c) the back-testing applied at various levels of the business activity;
 - (d) the sensitivity analysis undertaken, which should validate the parts of the internal model where expert judgement is used and should examine whether the model output is sensitive to changes in key assumptions;
 - (e) the convergence of the model to demonstrate that model outputs are statistically significant;
 - (f) the processes of monitoring the model's performance; and
 - (g) where possible, benchmarking the model results and techniques with peers, available literature, and research.
- (4) An internal model may deliver a probability distribution of the required risk capital rather than a "point estimate".

5.2.3 Statistical quality test - techniques to quantify risk

- (1) An undertaking must be able to demonstrate that the chosen methodology is appropriate to capture the relevant risks for its business. This includes testing of the model to require that it can replicate its results on request by the Commission and that its response to variation in input data, such as that corresponding to changes in base or stress scenarios, is adequate.

Guidance Note:

There are several different techniques to quantify risk which could be used by a licensed insurer to construct its internal model. In broad terms these could range from basic deterministic scenarios to complex stochastic models. Deterministic scenarios would typically involve the use of stress and scenario testing reflecting an event, or a change in conditions, with a set probability to model the effect of certain events (such as a drop in equity prices) on the licensed insurer's capital position; in which the underlying assumptions would be fixed. In contrast, stochastic modelling often involves simulating very large numbers of scenarios to reflect the likely distributions of the capital required by, and the different risk exposures of, the licensed insurer.

The Commission recognises that there are numerous methodologies which a licensed insurer could use as part of its stress and scenario testing. A licensed insurer should use scenarios which it regards as most appropriate for its business.

Conducting stress and scenario testing to determine the effect of shocks may be a suitable tool to validate statistical assumptions.

5.2.4 Statistical quality test - aggregation of risks

- (1) Where an internal model is established to assess risks at a modular level; an undertaking must aggregate the results for each of these risks both within and across business lines.
- (2) The determination of overall regulatory capital requirements by the internal model must consider dependencies within, as well as across, risk categories.

- (3) Where the internal model allows for diversification effects; an undertaking must be able to justify its allowance for diversification effects and demonstrate that it has considered how dependencies may increase under stressed circumstances.

5.2.5 Statistical quality test – data

- (1) The data used for an internal model should be current and sufficiently credible, accurate, complete, and appropriate.
- (2) An undertaking must be able to demonstrate the appropriateness of the underlying data used in the construction of the internal model; the aggregation of data, the modelling assumptions, and the statistical measures used to construct the internal model.
- (3) An undertaking must undertake a review of the various items that are being measured, at least on an annual basis, updated for the additional data available; together with a scrutiny of data from previous periods to determine whether this data continues to be relevant.

Guidance Note:

Older data may no longer be relevant due to changes in risks covered, secular trends or policy conditions and guarantees attaching.

Similarly, new data may not be of substantive use when modelling items that require a long-term view of experience (such as testing the predictions of cash flows for catastrophic events).

- (4) Where a licensed insurer's data lacks full credibility it may rely on industry, or other sufficiently credible data sources to supplement its own data. Where deemed appropriate, the undertaking must adjust the data to allow for differences in features between the data source and the licensed insurer.
- (5) In assessing suitability of data, and of other inputs to the internal model, expert judgment must be applied and supported by proper justification, documentation, and validation.

5.2.6 Statistical quality test - base quantitative methodology

- (1) The undertaking must be able to demonstrate that the base quantitative methodology used to construct its internal model is sound and sufficiently reliable to support the model's use; both as a strategic and capital management tool and to calculate the licensed insurer's regulatory capital requirements, if appropriate.
- (2) The methodology must also be consistent with the methods used to calculate technical provisions.

5.2.7 Statistical quality test – completeness

- (1) The undertaking must be able to demonstrate that the assets and products, as represented in the internal model, reflect the undertaking's actual assets and products. An undertaking must consider –
 - (a) an analysis of whether all reasonably foreseeable and relevant material risks have been incorporated; including any financial guarantees and embedded options; and
 - (b) whether the algorithms used are able to take into account the action of management and the reasonable expectation of policyholders.

5.2.8 Statistical quality test – testing

- (1) Testing must include future projections within the model and, to the extent practicable, back-testing.

5.2.9 Calibration Test

- (1) An undertaking must demonstrate that the PCR produced by its internal model is consistent with the Commission's modelling criteria underlying the standard formula applicable to the undertaking's license category.

Guidance Note:

Commission's modelling criteria – e.g. risk measure, time horizon, or confidence level.

- (2) An undertaking may use different modelling criteria in its internal model than adopted by the Commission in the standard formula applicable to the undertaking's license category provided that the overall modelling criteria provides policyholders and beneficiaries with a level of protection at least equivalent to that provided by the standard formula.

5.2.10 Use Test

- (1) An undertaking must demonstrate that the internal model, its methodologies, and results, is fully integrated within its risk and capital management and system of governance processes and procedures.
- (2) An undertaking's board and senior management must –
 - (a) have overall control of, and responsibility for, the construction and use of the internal model for risk management purposes;
 - (b) have sufficient understanding of the model's construction at appropriate levels within the undertaking's organisational structure; and
 - (c) understand the consequences of the internal model's outputs and limitations for risk and capital management decisions.
- (3) An undertaking must have adequate governance and internal controls in place with respect to the internal model.
- (4) Pursuant to the calibration test, a licensed insurer must demonstrate how –
 - (a) the internal model is used for operational management purposes;
 - (b) the results are used to influence the risk management strategy and business plan of the licensed insurer;
 - (c) senior management are involved in applying the internal model in running the business; and

- (d) the internal model remains useful and is applied consistently over time.

Guidance Note:

An undertaking's board and senior management is not expected to be able to deconstruct the internal model in detail. However, the board should be able to demonstrate it has overall oversight of the model's operation, on an ongoing basis, and the level of understanding necessary to achieve this.

- (5) The undertaking's board and senior management must be able to demonstrate an understanding of –
 - (a) the structure of the internal model and how this fits with their business model and risk-management framework;
 - (b) the methodology behind the internal model;
 - (c) the dynamics of the model; or how the different elements fit together;
 - (d) the limitations of the internal model; including the limitations of statistical assumptions and limitations in business planning assumptions, and that these limitations are taken into account in decision-making;
 - (e) in which areas, and on which entity or hierarchy level within the undertaking or group, diversification effects arise as well as the dependencies throughout the risk profile; and
 - (f) the scope and purpose of the internal model and the risks covered by the internal model; as well as those not covered.

- (6) An undertaking must have a framework for the model's application across business units. This framework must define lines of responsibility for the production and use of information derived from the model. It must also define the purpose and type of management information available from the model, the decisions to be taken using that information, and the responsibilities for taking those decisions.
- (7) The internal model must be subject to appropriate review and challenge so that it is relevant and reliable when used by the undertaking.

5.3 Model Documentation Criteria

5.3.1 General requirements

- (1) An undertaking must document, at a minimum –
 - (a) the design, construction, modelling criteria, and governance of the internal model;
 - (b) the justification, for and details of, the underlying methodology, assumptions, and quantitative and financial bases;
 - (c) why it has chosen to only use a partial internal model for certain risks or business lines, where applicable; and
 - (d) the reliance on, and appropriateness of, the use of external vendors or suppliers, where applicable.
- (2) The documentation must be sufficiently detailed to demonstrate compliance with the statistical quality test, calibration test, and use test.
- (3) The documentation of the internal model must be timely and up to date.

- (4) The documentation of the internal model must be thorough, sufficiently detailed, and sufficiently complete to enable an independent, knowledgeable, third party to form a sound judgment as to the reliability of the internal model and the compliance with the validation criteria and could understand the reasoning and the underlying design and operational details of the internal model.

5.3.2 Partial model

- (1) An undertaking must document why it has chosen to only use a partial internal model for certain risks or business lines.

Guidance Note:

The primary concern of the Commission, regarding the approval of a partial internal model, is “cherry picking” (i.e. undertakings choosing to use its model for regulatory capital purposes only when the model results in a lower capital requirement than the standard formula). The level of document should be such as to justify the reduced scope of the internal model.

5.3.3 Model Limitations

- (1) An undertaking must document the instances where the model is shown not to perform effectively.
- (2) The documentation of circumstances under which the undertaking believes that the internal model does not work effectively must address both design and operational details of the internal model as well as the possible implications due to any lack of compliance with the validation criteria.
- (3) When assessing and documenting circumstances where the internal model does not work effectively undertakings must take into account at least the following aspects –
 - (a) limitations in risk modelling and the cover of risk captured;

- (b) the nature, degree, and sources of uncertainty surrounding the results of the internal model and sensitivity of key assumptions;
- (c) shortcomings or deficiencies in input data;
- (d) any specific features of the internal model, or circumstances, or limitations, that present potential concerns or would significantly increase the uncertainty of the results of the internal model beyond what would reasonably be expected; and
- (e) insufficiencies in IT systems, governance, and related controls surrounding the internal model.

5.3.4 Ongoing Validation

- (1) An undertaking must monitor the performance of its internal model and regularly review and validate the ongoing appropriateness of the model's specifications.
- (2) An undertaking must demonstrate that the model remains fit for purpose in changing circumstances against the criteria of the statistical quality test, calibration test, and use test.
- (3) The undertaking must demonstrate that the internal model remains valid for use both as a strategic decision-making tool, in the context of the undertaking's risk management, and as a means of calculating the PCR. The undertaking must demonstrate that the data used in the internal model remains appropriate, complete, and accurate for its purpose.

- (4) An undertaking must obtain Commission approval prior to implementing material changes to its internal model.

Guidance Note:

Over time an undertaking's business may alter considerably as a result of internal factors or events (such as a change in undertaking strategy) and external factors (such as a change in interest rates), so that the internal model may no longer fully capture the risks to which the undertaking is exposed, unless adapted.

An undertaking is required to obtain Commission approval prior to implementing material changes to its internal model. An undertaking does not require Commission approval to enact minor changes to its internal model. A 'model change policy' will be agreed between the undertaking and the Commission regarding the degree and timing of changes made to the internal model.

5.3.5 Ongoing Documentation

- (1) An undertaking must document, on an ongoing basis, the planned future development and enhancements of the internal model; including the methodology and timeline for improvements.
- (2) An undertaking must document, on an ongoing basis, any major changes to the internal model.
- (3) The documentation of major changes to the internal model must address the implications for both the design and operational details of the internal model and an assessment of continued compliance with the validation criteria after the model change has been implemented.
- (4) When a major change has had a significant impact on the outcome of the internal model the most recent valuation date must be calculated with both the revised internal model and the previous version of the internal model and the outcomes of the internal models must be compared. Any differences between the two due to the model change must be, if possible, identified, quantified, and documented.

5.3.6 Commission approval – exemptions

- (1) An undertaking does not require Commission approval, initial or ongoing, for the use of its internal model in determining its own economic capital needs or capital management.
- (2) An undertaking determining its PCR using a Recognised Standard Formula in totality is not deemed to be using an internal model and does not require prior Commission approval.

5.3.7 Commission approval - notification of intent

- (1) An undertaking must notify the Commission, in writing, of its intention to use an internal model to determine the PCR. The undertaking must notify the Commission of, at a minimum –
 - (a) the scope of the proposed internal model; including which risks, entities, lines of business, or major business units are covered by the model;
 - (b) whether the internal model has been previously approved; and
 - (c) the name of the actuary that will independently assess the validation and documentation of the internal model.

5.3.8 Commission approval - formal application

- (1) An undertaking must submit an “Internal Model Assessment Report” to obtain Commission approval to use its internal model to determine its PCR unless (2) applies.
- (2) An undertaking can submit an “Internal Model Reassessment Report” to obtain Commission approval to use its internal model if either of the following conditions apply –
 - (a) the internal model has been previously approved by the Commission for use by another licensed insurer; or

- (b) the internal model has been previously approved by a supervisor acceptable to the Commission.
- (3) An undertaking must submit an “Internal Model Change Report” to obtain Commission approval to implement material changes to its previously approved internal model.
- (4) The reports referred to in this rule must be prepared by the independent actuary approved, in writing, by the Commission.
- (5) The reports referred to in this rule may consist of one or more component reports each of which contributes to an aggregate report. To the extent that the independent actuary relies upon a component report, the author of the component report must be approved, in writing, by the Commission.

5.3.9 Commission approval - application costs

- (1) The costs of preparing a report referred to in rule 5.3.7 will be borne entirely by the licensed insurer.
- (2) The costs, fees, and expenses incurred by the Commission in approving the internal model or a change in internal model, will be borne entirely by the licensed insurer and will be non-refundable.

5.3.10 Commission approval - internal model assessment report

- (1) The purpose of an Internal Model Assessment Report is to document the independent actuary’s assessment of the internal model against each validation criterion and each documentation criterion. The assessment must clearly highlight any critical flaws in the internal model and gaps in model documentation.

5.3.11 Commission approval - internal model reassessment report

- (1) The purpose of an Internal Model Reassessment Report is to document the independent actuary's assessment of the internal model, which has previously been approved to be used to determine the regulatory capital requirement of another licensed insurer, against each validation criterion and documentation criterion. The assessment must clearly highlight any critical flaws in the internal model and gaps in model documentation.
- (2) The independent actuary may rely upon the previous assessment regarding validation, excluding the use test and documentation, to the extent that –
 - (a) the risk profile of the licensed insurer is assessed not to materially depart from that underlying the internal model; and
 - (b) the level of policyholder protection afforded to policyholders and beneficiaries using the internal model is assessed to be equal to, or exceeds, that required by the applicable standard formula for the licensed insurer.
- (3) The independent actuary cannot rely on the previously validated use test.

Guidance Note:

The Commission anticipates that while the scope of the Internal Model Reassessment Report is identical to that of the Internal Model Assessment Report, the cost of the former may be materially less than that of the latter.

5.3.12 Commission approval - internal model change report

- (1) The purpose of an Internal Model Change Report is to independently assess the changes to the internal model against each validation criterion and documentation criterion. The assessment must clearly highlight any critical flaws in the internal model and gaps in model documentation.

PART 6 VALUATION

6.1 Regulatory balance sheet

- (1) For the purpose of preparing the Regulatory Balance Sheet the value of the assets and the value of the liabilities must be determined on the basis of the Recognised Accounting Standards used to prepare the financial statements; adjusted for any basis adjustment.
- (2) The Recognised Accounting Standards which are approved by the Commission for insurance purposes are listed in Schedule 1.
- (3) Basis adjustments are adjustments that should be applied to both on-balance sheet and off-balance sheet assets and liabilities for the purpose of ensuring an economic valuation for regulatory purposes. Where basis adjustments are made they should be clearly stated in the documentation submitted with the regulatory capital assessment.

6.2 Economic valuation

- (1) An economic valuation is a valuation such that the resulting assessment of the licensed insurer's financial position is not obscured by hidden, or inherent, conservatism or optimism in the valuation.

6.3 Basis Adjustments

- (1) Licensed insurers must apply the following basis adjustments in determining the regulatory balance sheet –

- (a) off-balance sheet derivative asset and liability exposures, where payments or receipts are contingent on the performance of an underlying asset or liability, are to be brought into account at fair value; estimated according to the framework for measuring fair value set out in the accounting standards adopted for the financial accounts;

Guidance Note:

Such exposures include, but are not limited to, forwards, futures, swaps, caps, and options.

- (b) all contingent liabilities other than those specified in (a), where the licensed insurer is exposed to the risk of having to make payment, are to be brought into account;

Guidance Note:

Contingent liabilities include, but are not limited to, credit substitutes such as guarantees and letters of credit.

- (c) intangible assets are to be reduced to nil value;
 - (d) financial liabilities are not to be adjusted in value to take account of the own credit standing of the licensed insurer or any change thereof after initial recognition; and
 - (e) any other basis adjustments notified in writing by the Commission.
- (2) Licensed insurers may apply the following basis adjustments in determining the regulatory balance sheet –

- (a) contingent assets other than those specified in (1)(a) may be brought into account equal to the nominal value of each exposure;

Guidance Note:

Such assets include, but are not limited to, letters of credit and guarantees.

- (b) commitments received by the licensed insurer, which have been issued but are unpaid, may be brought into account equal to the nominal value;

Guidance Note:

Such commitments include, but are not limited to, uncalled ordinary share capital and preference shares.

- (c) surplus funds included in technical provisions of licensed insurers writing long term, profit participation, “with-profit”, business may be reduced to nil value. Surplus funds are deemed to be accumulated profits which have not been allocated for distribution to policyholders and beneficiaries;
- (d) loans subordinated, in writing, to the prior claims of all policyholders may be reduced to nil value; and
- (e) unearned profit margins included in technical provisions may be reduced to nil value provided that any risk adjustment included in the technical provisions is at a level of at least equivalent to that at which the PCR of the licensed insurer has been determined.

PART 7 INVESTMENT

7.1 Investment

Guidance Note:

The security of an investment is related to the protection of its value and to the preservation of its economic substance.

- (1) A licensed insurer, when investing in assets, must consider whether, for the portfolio as a whole –
 - (a) assets are sufficiently secure;
 - (b) liquidity; that payments to policyholders or creditors are able to be made as they fall due;
 - (c) assets are held in the appropriate location for their availability; and
 - (d) assets are sufficiently diversified subject to the nature, scale, and complexity of the business.
- (2) A licensed insurer must invest in a manner that is appropriate to the nature of its liabilities. The licensed insurer should –
 - (a) consider the extent to which the cash flows from its investments match the liability cash flows, in both timing and amount, and how this changes in varying conditions;
 - (b) consider the investment guarantees and embedded options that are contained in its policies;
 - (c) consider the currency, or currencies, of its liabilities and the extent to which they are matched by the currencies of the assets;

- (d) manage conflicts of interest to ensure assets are invested appropriately;
 - (e) for with-profits liabilities; hold an appropriate mix of assets to meet policyholders' reasonable expectations; and
 - (f) if part of an insurance group; hold investments tailored to the characteristics of its liabilities and its needs and not be subject to undue influence from the wider objectives of the group.
- (3) A licensed insurer must invest only in assets whose risks it can properly assess and manage. The licensed insurer must –
- (a) ensure its investments, including those in collective investment funds, are sufficiently transparent and should limit its investments to those where the associated risks of the asset can be properly managed by the licensed insurer;
 - (b) understand all of the risks involved sufficiently well before any investments are undertaken;
 - (c) if it is able to look through the structure of the investments to the underlying assets, consider the risk characteristics of the underlying assets and how this affects the risk characteristics of the investments itself. Where this is not possible, appropriate techniques should be developed to assess the risks associated with the investment.
- (4) A licensed insurer must establish an investment policy which –
- (a) specifies the nature, role, and extent of its investment activities;
 - (b) specifies how it complies with these Rules; and
 - (c) establishes explicit risk management procedures with regard to more complex and less transparent classes of asset and investment in markets or instruments that are subject to less governance or regulation.

- (5) A licensed insurer must not invest in the following, unless in any particular case the Commission consents in writing to their being regarded as such and on such conditions as it may impose, –
- (a) derivative contracts, or schemes, resulting in an equivalent arrangement, in whatever form they take, other than those defined in (6); and
 - (b) any asset, under lien, securing any derivative contract or other such encumbrance; except to the extent that it is securing an obligation of the licensed insurer under an insurance contract.
- (6) A licensed insurer may invest in Exchange Traded Derivative Contracts, or schemes resulting in equivalent arrangements, without the prior approval of the Commission only if they are not leveraged and, to the extent that they are, to –
- (a) apply an index tracking strategy to part or all of a portfolio;
 - (b) apply capital protected strategies to part or all of a portfolio;
 - (c) apply efficient portfolio management techniques to a portfolio; or
 - (d) reduce investment risk currently employed on a portfolio.
- (7) A licensed insurer may invest in forward foreign exchange transactions, conducted with a recognised bank, to the extent that they hedge currency exposures to currencies other than the reporting currency in the statutory accounts.

PART 8 RISK MANAGEMENT AND OWN RISK SOLVENCY ASSESSMENT

8.1 Risk Management

- (1) A licensed insurer must establish and maintain a risk management framework that is appropriate to the nature, scale, and complexity of the business. The risk management framework is the totality of the systems, structures, policies, processes, and people that identify, assess, mitigate, and monitor all internal and external sources of risk that could have a material impact on the licensed insurer.
- (2) A licensed insurer's risk management framework must –
 - (a) provide for the identification and quantification of material risks under a sufficiently wide range of outcomes using techniques which are appropriate to the nature, scale, and complexity of the risks it bears;
 - (b) include a risk management policy;
 - (c) be supported by accurate documentation;
 - (d) be responsive to changes in its risk profile; and
 - (e) incorporate a feedback loop, based on appropriate and good quality information, management processes, and objective assessment, which enables it to take the necessary action in a timely manner in response to changes in its risk profile.
- (3) A licensed insurer is required to establish and maintain a risk tolerance statement. The statement must set out its overall quantitative and qualitative risk tolerance levels and define its risk tolerance limits taking into account all relevant and material categories of risk and the relationships between them.

- (4) A licensed insurer's risk management policy must, at a minimum –
 - (a) describe how all relevant and material categories of risk are managed; both in the licensed insurer's business strategy and its day-to-day operations;
 - (b) describe the relationship between the licensed insurer's tolerance limits, regulatory capital requirements, economic capital, and the processes and methods for monitoring risk;
 - (c) include explicit policies in relation to –
 - (i) underwriting risk;
 - (ii) investment; and
 - (iii) asset-liability management.

8.2 Own Risk Assessment

- (1) The licensed insurer must perform an Own Risk and Solvency Assessment ("ORSA") comprising –
 - (a) the licensed insurer's own assessment and calculation of its solvency requirements; an Own Solvency Capital Assessment, "OSCA";
 - (b) the licensed insurer's assessment of risk management; and
 - (c) the licensed insurer's assessment of the adequacy of capital resources to meet future capital requirements.
- (2) Subject to (3), all licensed insurers are required to perform an ORSA.

- (3) A licensed insurer, [who is not a retail general insurer,]⁸ meeting at least one of the following criteria is not required to perform an ORSA –
- (a) a licensed insurer classified as a Category 6 licensee;
 - (b) a licensed insurer which is dormant with no outstanding insurance liabilities;
 - (c) a licensed insurer that would otherwise be required to perform an OSCA only and whose board of directors considers the PCR to be sufficient. In such cases this should be clearly stated, either in the documentation submitted with the annual return, or in separate correspondence. Any such statement should be accompanied by the supporting rationale for this decision; and
 - (d) a licensed insurer notified, in writing, by the Commission.
- (4) Unless otherwise notified in writing by the Commission, a licensed insurer meeting at least one of the following conditions may limit their assessment to an OSCA only: –
- (a) a Category 1 licensed insurer writing life business with an MCR below £350,000;
 - (b) a Category 2 licensed insurer with an MCR below £7,500,000;
 - (c) a Category 3 licensed insurer with an MCR below £1,500,000;
 - (d) a Category 4 licensed insurer with an MCR below £7,000,000;
 - (e) a Category 5 licensed insurer; and
 - (f) a Protected Cell Company,

⁸ Inserted by the Insurance Business (Solvency) (Amendment Rules), 2024.

[unless the licensed insurer provides retail general insurance.]⁹

(5) An ORSA must be performed at least once a year.

[(5A) All retail insurers performing an ORSA must also submit a half-yearly return, containing such information as set out in further guidance published by the Commission, and covering a reporting period of the first six months of the insurer's financial year. The half-yearly return must be submitted within 60 days of the end of the reporting period.]¹⁰

Guidance Note:

The ORSA need not necessarily be performed at the licensed insurer's financial year-end if the board considers it more appropriate to conduct the assessment at another time of the year.

The half-yearly return may contain data based on the insurer's unaudited management accounts.

(6) A licensed insurer must recalculate the ORSA if the risk profile of the licensed insurer deviates significantly from the assumptions underlying the last performed assessment.

(7) A licensed insurer must include, in its ORSA, all reasonably foreseeable and relevant material risks including, as a minimum –

(a) underwriting risk;

(b) credit risk;

(c) market risk;

(d) operational risk;

⁹ Inserted by The Insurance Business (Solvency) (Amendment) Rules, 2023.

¹⁰ *Ibid.*

- (e) liquidity risk; and
 - (f) any additional risks arising due to membership of a group.
- (8) A licensed insurer's ORSA must be supported by accurate documentation providing appropriately detailed descriptions and explanations of, as a minimum –
- (a) the modelling criteria;
 - (b) the risks covered;
 - (c) the measurement approaches used; and
 - (d) the key assumptions made.

Guidance Note:

Modelling criteria – e.g. confidence level, risk measure and time horizon.

- (9) As part of its ORSA, a licensed insurer must –
- (a) identify the relationship between its risk management and the level and quality of financial resources needed and available;
 - (b) determine the overall financial resources it needs to manage its business, given its own risk tolerance and business plans, and to demonstrate that supervisory requirements are met;
 - (c) base its risk management actions on consideration of its ORSA;
 - (d) assess the quality and adequacy of its capital resources to meet its future regulatory capital requirements and any additional capital needs; and

- (e) analyse its ability to continue in business, and the risk management and financial resources required to do so over its planning horizon, which is expected to exceed one-year.
- (10) The licensed insurer's continuity analysis referred to in (9)(e) must address a combination of quantitative and qualitative elements in its medium and longer-term business strategy and include projections of its future financial position and analysis of its ability to meet future regulatory capital requirements. As a result of continuity analysis, a licensed insurer must maintain a contingency plan and procedures for use in a going and gone concern situation. A contingency plan must identify relevant countervailing measures and off-setting actions that the licensed insurer could realistically take to restore or improve its capital adequacy or cash flow position after some future stress event and assess whether actions should be taken by the insurer, in advance, as precautionary measures.
- (11) As part of its assessment referred to in (9)(d), a licensed insurer must use appropriate forward-looking quantitative techniques such as risk modelling, stress testing including reverse stress testing, and scenario analysis. An appropriate range of adverse circumstances and events must be considered, including those that pose a significant threat to the financial condition of the insurer, and management actions must be identified together with the appropriate timing of those actions. Risk measurement techniques must also be used in developing long-term business and contingency plans.

Guidance Note:

Further reference should be made to the Commission's published guidance on the ORSA.

PART 9 GREEN ASSETS

9.1 Green Assets

- (1) Green Assets are defined as resources controlled by an insurer, as a result of past events, from which future benefits are expected to flow to the insurer and which meet one of the green criteria set out in Schedule 11.
- (2) A Category 1 or Category 2 insurer that makes investments into Green Assets may apply the following adjustment, or “Green Discount”, when calculating their PCR using the Guernsey standard formula, a recognised standard formula, of a full or partial internal model –
 - (a) for investments in Green Assets that are exposed to spread risk; the stresses and factors applied to determine the capital requirement for spread risk for Green Assets may be those of one credit rating band, or equivalent, higher than the rating assigned to them by an Acceptable Rating Agency. No such adjustments should be applied to liabilities. The stresses and factors are set out in either –
 - (i) Schedule 9;
 - (ii) the relevant text of a recognised standard formula; or
 - (iii) the documentation of a partial or full internal model.
- (3) Insurers that apply (2) must monitor their PCR both inclusive and exclusive of the Green Discount.
- (4) The maximum benefit an insurer may derive from the Green Discount will be limited to a 20% reduction in its PCR. This will be measured by comparing the PCR inclusive of the Green Discount with the PCR exclusive of the Green Discount.

(5) Where the regulatory capital resources of the insurer fall below the higher of –

- (a) 105% of the insurer's PCR exclusive of the Green Discount; or
- (b) an amount specified, in writing, by the Commission,

the insurer must not make further use of the Green Discount. The insurer must consider the measures necessary to improve its solvency position in accordance with Stage 1 of the Guidance Note on the Supervisory Ladder of Intervention. Such an event, and any proposed measures, must be notified to the Commission immediately.

(6) An insurer applying the Green Discount must –

- (a) determine and document the valuation policy to be applied to Green Assets; which includes any judgments required in applying recognition, classification, or measurement criteria;
- (b) modify its investment policy to explicitly set out the nature, role, and extent of investment in Green Assets as part of its portfolio. This should include the green criteria applied, any other positive or negative investment screening used, and any other environmental, sustainability, and governance considerations made in its investment portfolio;
- (c) ensure that its risk management portfolio explicitly incorporates how their risks, in relation to Green Assets and the use of the Green Discount, will be monitored and managed and the tolerance limits operated to; and
- (d) where applicable, consider the risks attributable to Green Assets as part of its ORSA. This must include incorporating the risks around Green Assets into its OSCA,

in a manner proportionate to its nature, scale, and complexity.

- (7) An insurer applying the Green Discount must disclose that fact in the pre-contractual and contractual information provided to customers. Disclosures must state what the Green Discount is and the effect that applying it has on the insurer's risk profile and the calculation of its Capital Adequacy.
- (8) Use of the Green Discount constitutes a material change of business plan, under subsection 11(2) of the Law, and an insurer must notify the Commission prior to its implementation. As part of that notification, the insurer must make available to the Commission the documents listed in (6) and (7) and must quantify the impact applying the Green Discount would have on their Capital Adequacy.
- (9) An applicant for an insurance licence that wishes to make use of the Green Discount must state that fact in its application and must demonstrate how it intends to meet all the requirements.

PART 10 GENERAL PROVISION

10.1 Interpretation

- (1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.
- (2) In these Rules the following definitions should be followed -

“basis adjustment” means the adjustment made to the Recognised Accounting Standards’ value of an asset or liability for the purpose of determining the licensed insurer’s regulatory financial statements;

“capital adequacy” means the adequacy of an insurer’s capital resources relative to its PCR determined in accordance with Part 3;

“Captive (Re)insurer” means an insurance or reinsurance entity created and owned, directly or indirectly, by one or more industrial, commercial, or financial entities or associations the purpose of which is to provide insurance or reinsurance cover for risks of the entity or entities to which it belongs, or for entities connected to those entities;

“Commercial General Insurer” means a general insurer with any element of unrelated party business;

“Commercial General Reinsurer” means a reinsurer providing reinsurance to a commercial insurer, whether or not part of the same group, and with no direct business;

“Commercial Life Insurer” means a long-term insurer with any element of unrelated party business;

“Commercial Life Reinsurer” means a long-term reinsurer with any element of unrelated party business;

“counterparty default risk” means the possible losses due to unexpected default, or deterioration in the credit standing, of the counterparties and debtors of insurers over the following twelve months;

“diversification effects” mean the reduction in the risk exposure of insurance and reinsurance undertakings and groups, related to the diversification of their business, resulting from the fact that the adverse outcome from one risk can be offset by a more favourable outcome from another risk, where those risks are not fully correlated;

“interest rate risk” means the sensitivity of the values of assets, liabilities, and financial instruments to changes in the term structure of interest rates, or in the volatility of interest rates;

“internal model” means the model which a licensed insurer uses in place of the Standard Formula to calculate its PCR and for which Commission approval has been granted; which appropriately reflects its risk profile, based on accurate and appropriate data and adequate actuarial and statistical techniques that are commensurate with the nature, scale, and complexity of its business;

“market risk” means the risk to an insurer's financial condition arising from movements in the level or volatility of market prices of assets, liabilities, and financial instruments; whether on all investments as a whole (general market risk) or on an individual investment (specific market risk);

“premium risk” means the risk that premium provisions, relating to unexpired risks on existing contracts, will be insufficient or need to be increased. It also relates to the risk that net written premiums, relating to policies expected to be written (or renewed) during the forthcoming financial year, will be insufficient to fund the liabilities arising from that business;

“Recognised Bank” means a bank or building society –

(a) with a short-term credit rating of A-1/P-1; or

- (b) licensed by the appropriate regulatory authority in Guernsey, the Isle of Man, or Jersey;

“reserve risk” means the risk that the value of claim settlements will be greater than the value of claim provisions;

“re-securitised assets” means a securitised/structured asset where one or more of the underlying assets is itself a securitized/structured asset;

“securitised/structured asset” means an asset that is typically a tranche of a pool of assets. Examples include asset backed securities and mortgage backed securities;

“Type 1 letter of credit” means a letter of credit that is irrevocable, issued to the benefit of the undertaking, and provided by a Recognised Bank in a Recognised Territory;

“Type 2 letter of credit” means a letter of credit that does not meet the criteria to be classified as a Type 1 letter of credit.

PART 11 SAVINGS, REVOCATIONS, CITATION AND COMMENCEMENT

11.1 Savings

- (1) Any exclusion or modification granted by the Commission, under The Insurance Business (Solvency) Rules, 2015, will continue to apply where the Law and these Rules provide scope for such exclusions or modifications.

11.2 Revocations

11.2.1 Revocation of The Insurance Business (Solvency) Rules, 2015

- (1) The Insurance Business (Solvency) Rules, 2015 are revoked.

11.3 Citation and commencement

- (1) These rules may be cited as The Insurance Solvency Rules 2021.
- (2) These rules come into force on 1st November 2021.

Schedule 1
Recognised Accounting Standards

The following accounting standards, or practices, are approved by the Commission and are referred to as Recognised Accounting Standards –

	Accounting Standard/Practice
1	International Financial Reporting Standards
2	United Kingdom Generally Accepted Accounting Practice*
3	United States Generally Accepted Accounting Practice

* Including where the Commission has permitted a derogation from the additional disclosure requirements under FRS 103.

Schedule 2
General Business Lines of Business

1.1 Motor

1.1.1 Obligations

1. This line of business includes all obligations covering all damage to, or loss of, land motor vehicles (including railway rolling stock).
2. It also includes obligations which cover liabilities arising out of the use of motor vehicles operating on the land (including carrier's liability).

1.1.2 Guidance: Policies covered

This line of business includes private motor comprehensive, private motor non comprehensive, motorcycle, fleets, commercial vehicles (non-fleet), and other motor policies

1.2 General Liability

1.2.1 Obligations

This line of business includes obligations covering all liabilities other than those included in the motor and the marine, aviation, and transport lines of business.

1.2.2 Guidance: Policies covered

1. This line of business includes employers' liability, professional indemnity (including directors' and officers' liability, and errors and omissions liability), public liability, product liability, and mixed commercial package policies.
2. A mixed commercial package can be considered contracts of insurance (other than treaty reinsurance contracts) against more than one of -
 - (a) loss or damage to property;
 - (b) risks to the persons insured incurring liabilities to third parties;
 - (c) risks of loss to the persons insured arising from the failure of debtors of theirs to pay their debts when due;
 - (d) risks of loss to the persons insured attributable to interruptions of business carried on by them;

- (e) risks of loss to the persons insured attributable to their incurring unforeseen expenses; or
- (f) any other risk of loss to a commercial operation;

where the risks and losses covered in the contract are rated on a single package basis and no separately identifiable premium is charged, or recorded for internal management purposes, for any one group of risks or losses specified in the contract.

1.3 Marine, Aviation, and Transport

- 1.3.1 This line of business includes obligations which cover all damage or loss to river, canal, lake, and sea vessels, aircraft (including satellites) and damage to, or loss of goods, in transit, or baggage, irrespective of the form of transport.
- 1.3.2 This line of business also includes all liabilities arising out of use of aircraft, ships, vessels, or boats on the sea, lakes, rivers, or canals including carrier's liability irrespective of the form of transport.

1.4 Property

1.4.1 Obligations

This line of business includes obligations which cover all damage to, or loss of, property (other than motor vehicles and marine, aviation, and transport) due to fire, explosion, natural forces including storm, hail, or frost, nuclear energy, land subsidence, and any event such as theft.

1.4.2 Guidance: Policies covered

This line of business includes primary (direct) and facultative household and domestic all risks, commercial property (including livestock and crops but excluding energy), and contractors or engineering all risks policies.

1.5 Legal Expenses

This line of business includes obligations which cover legal expenses and cost of litigation.

1.6 Miscellaneous

This line of business includes obligations not elsewhere covered other than those included in the health and health non-proportional lines of business.

1.7 Health

1.7.1 Obligations

Obligations which cover the provision of preventive or curative medical treatment, or care, including medical treatment or care due to illness, accident, disability, and infirmity, or financial compensation for such treatment or care.

1.7.2 Guidance: Policies covered

This line of business includes medical expenses, workers' compensation (but not employer's liability which is covered under the general liability line of business), personal accident, income protection (also known as PHI), and death in service policies.

1.8 Casualty Non-Proportional

This line of business includes non-proportional reinsurance obligations relating to insurance obligations included in the motor and general liability lines of business.

1.9 Marine, Aviation, and Transport Non-Proportional

This line of business includes non-proportional reinsurance obligations relating to insurance obligations included in the marine, aviation, and transport line of business.

1.10 Property Non-Proportional

This line of business includes non-proportional reinsurance obligations relating to insurance obligations included in the property, legal expenses, and miscellaneous lines of business.

1.11 Health Non-Proportional

This line of business includes non-proportional reinsurance obligations relating to insurance obligations included in the health line of business.

Schedule 3
Recognised Standard Formulae

For the purpose of determining the PCR, the standard formulae, in the following countries or territories, are approved by the Commission, for use in place of the Guernsey Standard Formula, and are referred to as Recognised Standard Formulae –

	Country / Territory
1	Australia
2	Bermuda
3	Canada
4	European Union
5	Japan
6	Switzerland
7	United Kingdom

Schedule 4
Acceptable Rating Agencies

For the purpose of these Rules, the following rating agencies are approved by the Commission and are referred to as Acceptable Rating Agencies -

	Rating Agency
1	A M Best Company
2	Fitch Ratings
3	Moody's Investors Service
4	Standard and Poor's

Schedule 5
Recognised Territory

For the purpose of these Rules, the following territories are recognised by the Commission and are referred to as Recognised Territories –

	Territory
1	Any member state of the European Economic Area
2	Any member state of the European Free Trade Area
3	Bailiwick of Guernsey, Isle of Man, or the Bailiwick of Jersey
4	Australia
5	Canada
6	Gibraltar
7	Hong Kong
8	Japan
9	Mexico
10	New Zealand
11	Singapore
12	South Africa
13	United Kingdom
14	United States of America

Schedule 6
Supranational Agencies

For the purpose of these Rules, the following agencies are recognised by the Commission and are referred to as Supranational Agencies –

	Agency
1	African Development Bank
2	Asian Development Bank
3	Caribbean Development Bank
4	Council of Europe
5	Eurofima
6	European Bank for Reconstruction and Development
7	European Investment Bank
8	European Investment Fund
9	Inter-American Development Bank
10	International Bank for Reconstruction and Development (World Bank)
11	International Finance Corporation
12	Islamic Development Bank
13	Nordic Investment Bank

Schedule 7
General Business Risk Capital Factors

1. Market Risk

The market risk capital factors are as follows –

Exposure Type	Bands	Capital Factors		
		Commercial General Insurer	Commercial General Reinsurer	Captive General (Re)insurer
Interest Rate Risk	Less than two	0.3%	0.3%	0.0%
	Two to less than five years	2.6%	1.8%	1.4%
	Five years and above	8.5%	6.0%	4.4%
Spread Risk	Less than two	1.4%	1.0%	0.6%
	Two to less than five years	4.9%	3.7%	2.4%
	Five years and above	8.7%	6.6%	4.3%
Currency Risk	All	25.0%	18.0%	10.0%
Equity Risk	Listed	39.0%	28.0%	16.0%
	Unlisted	49.0%	35.0%	20.0%
Property Risk	All	25.0%	18.0%	5.0%
Derivatives	All	100.0%	100.0%	100%
Other	All	49.0%	35.0%	20.0%

The modified duration is the change in the value of the assets or liabilities for a 1% change in interest rates (part of which is spread risk).

Note that this differs from the basic (or Macaulay) duration which is simply the weighted average time of a series of cash flows.

2. Counterparty Default Risk

Receivable Capital Factors

The Receivable Capital Factors for insurers, reinsurers and captives are as follows:

- (a) 0% for receivables due 90 days or less; and
- (b) 100% for receivables greater than 90 days overdue.

Other Default Risk Capital Factors

The Other Default Risk Capital Factors are as follows -

Credit Rating Band	Commercial General Insurer	Commercial General Reinsurer	Captive General (Re)insurer
AAA	1.3%	1.0%	0.0%
AA	3.0%	2.2%	1.0%
A	6.7%	4.9%	3.0%
BBB	14.7%	10.7%	6.0%
BB	54.4%	39.8%	24.0%
B or Lower	100.0%	73.1%	45.0%
Unrated	100.0%	73.1%	45.0%

Note that the Credit Rating Band relates to the direct counterparty to which there is an exposure. Where an exposure is to a Guernsey licensed bank and that bank is unrated, reference may be made to the credit rating of the parent bank.

Other Default Risk Recovery Rates

The Recovery Rates for insurers, reinsurers and captives are as follows:

- (a) 50% for receivables due from reinsurers; and
- (b) 0% for other exposure types.

3. Premium Risk

The Premium Risk Capital Factors are as follows -

Line of Business	Premium Risk Capital Factors		
	Commercial General Insurer	Commercial General Reinsurer	Captive General (Re)insurer
Motor	28.6%	20.9%	13.0%
General Liability	41.7%	30.1%	18.3%
Casualty Non-Proportional	52.2%	37.2%	22.3%
Marine, Aviation and	45.2%	32.4%	19.7%
MAT Non-Proportional	52.2%	37.2%	22.3%
Property	22.4%	16.5%	10.4%
Property Non-Proportional	52.2%	37.2%	22.3%
Legal Expenses	19.4%	14.4%	9.1%
Miscellaneous	28.9%	21.1%	13.1%
Health	19.7%	14.6%	9.2%
Health Non-Proportional	52.2%	37.2%	22.3%

4. Reserve Risk

The Reserve Risk Capital Factors are as follows -

Line of Business	Reserve Risk Capital Factors		
	Commercial General Insurer	Commercial General Reinsurer	Captive General (Re)insurer
Motor	25.5%	18.7%	11.7%
General Liability	31.8%	23.2%	14.4%
Casualty Non-Proportional	63.3%	44.5%	26.3%
Marine, Aviation and	31.8%	23.2%	14.4%
MAT Non-Proportional	63.3%	44.5%	26.3%
Property	28.6%	20.9%	13.0%
Property Non-Proportional	63.3%	44.5%	26.3%
Legal Expenses	35.1%	25.5%	15.7%
Miscellaneous	51.6%	36.8%	22.1%

Health	26.5%	19.5%	12.1%
Health Non-Proportional	63.3%	44.5%	26.3%

Schedule 8
General Business Diversification Adjustment

(A) General Formula

The diversification adjustment determined using the Guernsey Standard Formula is calculated as -

$$\text{Diversification Adjustment} = \text{Undiversified capital} - \sqrt{\sum_{x,y} \text{Corr}_{x,y} \cdot C_x \cdot C_y}$$

Where:

- (a) Undiversified capital is the capital requirement not allowing for diversification and, where relevant, any regulatory adjustment;
- (b) $\sum_{x,y}$ is the sum over all combinations of risks;
- (c) $\text{Corr}_{x,y}$ is the correlation between risks x and y; and
- (d) C_x, C_y is the capital requirement for individual risks x and y according to the rows and columns of the correlation matrix $\text{Corr}_{x,y}$; and

$\text{Corr}_{x,y} = 1$ is equivalent to full correlation and leads to no diversification benefit.

$\text{Corr}_{x,y} = 0$ is equivalent to no correlation and leads to full diversification benefit.

(B) Correlation Matrix: PCR

For insurers and reinsurers, $\text{Corr}_{x,y}$ is defined as

Corr	Market	Default	Premium	Reserve
Market	1	0.25	0.25	0.25
Default	0.25	1	0.5	0.5
Premium	0.25	0.5	1	0.5
Reserve	0.25	0.5	0.5	1

For captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	Market	Default	Premium	Reserve
Market	1	0	0	0
Default	0	1	0.25	0.25
Premium	0	0.25	1	0.25
Reserve	0	0.25	0.25	1

(C) Correlation Matrix: Market Risk

For insurers and reinsurers, $\text{Corr}_{x,y}$ is defined as

Corr	Interest	Spread	Currency	Other
Interest	1	0	0.25	0
Spread	0	1	0.25	0.75
Currency	0.25	0.25	1	0.25
Other Market	0	0.75	0.25	1

For captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	Interest	Spread	Currency	Other
Interest	1	0	0	0
Spread	0	1	0	0.5
Currency	0	0	1	0
Other Market	0	0.5	0	1

(D) Correlation Matrix: Counterparty Default Risk

For insurers, reinsurers and captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	Receivables	Other
Receivables	1	1
Other Exposures	1	1

(E) Correlation Matrix: Reserve Risk

For insurers and reinsurers, $\text{Corr}_{x,y}$ is defined as

Corr	General Liability	Legal Expenses	MAT	Motor	Property	Miscellaneous	Casualty NP	MAT NP	Property NP	Health	Health NP
General Liability	1	0.5	0.25	0.5	0.25	0.25	0.25	0.5	0.5	0	0
Legal Expenses	0.5	1	0.5	0.25	0.25	0.25	0.25	0.5	0.5	0	0
MAT	0.25	0.5	1	0.25	0.25	0.25	0.25	0.5	0.25	0	0
Motor	0.5	0.25	0.25	1	0.5	0.25	0.25	0.25	0.5	0	0
Property	0.25	0.25	0.25	0.5	1	0.5	0.25	0.25	0.5	0	0

Miscellaneous	0.25	0.25	0.25	0.25	0.5	1	0.5	0.25	0.5	0	0
Casualty NP	0.25	0.25	0.25	0.25	0.25	0.5	1	0.25	0.25	0	0
MAT NP	0.5	0.5	0.5	0.25	0.25	0.25	0.25	1	0.5	0	0
Property NP	0.5	0.5	0.25	0.5	0.5	0.5	0.25	0.5	1	0	0
Health	0	0	0	0	0	0	0	0	0	1	0
Health NP	0	0	0	0	0	0	0	0	0	0	1

For captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	General	Legal	MAT	Motor	Property	Miscella	Casualty	MAT NP	Property	Health	Health
General Liability	1	0.25	0	0.25	0	0	0	0.25	0.25	0	0
Legal Expenses	0.25	1	0.25	0	0	0	0	0.25	0.25	0	0
MAT	0	0.25	1	0	0	0	0	0.25	0	0	0
Motor	0.25	0	0	1	0.25	0	0	0	0.25	0	0
Property	0	0	0	0.25	1	0.25	0	0	0.25	0	0
Miscellaneous	0	0	0	0	0.25	1	0.25	0	0.25	0	0
Casualty NP	0	0	0	0	0	0.25	1	0	0	0	0
MAT NP	0.25	0.25	0.25	0	0	0	0	1	0.25	0	0
Property NP	0.25	0.25	0	0.25	0.25	0.25	0	0.25	1	0	0
Health	0	0	0	0	0	0	0	0	0	1	0.25
Health NP	0	0	0	0	0	0	0	0	0	0.25	1

(F) Correlation Matrix: Premium Risk

For insurers, reinsurers and captive (re)insurers, the correlation matrices for premium risk are the same as for reserve risk.

Schedule 9
Life Business Stresses and Risk Capital Factors

1. Real Interest Rate Stress

The instantaneous stresses that should be applied to the nominal interest rates are as follows -

Maturity t (years)	<i>Commercial Life Insurer</i>		<i>Commercial Life Reinsurer</i>		<i>Captive Life (Re)insurer</i>	
	Up stress	Down stress	Up stress	Down stress	Up stress	Down stress
0.25	70%	-75%	55%	-68%	36%	-36%
0.5	70%	-75%	55%	-68%	36%	-36%
1	70%	-75%	55%	-68%	36%	-36%
2	70%	-65%	55%	-59%	30%	-38%
3	64%	-56%	49%	-47%	26%	-36%
4	59%	-50%	42%	-41%	22%	-33%
5	55%	-46%	39%	-37%	21%	-31%
6	52%	-42%	37%	-33%	20%	-28%
7	49%	-39%	34%	-30%	19%	-25%
8	47%	-36%	33%	-28%	19%	-23%
9	44%	-33%	31%	-25%	18%	-21%
10	42%	-31%	30%	-23%	17%	-20%
11	39%	-30%	29%	-22%	16%	-20%
12	37%	-29%	28%	-22%	15%	-19%
13	35%	-28%	26%	-22%	15%	-19%
14	34%	-28%	25%	-22%	14%	-19%
15	33%	-27%	24%	-21%	14%	-18%
16	31%	-28%	22%	-23%	13%	-19%
17	30%	-28%	22%	-23%	12%	-19%
18	29%	-28%	21%	-23%	12%	-19%
19	27%	-29%	20%	-24%	11%	-20%
≥20	26%	-29%	19%	-25%	11%	-20%

Example of application for an insurer in the downward scenario at a maturity of 15 years:

$N(15)$ = nominal interest rate at 15 years

$N_s(15)$ = stressed nominal interest rate at 15 years

$R(15)$ = real interest rate at 15 years

$R_s(15)$ = stressed real interest rate at 15 years

When using nominal interest rates:

$$\text{Stress} = N(15) \times -27\%$$

$$N_s(15) = N(15) + N(15) \times -27\%$$

When using real interest rates:

$$\text{Stress} = R(15) \times -27\%$$

$$R_s(15) = R(15) + R(15) \times -27\%$$

2. Inflation Rate Stress

The instantaneous stresses that should be applied to the inflation rates are as follows -

	<i>Inflation</i>
<i>Commercial Life Insurer</i>	<i>1.00%</i>
<i>Commercial Life Reinsurer</i>	<i>0.75%</i>
<i>Captive Life (Re)insurer</i>	<i>0.50%</i>

3. Spread Stress and Default Factors

The stresses that should be applied to the current yields and the default factors are as follows -

	Commercial Life Insurer				Commercial Life Reinsurer				Captive Life (Re)insurer			
Credit Rating Band	Default Factor	Bonds Spreads	Structured / Securitised Spread	Re-securitised Spread	Default Factor	Bonds Spreads	Structured / Securitised Spread	Re-securitised Spread	Default Factor	Bonds Spreads	Structured / Securitised Spread	Re-securitised Spread
AAA	0.2%	0.6%	1.0%	1.8%	0.2%	0.5%	0.8%	1.4%	0.1%	0.3%	0.5%	0.9%
AA	0.6%	0.8%	1.4%	2.4%	0.5%	0.6%	1.1%	1.8%	0.3%	0.4%	0.7%	1.2%
A	1.2%	1.2%	2.0%	3.2%	0.9%	0.9%	1.5%	2.4%	0.6%	0.6%	1.0%	1.6%
BBB	3.0%	1.6%	2.5%	4.0%	2.3%	1.2%	1.9%	3.0%	1.5%	0.8%	1.2%	2.0%
BB	6.0%	2.0%	3.0%	5.0%	4.6%	1.5%	2.3%	3.8%	3.0%	1.0%	1.5%	2.5%
B	10.0%	2.5%	3.5%	6.0%	7.6%	1.9%	2.7%	4.6%	5.0%	1.2%	1.7%	3.0%
Less than B, Unrated	16.0%	3.0%	4.5%	7.5%	12.2%	2.3%	3.4%	5.7%	8.0%	1.5%	2.2%	3.7%

4. Currency Stress

The instantaneous stresses that should be applied to the exchange rates compared to the reporting currency are as follows -

	Up Stress	Down Stress
Commercial Life Insurer	25.0%	-25.0%
Commercial Life Reinsurer	18.0%	-18.0%
Captive Life (Re)insurer	10.0%	-10.0%

5. Equity Stress

The stresses that should be applied to equities are a fall in prices as follows -

	Equity			Other investments	
	Quoted	Unquoted	Strategic	Other	Derivatives
Commercial Life Insurer	39.0%	49.0%	22.0%	49.0%	n/a
Commercial Life Reinsurer	28.0%	35.0%	16.0%	35.0%	n/a
Captive Life (Re)insurer	16.0%	20.0%	9.0%	20.0%	n/a

An equity investment is of a strategic nature if the following criteria are met -

- (i) The value of the equity investment is likely to be materially less volatile for the following 12 months than the value of other equities over the same period as a result of both the nature of the investment and the influence exercised by the participating undertaking in the related undertaking.
- (ii) The nature of the investment is strategic, taking into account all relevant factors, including:
 - (a) the existence of a clear decisive strategy to continue holding the participation for long period

- (b) the consistency of the strategy referred to in point (a) with the main policies guiding or limiting the actions of the undertaking
- (c) the participating undertaking's ability to continue holding the participation in the related undertaking
- (d) the existence of a durable link
- (e) where the insurance or reinsurance participating company is part of a group, the consistency of such strategy with the main policies guiding or limiting the actions of the group.

6. Property Stress

The stresses that should be applied to property are a fall in prices as follows -

	Property
Commercial Life Insurer	25.0%
Commercial Life Reinsurer	18.0%
Captive Life (Re)insurer	5.0%

7. Counterparty Default Risk

(G) Receivable Capital Factors

The Receivable Capital Factors for insurers, reinsurers and captives are as follows -

- (a) 0% for receivables due 90 days or less; and
- (b) 100% for receivables greater than 90 days overdue.

(H) Other Default Risk Capital Factors

The Other Default Risk Capital Factors are as follows -

Credit Rating Band	Commercial Life Insurer	Commercial Life Reinsurer	Captive Life (Re)insurer
AAA	1.3%	1.0%	0.0%
AA	3.0%	2.2%	1.0%
A	6.7%	4.9%	3.0%
BBB	14.7%	10.7%	6.0%
BB	54.4%	39.8%	24.0%
B or Lower	100.0%	73.1%	45.0%
Unrated	100.0%	73.1%	45.0%

Note that the Credit Rating Band relates to the direct counterparty to which there is an exposure. Where an exposure is to a Guernsey licensed bank and that bank is unrated, reference may be made to the credit rating of the parent bank.

(I) Other Default Risk Recovery Rates

The Recovery Rates for insurers, reinsurers and captives are as follows:

- (a) 50% for receivables due from reinsurers; and
- (b) 0% for other exposure types.

8. Underwriting Stress

The stresses that should be applied for the underwriting risks are as follows -

	Mortality	Longevity	Morbidity/Disability		Lapse			Expenses
			Inception Rates	Recovery Rates	Up Stress	Down Stress	Mass Event	
Commercial Life Insurer	15.0%	20.0%	25.0%	20.0%	50.0%	50.0%	40.0%	10.0%
Commercial Life Reinsurer	11.5%	15.0%	19.0%	15.0%	38.0%	38.0%	30.0%	7.5%
Captive Life (Re)insurer	7.5%	10.0%	12.5%	10.0%	25.0%	25.0%	20.0%	5.0%

For the purpose of the upward lapse stress, the stressed lapse rates should be subject to a maximum of 100%.

For the purpose of the downward lapse stress, the magnitude of the stress should be subject to a maximum of 20%.

Example of application for an insurer:

L = lapse rate

L_s = stressed lapse rate

Increase in lapse rates

$$L = 50\% \quad L_s = \min[50\% \times (1 + 50\%), 100\%] = 75\%$$

$$L = 80\% \quad L_s = \min[80\% \times (1 + 50\%), 100\%] = 100\%$$

Decrease in lapse rates

$$L = 30\% \quad L_s = 30\% - \min[30\% \times 50\%, 20\%] = 15\%$$

$$L = 50\% \quad L_s = 50\% - \min[50\% \times 50\%, 20\%] = 30\%$$

	Catastrophe Risk						
			Mass Accident				
	Life Pandemic	Disability/ Morbidity Pandemic	Accidental deaths	Permanent total disabilities	Long term disabilities	Short term disabilities	Medical/In juries
	per 1,000 lives	per 100,000 lives	per 100,000 lives	per 100,000 lives	per 100,000 lives	per 100,000 lives	per 100,000 lives
Commercial Life Insurer	1.5	7.5	25	3.75	12.5	33.75	75
Commercial Life Reinsurer	1.14	5.7	19	2.75	9.5	25.75	57
Captive Life (Re)insurer	0.745	3.75	12.5	1.75	6.25	16.75	37.25

Schedule 10
Life Business Diversification Adjustment

General Formula

The diversification adjustment determined using the Guernsey Standard Formula is calculated as -

$$\text{Diversification Adjustment} = \text{Undiversified capital} - \sqrt{\sum_{x,y} \text{Corr}_{x,y} \cdot C_x \cdot C_y}$$

Where:

- (a) Undiversified capital is the capital requirement not allowing for diversification and, where relevant, any regulatory adjustment;
- (b) $\sum_{x,y}$ is the sum over all combinations of risks;
- (c) $\text{Corr}_{x,y}$ is the correlation between risks x and y; and
- (d) C_x, C_y is the capital requirement for individual risks x and y according to the rows and columns of the correlation matrix $\text{Corr}_{x,y}$; and

$\text{Corr}_{x,y} = 1$ is equivalent to full correlation and leads to no diversification benefit.

$\text{Corr}_{x,y} = 0$ is equivalent to no correlation and leads to full diversification benefit.

Correlation Matrix: PCR

For insurers and reinsurers, $\text{Corr}_{x,y}$ is defined as

Corr	Market	Default	Underwriting
Market	1	0.25	0.25
Default	0.25	1	0.25
Underwriting	0.25	0.25	1

For captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	Market	Default	Underwriting
Market	1	0	0
Default	0	1	0
Underwriting	0	0	1

Correlation Matrix: Market Risk

For insurers and reinsurers, $\text{Corr}_{x,y}$ is defined as

Corr	Interest	Inflation	Spread	Currency	Equity	Property
Interest	1	0.25	0.25	0.25	0.25	0.25
Inflation	0.25	1	0.25	0.25	0.5	0.5
Spread	0.25	0.25	1	0.25	0.75	0.5
Currency	0.25	0.25	0.25	1	0.25	0.25
Equity	0.25	0.5	0.75	0.25	1	0.75
Property	0.25	0.5	0.5	0.25	0.75	1

For captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	Interest	Inflation	Spread	Currency	Equity	Property
Interest	1	0	0	0	0	0
Inflation	0	1	0	0	0.25	0.25
Spread	0	0	1	0	0.5	0.25
Currency	0	0	0	1	0	0
Equity	0	0.25	0.5	0	1	0.5
Property	0	0.25	0.25	0	0.5	1

Correlation Matrix: Counterparty Default Risk

For insurers, reinsurers and captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	Receivables	Other Exposures
Receivables	1	1
Other Exposures	1	1

Correlation Matrix: Underwriting Risk

(i) For insurers and reinsurers, $\text{Corr}_{x,y}$ is defined as

Corr	Mortality	Longevity	Disability/Morbidity	Lapse	Expense	Catastrophe
Mortality	1	-0.25	0.25	0	0.25	0.25
Longevity	-0.25	1	0	0.25	0.25	0
Disability/Morbidity	0.25	0	1	0	0.5	0.25

Lapse	0	0.25	0	1	0.5	0.25
Expense	0.25	0.25	0.5	0.5	1	0.25
Catastrophe	0.25	0	0.25	0.25	0.25	1

For captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	Mortality	Longevity	Disability/Morbidity	Lapse	Expense	Catastrophe
Mortality	1	-0.5	0	0	0	0
Longevity	-0.5	1	0	0	0	0
Disability/Morbidity	0	0	1	0	0.25	0
Lapse	0	0	0	1	0.25	0
Expense	0	0	0.25	0.25	1	0
Catastrophe	0	0	0	0	0	1

Correlation Matrix: Catastrophe Risk

For insurers, reinsurers and captive (re)insurers, $\text{Corr}_{x,y}$ is defined as

Corr	Life pandemic	Disability/Morbidity pandemic	Mass accident
Life pandemic	1	0	0
Disability/Morbidity	0	1	0
Mass accident	0	0	1

Schedule 11

Green Criteria

For the purposes of Part 9 of these Rules, the following is a list of green criteria, endorsed by the Commission, as standards that can be adopted when considering whether an investment is a Green Asset.

An insurer may only apply Part 9 of the Rules to an asset that would meet the chosen criteria adopted from the table below.

An insurer can only apply one set of criteria for all of their investments at any one time and must apply the criteria consistently.

Criteria	Date added
The Common Principles for Climate Mitigation Finance Tracking	24 February 2022

Schedule 12¹¹

Transitional Arrangements

1. Licensees will have three years, from the date on which The Insurance Business (Solvency)(Amendment) Rules, 2024 come into force, to implement the additional MCR set out at rule 2.1.
2. Licensees will have three years, from the date on which The Insurance Business (Solvency)(Amendment) Rules, 2024 come into force, to implement the additional regulatory capital resources requirements set out at rule 2.3(2A).

¹¹ Schedule inserted by The Insurance Business (Solvency) (Amendment) Rules, 2024.

THE INSURANCE MANAGERS RULES and GUIDANCE, 2021

CONSOLIDATED VERSION

The Insurance Managers Rules, made in accordance with The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2021¹ (“the Law”), are set out in this document.

This consolidated version of the Rules incorporates amendments listed in the footnote below. It is prepared for the Guernsey Law website and is believed to be up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use².

Guidance provided by the Guernsey Financial Services Commission (“the Commission”) is set out in shaded boxes.

¹ Order In Council No. XXII of 2002.

² S.I. No. 139 amended by The Insurance Managers (Amendment) Rules, 2022; The Insurance Managers (Amendment) Rules, 2023; The Insurance Managers (Amendment) Rules, 2024.

Contents

PART 1 INTRODUCTION	4
1.1 Application.....	4
PART 2 LICENSING	6
2.1 Application for licence	6
2.2 Business from sensitive jurisdictions	9
2.3 Exempt persons	9
PART 3 ANNUAL RETURNS	10
3.1 Licensed insurance manager's annual return	10
3.2 Annual returns in non-standard format.	11
PART 4 CLIENT MONIES.....	12
4.1 Application of client monies insurance intermediaries rules	12
PART 5 MINIMUM CAPITAL REQUIREMENT.....	13
5.1 Minimum Capital Requirement of Licensees.....	13
5.2 Method of calculation.....	13
PART 6 APPROVED ASSETS	14
6.1 Approved assets.....	14
6.2 Unapproved assets.....	14
PART 7 CONDUCT OF BUSINESS.....	15
7.1 Application of Part 7.....	15
7.1A Client assessments	15
7.2 Authorised insurance representatives	16
7.3 Advertisements	17
7.4 Complaints.....	18
7.5 Insurance	19
7.6 Reporting to the Commission.....	24
7.7 Compliance officers	26
7.8 Training and competence.....	26
7.9 Outsourcing arrangements	26
7.10 Record keeping.....	28
7.11 Insolvency	29
PART 8 GENERAL PROVISION.....	30
8.1 Interpretation.....	30

PART 9 SAVINGS, REVOCATIONS, CITATION, AND COMMENCEMENT	31
9.1 Savings.....	31
9.2 Revocations	31
[9.2A Transitional arrangements	32
9.3 Citation and commencement.....	32
Schedule 1 The Principles of Conduct of Finance Business.....	33
Schedule 2 Gap Analysis.....	35

PART 1 INTRODUCTION

1.1 Application

- (1) The Insurance Managers Rules, 2021 replace The Insurance Managers and Intermediaries (Licensing) Regulations, 2002³, The Insurance Managers and Insurance Intermediaries (Client Monies) Regulations, 2008⁴, The Insurance Managers and Intermediaries (Annual Returns) Regulations, 2008⁵, The Insurance Intermediaries and Insurance Managers (Approved Assets) Regulations, 2008⁶ and The Insurance Managers (Conduct of Business) Rules, 2014⁷.
- (2) The Commission may in its absolute discretion, by written notice to a licensee, exclude or modify the application of any provision of these Rules.
- (3) The Commission may issue supplementary guidance regarding the standards of conduct and practice expected in relation to any aspect of the regulatory framework. Such guidance will not constitute rules of the Commission.

³ G.S.I. No. 40 of 2002.

⁴ G.S.I. No. 19 of 2008.

⁵ G.S.I. No. 18 of 2008.

⁶ G.S.I. No. 17 of 2008.

⁷ G.S.I. No. 96 of 2014.

Guidance Note: This document take a two-level approach –

- the Rules set out the standards to be met; and
- guidance notes present suggested ways of showing compliance with the Rules.

Licensees may adopt alternative measures to those set out in the guidance so long as it is possible to demonstrate that such measures achieve compliance.

The text contained in shaded boxes contains guidance from the Commission and does not form part of the Rules.

PART 2 LICENSING

2.1 Application for licence

- (1) An application for an insurance manager's licence, under the Law, must include the following –
 - (a) the appropriate application form, fully completed;
 - (b) the application fee;
 - (c) details of ownership, including –
 - (i) sufficient information to confirm the ultimate ownership of the proposed applicant;
 - (ii) sufficient information to confirm the proposed applicant's controllers;
 - (iii) a list of the applicant's current shareholders and proposed shareholders on licensing, if different;
 - (iv) an organisation chart sufficient in detail to identify all holdings between the company and its ultimate holding company;
 - (v) the latest audited financial statements of the applicant and ultimate holding company and controller, where different;
 - (vi) an outline of the background of the ultimate holding company and controller, where different;
 - (d) where a trust is involved in the ownership chain –
 - (i) a copy of the trust deed;

- (ii) the names and current addresses of the beneficiaries;
 - (iii) the names and current addresses of the settlors;
 - (iv) the names and current addresses of the trustees;
 - (v) the relationship of the settlors to the beneficiaries;
 - (e) the proposed method of capitalisation, whether by way of share capital, letter of credit, subordinated loans, or otherwise; and
 - (f) such other information as the Commission may require.
- (2) The application must include a business plan stating –
- (a) financial projections, covering at least the first three years of operations of the applicant following licensing;
 - (b) the rationale for setting up the company in the Bailiwick;
 - (c) details of any other forms of business to be undertaken;
 - (d) details of the jurisdictions in which the applicant intends to conduct business as an insurance manager.
- (3) The application must include information required in respect of the applicant's personnel and third party service providers including, as appropriate –
- (a) the names and addresses of the current and proposed –
 - (i) directors;
 - (ii) officers;

- (iii) managers;
 - (iv) general representative;
 - (v) consultants;
 - (vi) Money Laundering Reporting Officer; and
 - (vii) compliance officer;
- (b) for all current and proposed directors, and general representatives, a Personal Questionnaire, in the standard format determined by the Commission, or a statement from the current or proposed director or general representative confirming that the Personal Questionnaire already held by the Commission is correct;
 - (c) the name, address, date of birth, qualifications, and employment history of insurance representatives to be authorised by the applicant;
 - (d) a copy of the auditors' acceptance to act as auditor of the applicant;
 - (e) details of any other third party service providers.

Guidance Note:

The Commission may require Personal Questionnaires to be completed by other individuals as it sees fit.

The auditor's acceptance to act letter should be provided on headed paper which includes the name and address of the auditor.

- (4) Where appropriate, the application must include the memorandum and articles of association.

- (5) Where appropriate, the application must include the certificate of incorporation.
- (6) The application must also include –
 - (a) the amount of and limitations, including exclusions and geographical limitations, of PI cover;
 - (b) a copy of the client monies handling procedure;
 - (c) the details of the bank mandate signing powers;
 - (d) confirmation that share capital has been received; and
 - (e) confirmation as to the origin of sources of funds to support the operations of the applicant.

2.2 Business from sensitive jurisdictions

- (1) Additional information, to be individually determined by the Commission, may be required where the applicant, potential clients, controller, or ultimate holding company is resident in a sensitive jurisdiction, as published on the Commission's website.

2.3 Exempt persons

- (1) Licensed insurance managers who advise large clients, and not the general public, are not required to be registered as insurance intermediaries.
- (2) A "large client" means a client which has at least 50 employees or more than £500,000 net turnover in its last completed financial year

PART 3 ANNUAL RETURNS

3.1 Licensed insurance manager's annual return

- (1) The annual return of a licensed insurance manager must comprise of the following –
 - (a) an original signed copy of the audited accounts;
 - (b) a copy of the auditor's management letter or confirmation that no auditor's management letter has been, or will be, issued; but where the management letter is not available at the time of the annual return, it must be submitted as soon as practicable;
 - (c) an up-to-date list of all insurers licensed under the Insurance Business (Bailiwick of Guernsey) Law, 2002⁸, for which the manager has acted during any period covered by the annual return;
 - (d) a copy of the cover note evidencing renewal of professional indemnity cover, on expiring terms or otherwise, including details of any exclusions and geographical limitations;
 - (e) confirmation that all material changes to personal questionnaire forms have been notified to the Commission;
 - (f) confirmation of compliance throughout the period covered by the annual return with –
 - (i) the Law, and any subordinate legislation made under it;
 - (ii) all applicable Rules and Codes issued under the Law;

⁸ Order In Council No. XXI of 2002.

- (iii) any condition, subject to which the manager is licensed under the Law;
 - (g) if the manager is unable to give the confirmation set out above, details of any applicable breaches and what action, if any, has already been taken to remedy any applicable breaches; and
 - (h) that the accounts have been prepared and deposited in accordance with the Law.
- (2) The Commission is entitled to require that a licensed insurance manager periodically provides further specific information in their Annual Returns which is not set out in these Rules.

3.2 Annual returns in non-standard format.

- (1) Where the Commission has, in any particular case, given written confirmation that a format other than the standard format of an annual return may be used, that format will suffice.

Guidance Note:

Where annual returns are submitted in the non-standard format it should be noted that the Commission will not provide confirmation unless all of the information required in the standard format is provided.

PART 4 CLIENT MONIES

4.1 Application of client monies insurance intermediaries rules

- (1) Part 4, Client Monies, of The Insurance Intermediaries Rules 2021 applies to licensed insurance managers when acting as insurance intermediaries and who hold client money.

PART 5 MINIMUM CAPITAL REQUIREMENT

5.1 Minimum Capital Requirement of Licensees

- (1) The Minimum Capital Requirement of a licensed insurance manager [which does not manage general retail insurers⁹] is £25,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher.
- (2) [The Minimum Capital Requirement of a licensed insurance manager which manages general retail insurers is £100,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher.¹⁰]

5.2 Method of calculation

- (1) The formula used must be the total approved assets minus the total liabilities of the licensee.

⁹ This rule was inserted by The Insurance Managers (Amendment) Rules, 2024.

¹⁰ This rule was inserted by The Insurance Managers (Amendment) Rules, 2024.

PART 6 APPROVED ASSETS

6.1 Approved assets

- (1) Approved assets comprise all those assets held, by the licensee, and valued in accordance with Recognised Accounting Standards less those assets held by the licensee and which are designated as unapproved assets, unless otherwise permitted by the Commission.

6.2 Unapproved assets

- (1) Unapproved assets are –
 - (a) positive goodwill; being the value of a business in excess of the quantified value of its other assets and liabilities;
 - (b) fixtures and fittings; being any furniture or other non-structural items owned by the licensee;
 - (c) computers and information technology equipment, which include any device used for the storage or processing of data electronically;
 - (d) motor vehicles, being any car, truck, motorcycle, or other vehicle that can be used to transport persons or goods and is of a type permitted to travel on public roads; and
 - (e) subject to the Commission directing otherwise, loans to, or other debts owed by, associates, associated parties, or controllers of the licensee.

PART 7 CONDUCT OF BUSINESS

7.1 Application of Part 7

- (1) Rules, in this Part, which apply to **all insurance managers** are clearly marked.
- (2) The remaining rules in this Part apply to any insurance manager who advises or arranges insurance products in relation to the general public and is required to appoint an authorised insurance representative (“AIR”) and, for the purposes of this Part, the term AIR includes any individual authorised by a licensee as a financial adviser.

7.1A [Client assessments]

- (1) When any licensed insurance manager takes on a new client they must –
 - (a) assess whether the client services retail customers;
 - (b) record the reasons where the result of the assessment is found to be that the client is not considered to service retail customers; and
 - (c) carry out a gap analysis in accordance with Schedule 2.
- (2) All licensed insurance managers must –
 - (a) ensure that the assessment set out at (1) is carried out for all existing clients; and
 - (b) where clients are identified as being general retail insurers, update their policies and procedures accordingly

within six months of this rule coming into force.

- (3) Where a licensed insurance manager identifies that a client is offering general retail insurance, but this is not recognised by that insurer, the licensed insurance manager must –
 - (a) take appropriate steps to protect the interests of policyholders; and
 - (b) notify the Commission.^{11]}

7.2 Authorised insurance representatives

- (1) A licensee must ensure that each AIR used by them complies with any applicable Codes of Conduct issued by the Commission.
- (2) A licensee must have in place a fair dealing policy to avoid any conflict of interest.
- (3) An AIR must explain charges in respect of long term business, including but not limited to life cover charges, commissions, and surrender penalties, to a client and provide the information required without delay.
- (4) A licensee must provide the Commission with the following details for each AIR authorised by them –
 - (a) name;
 - (b) date of birth;
 - (c) qualifications; and
 - (d) previous employment,

¹¹ This rule was inserted by The Insurance Managers (Amendment) Rules, 2024.

within ten business days of initial authorisation and of any changes. Any notification must be accompanied by an explanation for the change.

- (5) An AIR must hold such qualifications to the minimum standard as determined by the Commission or satisfy such requirements as the Commission may determine.
- (6) A licensee must require that each AIR used provides prospective clients with the following information –
 - (a) the name of the AIR;
 - (b) who the AIR represents; and
 - (c) what type of products the AIR is authorised to sell or advise on.
- (7) A licensee must ensure that detailed records of information received from, and provided to, a client are maintained.

7.3 Advertisements

- (1) A licensee must ensure that an advertisement –
 - (a) does not contain any statement, promise, or forecast which is untrue, misleading, or extravagant;
 - (b) is not designed in such a way as to distort or conceal any relevant subject material;
 - (c) is clearly recognisable as an advertisement;
 - (d) is not likely to be misunderstood;
 - (e) where appropriate, states that the investment value is not guaranteed or that the value may fluctuate; and

- (f) in the case of long term business –
 - (i) does not employ phrases such as “tax-free” or “tax paid” without making clear which taxes are being referred to; and
 - (ii) does not contain information about past performance unless it contains a warning that past performance is not necessarily a guide to future performance.
- (2) The regulatory status of the licensee is to be included on all communications including, but not limited to, advertisements and letters sent out on headed paper.

7.4 Complaints

- (1) Where a licensee arranges or issues insurance policies on behalf of an insurer to the general public, they must be able to demonstrate that they have procedures in place for dealing with customer complaints which set out, at a minimum –
 - (a) that in the event of a complaint being received by the licensee, the AIR concerned and the person to whom they report must be advised of the complaint and of the need to handle it;
 - (b) that where a satisfactory response is not issued within 30 day of the complaint, the complaint must be directed to a member of the board of the licensee;
 - (c) that where a satisfactory response is not issued within 30 days of the complaint being referred to a member of the board, the licensee must inform the complainant of their rights and procedures to pursue the complaint further;
 - (d) that where a satisfactory response is not issued within 90 days of the complaint, the licensee must notify the Commission, in writing, of the details of the complaint; and

- (e) appropriate information must be provided to the client to enable them to contact the parties detailed above.
- (2) The licensee must maintain a register of all written client complaints, and any verbal complaints not resolved within 24 hours, and the register must contain, at a minimum –
 - (a) details of whether the complaint relates to the service provided by the licensee or the advice provided by the licensee; and
 - (b) the status of the complaint and the actions taken to resolve it.

7.5 Insurance

7.5.1 [General]¹²

- (1) A licensee must always maintain insurance cover which is commensurate with the size and nature of its business activities. Cover must include professional indemnity insurance and insurance against employee dishonesty or fraud.

7.5.2 Minimum requirement

- (1) [A licensee must maintain the minimum cover as set out in (2). The board is responsible for ensuring that the insurance arrangements for the licensee are adequate. Where the licensee concludes that the amount of insurance required, for the size and nature of the business, is greater than the maximum amount set out in (2)(b) then the amount of cover the licensee is required to maintain is the higher amount.]¹³

¹² This section was inserted by The Insurance Managers (Amendment) Rules, 2022.

¹³ *Ibid.*

- (2) Subject to (3), licensees must maintain professional indemnity insurance, [and employee dishonesty or fraud insurance,]¹⁴ with the following minimum limits –
- (a) on the basis of each and every loss, cover of at least [£1,000,000]¹⁵; and
 - (b) on an annual basis, £1,000,000 [or three times income from regulated activities, whichever is the greater]¹⁶.

Guidance Note:

Income from regulated activity should be based on the latest audited financial statements at the time of the relevant insurance renewal.

Insurance cover based on a prior year's audited financial statements does not need to be amended before the next annual renewal following the release of the following year's financial statements. However, a licensee is expected to consider whether additional cover should be arranged with immediate effect if the audited financial statements show a material increase in regulatory income.

- (3) [Where the licensee also carries out unregulated activities, the licensee must consider whether the minimum indemnity limit of its insurance policies, and scope of the insurance cover, are appropriate for its business as a whole, taking into account possible claims that may also arise from the unregulated business.]¹⁷
- (4) [Notwithstanding (3), a licensee is not required to have aggregate insurance cover exceeding £10,000,000, provided that the board of the licensee has considered and decided that such level of cover is appropriate and sufficient for its business. The licensee must be able to evidence the board's assessment if requested by the Commission.]¹⁸

¹⁴ *Ibid.*

¹⁵ The Insurance Managers (Amendment) Rules, 2022 substituted £1,000,000 for £250,000.

¹⁶ Amended by The Insurance Managers (Amendment) Rules, 2022.

¹⁷ This section was inserted by The Insurance Managers (Amendment) Rules, 2022.

¹⁸ *Ibid.*

Guidance Note:

Consideration, by a licensee of its insurance requirements should be clearly documented at local board, or senior management, level to demonstrate how the decision was made. The Commission expects all licensees, whether they are part of organisations with offices elsewhere, to consider the insurance requirements for the entities in the Bailiwick of Guernsey.

Where a local operation is part of a group and the local board or management do not consider the cover available to the Guernsey licensee to be adequate, the Commission expects them to make arrangements to maintain appropriate cover. This may include purchasing a separate policy for the local operation.

- (5) Where the deductible or excess exceeds £20,000 on the basis of each and every loss, the minimum capital requirement will increase to 125% of the deductible or excess.
- (6) [A licensee must always maintain cover for –
 - (a) negligence, errors, or omissions by the licensee or its employees;
 - (b) any liability for the dishonest or fraudulent acts of employees which may fall on the licensee;
 - (c) liabilities of its employees who, in the course of their duties to the licensee, perform functions in their own names;
 - (d) liabilities which the licensee might incur, in any jurisdiction, in which it should reasonably foresee that it may be held liable for damages and costs;
 - (e) where relevant, ombudsman awards; and
 - (f) legal defence costs.

- (7) The retroactive date for the insurance arrangements in this section must be the date the licensee was licensed by the Commission.]¹⁹

Guidance Note:

The Commission reserves the right to vary the application of these limits in relation to individual licensees, where it considers it appropriate to do so.

7.5.3 Notifications to the insurer

- (1) A licensee must –
- (a) when applying for cover, notify his professional indemnity insurer, through their professional indemnity insurance broker, of all material facts, which must include –
 - (i) the details of any condition imposed on the licensee under section 7 of the Law;
 - (ii) the revocation of the licensee's licence under section 9 of the Law;
 - (iii) any regulatory penalty taken by the Commission against the licensee, or any of its directors or employees, under the Financial Services Commission (Bailiwick of Guernsey) Law, 1987²⁰ ("the FSC Law") or any of the Regulatory Laws;
 - (iv) any prohibition order made against the licensee, or any of its directors or employees;
 - (v) any criminal proceedings commenced against the licensee, or any of its directors or employees; and

¹⁹ These sections were inserted by The Insurance Managers (Amendment) Rules, 2022.

²⁰ Order In Council No. XXX of 1987.

- (vi) any criminal or regulatory investigation or formal enquiry which involves the licensee, or any of its directors or employees;
 - (b) ensure that they comply with all warranties applying at the date of the commencement of the professional indemnity policies and any continuing warranties applying during the duration of the professional indemnity insurance policy;
 - (c) ensure that they make all notifications and disclosures which are required to be made to their professional indemnity insurers during the duration of the policy pursuant to its terms and conditions.
- (2) A licensee must notify their professional indemnity insurers, through the broker where appropriate, within fourteen days of the following events, or such earlier period as is specified in the professional indemnity policy, -
- (a) the details of any conditions imposed on the licensee under section 7 of the Law;
 - (b) the revocation of the licensee's licence under section 9 of the Law;
 - (c) any regulatory penalty taken by the Commission, against the licensee, or any of its directors or employees under the Law, the FSC Law, or any of the Regulatory Laws;
 - (d) any prohibition order made against the licensee, or any of its directors or employees;
 - (e) any criminal proceedings commenced against the licensee, or any of its directors or employees; and
 - (f) any criminal or regulatory investigation or formal enquiry which involves the licensee, or any of its directors or employees.

7.5.4 Notifications to the Commission

- (1) A licensee must notify the Commission of the following events immediately –
 - (a) any actual or purported termination, avoidance, or invalidation of the licensee's professional indemnity cover; or
 - (b) any notification made by a licensee to his professional indemnity insurers with respect to a claim, or potential claim, which may be made by the licensee under its professional indemnity policy.

7.6 Reporting to the Commission

- (1) **All insurance managers** must obtain prior written consent, from the Commission, for any changes to outsourcing arrangements.
- (2) **All insurance managers** must inform the Commission, within seven days, of –
 - (a) the instigation of any criminal proceedings against the licensee, any of its directors or employees;
 - (b) any involvement, in any way, of any of its directors or employees in any regulatory or criminal investigation or enquiry; and
 - (c) any material change to the business plan.
- (3) **All insurance managers** must notify the Commission of the following events and provide a plan for remedial action –
 - (a) any breaches of a solvency or insurance requirement and any other breach of the Minimum Criteria for Licensing under Schedule 4 of the Law; and

- (b) any cancellation, invalidation, or avoidance of in-force professional indemnity insurance cover.
- (4) Licensees must obtain prior written consent, from the Commission, in respect of –
 - (a) any change of any director, controller, partner, MLRO, or compliance officer; and
 - (b) any transfer of a block of business to or from a licensee, where such transfer has occurred at the licensee's instigation, and for the purposes of this rule a block of business means business which increases or reduces the brokerage turnover, or fee income, of the licensee by 15% or more, such figure being calculated using the latest audited accounts.
- (5) The following events require notification, to the Commission, within seven days –
 - (a) any change to the registered office;
 - (b) any complaints that remain unsatisfied after 90 days;
 - (c) any breach of any applicable overseas legislation, rules, or codes of which the licensee is aware;
 - (d) any breach of the Code of Conduct for Authorised Insurance Representatives by an AIR used by the licensee;
 - (e) any change in the delegated authorities granted to the licensee, such as claims handling; and
 - (f) any litigation or arbitration proceedings commenced against the licensee and any other claims which are made or asserted against them.
- (6) The Commission must be notified, within fourteen days, of any change in the AIR or auditor.

7.7 Compliance officers

- (1) Licensees must appoint a compliance officer who must –
 - (a) be approved by the Commission prior to their appointment;
 - (b) be sufficiently knowledgeable and experienced to perform the role; taking into account the size of the licensee and the classes, volume, and complexity of business handled by the licensee; and
 - (c) have a clear, defined, job specification setting out responsibilities in writing, which includes ensuring that the activities of the AIR are reviewed and managed by suitably qualified and experienced individuals, and, although the use of an outsourced compliance function may be permitted, the board of the licensee retains responsibility for compliance.

7.8 Training and competence

- (1) Licensees must create and implement a training and competence scheme for all AIRs appropriate to the nature and scale of the licensee's business.
- (2) The scheme should ensure that AIRs are fully aware of, and conversant with, the products and services provided and the advantages and disadvantages, for clients, of purchasing those products.
- (3) Licensees, in conjunction with their AIRs, must maintain a training log in respect of each AIR.

7.9 Outsourcing arrangements

- (1) Where outsourcing arrangements are entered into by a licensee, the licensee must remain responsible and accountable for compliance with the Law and any applicable regulations, rules, and codes.

- (2) The outsourcing arrangement must not impair the Commission's ability to supervise the licensee.
- (3) Before entering into an outsourcing arrangement –
 - (a) a licensee must –
 - (i) conduct suitable due diligence processes regarding its financial condition and expertise when selecting an appropriate third party service provider; and
 - (ii) ensure appropriate internal procedures are developed to monitor its ongoing performance;
 - (b) there must be a legally binding contract between the licensee and each third party service provider, the nature and detail of which must be appropriate to the materiality of the outsourced activity to the ongoing business of the licensee, and the contract must contain provisions relating to its termination;
 - (c) a licensee must take appropriate measures to determine that –
 - (i) procedures are in place to protect the licensee's intellectual property rights in its software; and
 - (ii) its third party service providers establish and maintain emergency procedures and a plan for disaster recovery, with periodic testing of backup facilities;
 - (d) the licensee must take appropriate steps to require that service providers protect confidential information regarding the licensee's proprietary and other information, as well as the licensee's clients or investors, from intentional or inadvertent disclosure to unauthorised individuals;
 - (e) the licensee must decide upon appropriate exit strategies to ensure a smooth transition of the outsourced operations; and

- (f) the Commission, the licensee, and its auditors must have access to the books and records maintained by third party service providers, relating to the outsourced activities, and the Commission must be able to obtain promptly, on request, information concerning the outsourced activities that are relevant to its regulatory oversight.

Guidance Note:

Termination clauses, written into outsourcing agreement contracts, should enable the licensee to terminate the contract on reasonable notice.

7.10 Record keeping

- (1) **All insurance managers** must maintain legible and orderly files of –
 - (a) all correspondence and due diligence material which are required under the Criminal Justice (Proceeds of Crime) Law, 1999²¹ or The Handbook on Countering Financial Crime and Terrorist Financing; and
 - (b) copies of correspondence with clients,

which must be available for inspection by the Commission, in the Bailiwick, within 72 hours.

- (2) **All insurance managers** must ensure that any client correspondence remains on a client file for the duration of the period of the insurance policy sold to that client and for the period of time within which claims can be brought against the licensee in accordance with the prevailing prescription period.

²¹ Order In Council No. VIII of 1999.

- (3) Where a policy is cancelled, lapsed, partially, or fully withdrawn, details of such occurrences must be maintained, together with an explanation of the reasons for such occurrences, or evidence that such an explanation has been sought, even if not received. This information must be available, for inspection by the Commission, within 72 hours.

Guidance Note:

Correspondence, materials, etc. need not be kept in the Bailiwick but must be available, within 72 hours, in accordance with this rule.

7.11 Insolvency

- (1) In the event of the insolvency of a licensed insurer, or a recognised insurer used by a licensee, the licensee must take all reasonable steps to ensure that the client is aware of the situation and provide the client with appropriate advice.

PART 8 GENERAL PROVISION

8.1 Interpretation

- (1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.
- (2) In these Rules the following definitions should be followed -

“accounting reference date” means the date or day, stated in the most recently published prospectus as the date or day, on which the scheme’s annual accounting period is to end in each year;

“complaint” means any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of a person about the provision of, or failure to provide a financial service which alleges that the complainant has suffered (or may suffer) financial loss, material distress, or material inconvenience;

“financial adviser” means an authorised representative authorised by a licensee to give advice to retail clients on long term insurance business;

“insurance manager business” means the provision of managerial functions (including administration and underwriting) to any insurer of such other functions as may be prescribed by the Commission;

“long term insurance products” means any policy or product falling under Schedule 1 of the Law excluding permanent health, credit life assurance, and any contracts on human life that are renewable annually;

“retail customer” means a customer who is –

- (a) an individual who, in relation to a licensed insurer, is acting for purposes other than that individual’s trade, business, or profession;
- (b) a microenterprise;
- (c) a charity other than a Non-Governmental Organisation (NGO); and

in cases where it is not clear whether an individual qualifies as a retail customer, in accordance with this definition, they must be treated as a retail customer.

PART 9 SAVINGS, REVOCATIONS, CITATION, AND COMMENCEMENT

9.1 Savings

- (1) Any exclusion or modification granted by the Commission, under the regulations and rules revoked by rule 9.2, will continue to apply where the Law and these Rules provide scope for such exclusions or modifications.

9.2 Revocations

9.2.1 The Insurance Managers and Insurance Intermediaries (Licensing) Regulations, 2002

- (1) The Insurance Managers and Insurance Intermediaries (Licensing) Regulations, 2002 are revoked.

9.2.2 The Insurance Managers and Insurance Intermediaries (Annual Return) Regulations, 2008

- (1) The Insurance Managers and Insurance Intermediaries (Annual Return) Regulations, 2008 are revoked.

9.2.3 The Insurance Managers and Insurance Intermediaries (Client Money) Regulations, 2008

- (1) The Insurance Managers and Insurance Intermediaries (Client Money) Regulations, 2008 are revoked.

9.2.4 The Insurance Managers and Intermediaries (Approved Assets) Regulations, 2008

- (1) The Insurance Managers and Intermediaries (Approved Assets) Regulations, 2008 are revoked.

9.2.5 The Insurance Managers (Conduct of Business) Rules, 2014

- (1) The Insurance Managers (Conduct of Business) Rules, 2014 are revoked.

[9.2A Transitional arrangements

- (1) Licensees must comply with the amendments made to rule 7.5 by the Insurance Managers (Amendment) Rules, 2022, at their next insurance renewal following the date on which the Insurance Managers (Amendment) Rules, 2022, come into force.]²²

9.3 Citation and commencement

- (1) These rules may be cited as the Insurance Managers Rules.
- (2) These rules come into force on 1st November 2021.

²² This transitional arrangement was added under the Insurance Managers (Amendment) Rule, 2022.

SCHEDULE 1

THE PRINCIPLES OF CONDUCT OF FINANCE BUSINESS

1. **Integrity**

A licensee should observe high standards of integrity and fair dealing in the conduct of its business.

2. **Skill, Care, and Diligence**

A licensee should act with due skill, care, and diligence towards its customers and counterparties.

3. **Conflicts of Interest**

A licensee should either avoid any conflict of interest arising or, where a conflict arises, should ensure fair treatment to all its customers by disclosure, internal rules of confidentiality, declining to act, or otherwise. A licensee should not unfairly place its interests above those of its customers and, where a properly informed customer would reasonably expect that the firm would place their interests above its own, the firm should live up to that expectation.

4. **Information about Customers**

A licensee should seek from customers it advises, or for whom it exercises discretion, any information about their circumstances and investment objectives which might reasonably be expected to be relevant in enabling it to fulfil its responsibilities to them.

5. **Information for Customers**

A licensee should take reasonable steps to give a customer it advises, in a comprehensible and timely way, any information needed to enable them to make a balanced and informed decision. A licensee should similarly be ready to provide a customer with a full and fair account of the fulfilment of its responsibilities to them.

6. Customer Assets

Where a licensee has control of, or is otherwise responsible for, assets belonging to a customer which it is required to safeguard, it should arrange proper protection for them, by way of segregation and identification of those assets or otherwise, in accordance with the responsibility it has accepted.

7. Market Practice

A licensee should observe high standards of market conduct and should also comply with any code of standard as in force and issued or approved by the Commission.

8. Financial Resources

A licensee should ensure that it maintains adequate financial resources to meet its finance business commitments and to withstand the risks to which its business is subject.

9. Internal Organisation

A licensee should organise and control its internal affairs in a responsible manner, keeping proper records, and where the firm employs staff or is responsible for the conduct of finance business by others, should have adequate arrangements to ensure that they are suitable, adequately trained, and properly supervised and that it has well-defined compliance procedures.

10. Relations with Guernsey Financial Services Commission

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

SCHEDULE 2

[GAP ANALYSIS]

Areas that the manager should consider as part of its gap analysis should include, but are not limited to:

1. Resources required to manage the insurer effectively;
2. Knowledge and experience, including the risks of –
 - a. the products to be sold;
 - b. distribution channels;
 - c. the markets into which the products are sold;
 - d. claims handling;
 - e. reserving methodology; and
 - f. the relevant reinsurance market.²³

²³ This Schedule was inserted by The Insurance Managers (Amendment) Rules, 2024.

GUERNSEY STATUTORY INSTRUMENT NO.

THE INSURANCE BUSINESS (AMENDMENT) RULES, 2024

Made: 13th February 2024

Coming into Operation: 13th February 2024

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 6, 29, 33, 37, 38A, 38B, and 85 of *The Insurance Business (Bailiwick of Guernsey), 2002*¹ (the “Law”) hereby makes the following Rules.

¹ Order in Council No. XXI of 2002.

Citation and Commencement

1. These Rules may be cited as The Insurance Business (Amendment) Rules, 2024 and amend the Insurance Business Rules, 2021² (“the Rules”).
2. These Rules shall come into force on 13th February 2024.

Amendments

3. The Rules are amended in accordance with Annex A.

Dated this 13th day of February, 2024



.....

J.P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

² No.137 of 2021.

Annex A

Amendments to The Insurance Business Rules, 2021

1. In this section underlining indicates new text to be added to the Rules and striking through indicates text to be deleted:

...

PART 3 ANNUAL RETURNS AND AUDITS

3.1 Annual returns

(1) A licensed insurer's annual returns must include –

(a) an up-to-date business plan, including -

...

(g) further financial information including –

(i) for a PCC; management accounts that include a breakdown by cell;

(ii) a summary of claims paid and outstanding, as at the end of the period covered by the annual insurance return, in the form agreed, with the Commission, as appropriate to the underwriting activity; and

(iii) a schedule of bank deposits and investments broken down by asset class.

- (2) Retail general insurers must also include in their annual return all information set out in the requirements at Schedule 3.

3.2 Consolidated accounts

...

3.3 Annual returns in a non-standard format

- (1) The Commission may, on application, consider the acceptance of the annual returns in a format other than the standard format. Non-standard format annual returns will only be accepted following written confirmation from the Commission.

3.4 Audit

- (1) A licensee offering retail insurance services must maintain an internal audit function.
- (2) An internal audit function, in compliance with (1) –
- (a) must be undertaken at a frequency to be determined by the board of the insurer but no less than once in every three year period;
- (b) must address the relevant processes, governance and controls appropriate to the business of the licensee;

(c) must be undertaken by an auditor whom the board is satisfied has the relevant knowledge and experience;

(d) may be outsourced to a group internal audit function;

(e) may be outsourced to an independent third party; and

all decisions of the board must be clearly documented.

(3) All insurers must appoint an external auditor in accordance with the Law and, on appointment, the board must detail the reasons for the appointment of the chosen auditor, to include their consideration of the knowledge and experience of that auditor in respect of general retail insurance.

...

PART 4 PUBLIC DISCLOSURE OF INFORMATION

...

4.1 Application of Part 4

(1) This Part does not apply to –

(a) Category 5 licensed insurers as categorised under the Insurance Business (Solvency) Rules 2021 (“Solvency Rules”);

(b) Category 6 licensed insurers as categorised under the Solvency Rules;

(c) PCCs, unless that PCC provides general retail insurance; or

(d) licensed insurers not incorporated in the Bailiwick.

(2) In this Part, “relevant insurer” means a licensed insurer other than -

(a) a Category 1 licensed insurer, Category 2 licensed insurer, Category 3 licensed insurer, or Category 4 licensed insurer, as categorised under the Solvency Rules, which does not offer retail general insurance, and which has ~~with~~ either –

(i) annual gross written premium income not exceeding £500,000; or

(ii) gross assets not exceeding £2,500,000,

providing that, if the insurer is in run off (by which it is no longer taking on new business but still has outstanding liabilities to existing policyholders), it would have met these conditions in its last full year of underwriting;

(b) a licensed insurer, which does not offer retail general insurance, that has reinsured 75% or more of its insurance risk with a group insurer and where that insurance group makes public disclosures equivalent to those required in these Rules;

(c) a Category 2 licensed insurer, or a Category 4 licensed insurer, as categorised in the Solvency Rules and writing insurance for related group insurers only;

- (d) a Category 2 licensed insurer, or a Category 4 licensed insurer, as categorised under the Solvency Rules and writing a single class of reinsurance for one fronting insurer in relation to a specific product or arrangement; or
- (e) a licensed insurer, which does not offer retail general insurance, with a small number of commercial policyholders only.

4.2 Public disclosure of information

- (1) ~~A relevant insurer with a website must publish its annual audited financial statements, together with the information set out in Schedule 1, on that website. This information must be available for a minimum period of three years from the filing date. All relevant insurers, which are retail general insurers, must publicly disclose their annual audited financial statements, the information set out at Schedule 1, and any further information which would be of use to the customer including that set out at rule 4.2A. The information must be available, online and on web pages identified for the relevant insurer, for a minimum period of three years from the filing date.~~
- (1A) All other relevant insurers with a website must publish their annual audited financial statements, together with the information set out at Schedule 1, on that website. The information must be available for a minimum period of three years from the filing date.
- (2) A relevant insurer, which is not a retail general insurer, may withhold, redact, or summarise, all or any part of the information required by this rule where –
 - (a) the disclosure of such information would enable their competitors to gain undue advantage or otherwise cause detriment;

- (b) there are obligations to policy holders, or other counterparty relationships, binding the relevant insurer to secrecy or confidentiality;
- (c) the disclosure of such information would prejudice their position by making confidential information public; or
- (d) where the disclosure of such information is prohibited by any jurisdiction's legislation; or it breaches a direction issued by the Commission or any other relevant overseas authority; and

where that insurer is a general retail insurer, such action may only be taken with the prior written consent of the Commission.

- (2) Where a relevant insurer withholds, redacts, or summarises any information, in accordance with this rule, they must provide the Commission with written notification, explicitly approved by their board of directors, of the information to be withheld, redacted, or summarised and the reason why this is necessary.

...

- (5) A relevant insurer must publish the relevant information within fourteen days of the date of filing the relevant information with the Commission.

4.2A Further disclosure requirements for retail general insurers

- (1) All retail general insurers must ensure that the following information is prominently displayed on their website, on all marketing materials, and all communications with both customers and potential customers –

- (a) the postal address of the insurer's registered office or, where the insurer is a branch, the postal address of the branch;
- (b) the email address or telephone number for direct communication with the insurer;
- (c) the postal address and either email address or telephone number for lodging complaints against the insurer;
- (d) details for contacting the Channel Islands Financial Ombudsman;
- (e) whether the insurer and the producer share a common controller.

4.3 Disclosure of information to persons with a valid interest

...

7.1 Application of Part 7

- (1) Part 7 applies to all Category 1 and Category 3 licensed insurers with respect to business with retail customers.

7.1A Governance

- (1) This rule only applies to licensees offering retail general insurance.

- (2) A licensee offering retail insurance services must ensure that all directors must physically attend at least one board meeting, in the Bailiwick, per annum.

- (2) Each board must include, at a minimum, two Independent Non-Executive Directors (“INEDs”).

- (3) Non-executive directors will not be considered to be independent directors of that entity, by the Commission, where –
 - (a) they have been employed by the insurance manager of that entity at any time within the two years prior to the appointment; or

 - (b) they have been employed by any previous insurance managers of that entity –
 - (i) who have acted as insurance manager of that entity within the previous two years; and

 - (ii) no less than two years have elapsed, prior to the appointment, since that insurance manager ceased to be the insurance manager for that entity; and

 - (c) this sub-rule does not apply to INEDs appointed prior to this rule coming into force¹.

¹ This Rule came into force on 13th February 2024.

(4) The independent status of an INED -

- (a) must be reviewed, by the board, on the occasion that the INED has been a member of that board for a period of nine years;
- (b) must be reviewed, by the board, on an annual basis thereafter; and
- (c) such reviews must be clearly documented by the board; and

7.2 Due skill, care, and diligence when dealing with customers

- (1) A licensed insurer must act with due skill, care, and diligence when dealing with customers.

...

7.6 Development and distribution of insurance products

- (1) A licensed insurer must take into account the interests of different types of consumers when developing and distributing insurance products.
- (1A) Where Guernsey retail general insurers provide insurance in jurisdictions other than the UK, the Board must agree an approach for each separate jurisdiction.

- (2) A licensed insurer must ensure that products and distribution strategies are developed in accordance with the following principles –

...

7.12 Timely and fair manner complaints handling

- (1) A licensed insurer must handle complaints in a timely and fair manner.

...

- (13) Licensed insurers must analyse the complaints that they receive against intermediaries, in respect of products that the intermediaries have distributed on their behalf, to enable them to assess the complete customer experience and identify any issues that need to be addressed.

- (14) The board of a retail general insurer must –

- (a) consider all complaints, either individually or in aggregate, and the outcome of such complaints; and

- (b) document all such considerations,

on a regular basis and not less than half-yearly.

- (15) Where the board of a retail general insurer appoints a sub-committee to deal with the detail of complaints, in accordance with (14), that sub-committee must report to the board on a regular basis and no less than half-yearly.

7.13 Cash management

- (1) Rule 7.13 applies to all retail general insurers.
- (2) Any funds held by third parties must be governed by a written agreement which -
 - (a) clearly identifies whether the funds are being held by a third party as claims fund, float, or other agreement; and
 - (b) sets out the basis on which funds will be paid or returned to the insurer.
- (3) The board must, at least annually -
 - (a) review the purpose of the fund;
 - (b) verify the amounts held; and
 - (c) review and verify the mitigants, including consideration of the solvency position of the transferee.
- (4) Where an amount transferred is in excess to requirements for the purpose, or the mitigants are considered insufficient, the insurer must take appropriate action.
- (5) Payments to facilitate transfers to third parties require the approval of at least one signatory, or electronic approver who is either –

- (a) a Guernsey resident director or manager of the licensee; or
- (b) a Guernsey resident employee of the general representative.

PART 8 GENERAL PROVISION

8.1 Interpretation

- (1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.

- (2) In these Rules the following definitions should be followed –

“acceptable rating agency” means a rating agency prescribed in Schedule 5 of the Insurance Business (Solvency) Rules 2021;

...

“retail customer” means a customer who is –

- (a) an individual who, in relation to a licensed insurer, is acting for purposes other than that individual’s trade, business, or profession;
- (b) a microenterprise; or
- (c) a charity other than a Non-Governmental Organisation (NGO); and

in cases where it is not clear whether an individual qualifies as a retail customer, in accordance with this definition, they must be treated as a retail customer;

“**significant complaint**” means a complaint alleging a breach of Law, *mala fides*, malpractice, or impropriety, or repetition or recurrence of a matter previously complained of (whether significant or otherwise);

...

PART 9 SAVINGS, REVOCATIONS, TRANSITIONALS, CITATION AND COMMENCEMENT

...

9.2.8 Revocation of the Insurance Business (Duties of General Representatives) Regulations, 2008

- (1) The Insurance Business (Duties of General Representatives) Regulations, 2008 are revoked.

9.2A Transitionals

- (1) Amendments made to rule 4.2, by the Insurance Business (Amendment) Rules, 2024, must be implemented as follows –

- (a) basic information must be provided from the next applicable reporting date;

- (b) financial information must be provided from the next applicable reporting date following the completion of the firms accounts, and must be submitted, to the Commission, prior to the general publication of those accounts.

SCHEDULE 1

INFORMATION TO BE DISCLOSED

This Schedule applies, in full, to PCCs providing retail general insurance. In addition, paragraphs 4 to 8 apply to each cell, within the PCC, offering retail general insurance.

1. PROFILE OF THE INSURER

...

SCHEDULE 2

THE PRINCIPLES OF CONDUCT OF FINANCE BUSINESS

...

10. Relations with Guernsey Financial Services Commission

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

SCHEDULE 3

ANNUAL RETURNS FOR GENERAL RETAIL INSURERS

The information that general retail insurers must provide may include, but will not be limited to –

1. Underwriting

- a. number of clients by class of insurance;
- b. gross and net written premium income by class;
- c. expense ratio by class;
- d. brokerage, commission, or related charges paid to associated companies; and
- e. reinsurance premiums paid to associated companies.

2. Persistency

- a. percentage of policyholders lapsing/not renewing by class of insurance.

3. Claims

- a. net claims ratios by class; and
- b. percentage of claims rejected by class.

4. Location of policyholders

- a. list of all jurisdictions in which policyholders are resident by class of insurance; and
- b. confirmation that regulatory approval has been given to carry on business in all jurisdictions, or appropriate legal advice has been received which confirms that the insurer can write business in each jurisdiction for that class of insurance.

5. Intermediaries

- a. list of intermediaries with total amount of gross of premium;
- b. list of intermediaries which are an associated party of the insurer; and
- c. location and licensed status of all intermediaries contracted by the firm.

6. Outsourcing

- a. details of all functions that are outsourced (including to associated entities) including the name, jurisdiction, regulatory status, and relationship with the insurer.

7. Reinsurance

- a. Details of each reinsurer with balances at year end, including –
 - i. credit rating;
 - ii. amounts that are outstanding at year end;
 - iii. amount that are outstanding for more than three months by reinsurer; and
 - iv. any right of offset and whether the insurer has legal advice which confirms that it is enforceable.

8. Complaints

- a. total number of complaints received during the year broken down by type;
- b. total number of complaints that took more than 90 days to resolve to the satisfaction of the complainant;
- c. number of all complaints referred to the Channel Islands Financial Ombudsman or any other ombudsman;
- d. details of all complaints where an ombudsman has found in favour of the complainant; and

- e. for each complaint where the ombudsman has found in favour of the complainant, an explanation of what actions have been taken by the firm to prevent a repeat of the failings which led to the finding.

GUERNSEY STATUTORY INSTRUMENT NO.

**THE INSURANCE BUSINESS (SOLVENCY)
(AMENDMENT) RULES, 2024**

Made: 13th February 2024

Coming into Operation: 13th February 2024

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 38A of *The Insurance Business (Bailiwick of Guernsey) Law, 2002*¹ (the “Law”) makes the following Rules.

¹ Order in Council No. XXI of 2002.

Citation and Commencement

1. These Rules may be cited as The Insurance Business (Solvency) (Amendment) Rules, 2024 and amend The Insurance Business (Solvency) Rules, 2021² (“the Rules”).
2. The amendments to these rules shall come into force as follows –
 - (a) all amendments to rule 2.1 with immediate effect, in line with the transitional provisions set out at Schedule 12;
 - (b) all amendments to rule 2.3 with immediate effect, in line with the transitional provisions set out at Schedule 12;
 - (c) all amendments to rule 4.3 on 1st January 2025;
 - (d) all amendments to rule 8.2 on 1st January 2025;
 - (e) Schedule 11 with immediate effect; and
 - (f) Schedule 12 with immediate effect.

Amendments

3. The Rules are amended in accordance with Annex A.

² No.136 of 2021.

Dated this 13th day of February, 2024

A handwritten signature in black ink, consisting of several loops and a long, sweeping tail that extends to the right.

.....

J. P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

Annex A

Amendments to The Insurance Business (Solvency) Rules, 2021

1. In this section underlining indicates new text, to be added to the Rules, and striking through indicates text to be deleted:

...

2.1 General Rules

- (1) A licensed insurer must, at all times, hold regulatory capital resources greater than or equal to its Minimum Capital Requirement ("MCR").

...

- (4) The Capital Floor of a licensed insurer is –
 - (a) £100,000 for a licensed insurer carrying on general business other than retail general business;
 - (aa) £250,000 for a licensed insurer carrying on retail general business;
 - (b) £250,000 for a licensed insurer carrying on long term business;

- (c) £250,000 for a licensed insurer carrying on both long term business and general business; or
 - (d) an amount specified in writing by the Commission.
- (5) For PCCs, which do not provide retail general insurance, the Capital Floor only applies to the overall PCC. There is no Capital Floor for each cell or the core.
- (5A) For PCCs providing retail general insurance, the Capital Floor applies to each cell providing retail general insurance.
- (6) The MCR of a licensed insurer must be no less than the Capital Floor.

...

2.3 Regulatory Capital Resources of a PCC

- (1) The total regulatory capital resources of a PCC is the sum of notional regulatory capital resources of each cell and the core, pursuant to these Rules.
 - (2) For a cell, the notional regulatory capital resources to meet the notional PCR must be calculated as if it were a stand-alone insurer, subject to a maximum of the PCR for that cell, and in accordance with these Rules.
- (2A) For a cell which carries on retail general insurance business, the notional regulatory capital resources must be, at least, £250,000 or currency equivalent.

- (3) For a cell, the notional regulatory capital resources to meet the notional PCR must be calculated as if it were a stand-alone insurer, subject to a maximum of the PCR for that cell, and in accordance with these Rules.

...

4.2 General Business – PCR standard formula

...

4.2.9 Counterparty default risk capital – other

- (1) The capital requirement for other default risk must be determined for each counterparty and each exposure type as the value of the gross exposure, less any amount offset in case of default, multiplied by (1-Recovery Rate) and the Other Default Risk Capital Factor. The Recovery Rate and the Other Default Risk Capital Factors are as determined in accordance with Schedule 7.

4.2.9A Counterparty default risk capital – reinsurance

- (1) Retail general insurers must only place reinsurance with reinsurers that meet at least one of the following requirements –
- (a) they are licensed by the Commission;
 - (b) they are licensed by a member state of the G-10;
 - (c) they are licensed in Bermuda;
 - (d) they are licensed in the Republic of Ireland;
 - (e) they maintain an acceptable credit rating, where such rating is the same or higher than –
 - (i) an AM Best rating of bbb-;
 - (ii) a Fitch rating of BBB-;
 - (iii) a Moody's rating of Baa3; or
 - (iv) a Standard & Poor's rating of BBB-;
 - (f) if not rated, they are a 100% wholly owned subsidiary of a reinsurer, or insurer, which is rated, in which case the reinsurer can be treated as having the same rating as its ultimate parent; or

(g) the potential exposure is protected by collateral representing the full exposure under the contract and the collateral is held –

(i) in cash, by a bank with a credit rating equal or above the ratings listed at (e); or

(ii) in investment-rated bonds, by an investment rated custodian, and

the insurer must have legal advice confirming that the collateral agreement will be effective in the event of default by the reinsurer; and

these requirements also apply to reinsurers within the same group as the insurer seeking reinsurance.

....

8.2 Own Risk Assessment

...

(3) A licensed insurer, who is not a retail general insurer, meeting at least one of the following criteria is not required to perform an ORSA –

(a) a licensed insurer classified as a Category 6 licensee;

(b) a licensed insurer which is dormant with no outstanding insurance liabilities;

(c) a licensed insurer that would otherwise be required to perform an OSCA only and whose board of directors considers the PCR to be sufficient. In such cases this should be clearly stated, either in the documentation submitted with the annual return, or in separate correspondence. Any such statement should be accompanied by the supporting rationale for this decision; and

(d) a licensed insurer notified, in writing, by the Commission.

- (4) Unless otherwise notified in writing by the Commission, a licensed insurer meeting at least one of the following conditions may limit their assessment to an OCSA only –
- (a) a category 1 licensed insurer writing life business with an MCR below £350,000;
 - (b) a Category 2 licensed insurer with an MCR below £7,500,000;
 - (c) a Category 3 licensed insurer with an MCR below £1,500,000;
 - (d) a Category 4 licensed insurer with an MCR below £7,000,000;
 - (e) a Category 5 licensed insurer; and
 - (f) a Protected Cell Company,
- unless the licensed insurer provides retail general insurance.

- (5) An ORSA must be performed at least once a year.

- (5A) All insurers performing an ORSA must also submit a half-yearly return, containing such information as set out in further guidance published by the Commission, and covering a reporting period of the first six months of the insurer's financial year. The half-yearly return must be submitted within 60 days of the end of the reporting period.

...

Schedule 11

Green Criteria

...

Criteria	Date Added
The Common Principles for Climate Mitigation Finance Tracking	24 February 2022

Schedule 12

Transitional Arrangements

1. Licensees will have three years, from the date on which The Insurance Business (Solvency)(Amendment) Rules, 2024 come into force, to implement the additional MCR set out at rule 2.1.
2. Licensees will have three years, from the date on which The Insurance Business (Solvency)(Amendment) Rules, 2024 come into force, to implement the additional regulatory capital resources requirements set out at rule 2.3(2A).

GUERNSEY STATUTORY INSTRUMENT NO.

THE INSURANCE MANAGERS (AMENDMENT) RULES, 2024

Made: 13th February 2024

Coming into Operation: 13th February 2024

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 3, 18, 20, 61 and 62 of *The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey), 2002*¹ (the “Law”) makes the following Rules.

¹ Order in Council No. XXII of 2002.

Citation and Commencement

1. These Rules may be cited as The Insurance Managers (Amendment) Rules, 2024 and amend the Insurance Managers Rules, 2021² (“the Rules”).
2. These Rules shall come into force on 13th February 2024.

Amendments

3. The Rules are amended in accordance with Annex A.

Dated this 13th day of February , 2024



.....

J. P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

² No.139 of 2021.

Annex A

Amendments to The Insurance Managers Rules, 2021

In this section underlining indicates new text, to be added to the Rules, and striking through indicates text to be deleted:

...

5.1 Minimum Capital Requirement of Licensees

- (1) The Minimum Capital Requirement of a licensed insurance manager which does not manage general retail insurers is £25,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher.
- (2) ~~The Minimum Capital Requirement of a licensed insurance manager~~ which manages general retail insurers is £100,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher.

5.2 Method of calculation

...

7.1 Application of Part 7

- (1) Rules, in this Part, which apply to **all insurance managers** are clearly marked.
- (2) The remaining rules in this Part apply to any insurance manager who advises or arranges insurance products in relation to the general public and is required to appoint an authorised insurance representative

("AIR") and, for the purposes of this Part, the term AIR includes any individual authorised by a licensee as a financial adviser.

7.1A Client assessments

(1) When any licensed insurance manager takes on a new client they must

=

- (a) assess whether the client services retail customers;
- (b) record the reasons where the result of the assessment is found to be that the client is not considered to service retail customers; and
- (c) carry out a gap analysis in accordance with Schedule 2.

(2) All licensed insurance managers must –

- (a) ensure that the assessment set out at (1) is carried out for all its existing clients; and
- (b) where clients are identified as being general retail insurers, update their policies and procedures accordingly

within six months of this rule coming into force.

(3) Where a licensed insurance manager identifies that a client is offering general retail insurance, but this is not recognised by that insurer, the licensed insurance manager must –

- (a) take appropriate steps to protect the interests of policyholders; and
- (b) notify the Commission.

7.2 Authorised insurance representatives

...

8.1 Interpretation

- (1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.

- (2) In these Rules the following definitions should be followed –

“accounting reference date” means the date to which the licensee’s accounts are prepared;

...

“long term insurance products” means any policy or product falling under Schedule 1 of the Law excluding permanent health, credit life assurance, and any contracts on human life that are renewable annually;

“retail customer” means a customer who is –

(a) an individual who, in relation to a licensed insurer, is acting for purposes other than that individual’s trade, business, or profession;

(b) a microenterprise;

(c) a charity other than a Non-Governmental Organisation (NGO); and

in cases where it is not clear whether an individual qualifies as a retail customer, in accordance with this definition, they must be treated as a retail customer.

PART 9 SAVINGS, REVOCATIONS, CITATION, AND COMMENCEMENT

...

SCHEDULE 1

THE PRINCIPLES OF CONDUCT OF FINANCE BUSINESS

...

10. Relations with Guernsey Financial Services Commission

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

SCHEDULE 2

GAP ANALYSIS

Areas that the manager should consider as part of its gap analysis should include, but are not limited to:

1. Resources required to manage the insurer effectively;
2. Knowledge and experience, including the risks of –
 - a. the products to be sold;
 - b. distribution channels;
 - c. the markets into which the products are sold;
 - d. claims handling;
 - e. reserving methodology; and
 - f. the relevant reinsurance market.

Guernsey Financial Services Commission

Consultation Paper on Rules for Retail General Insurers

March 2023

Contents

Purpose of the Consultation Paper	3
Executive Summary	3
Proposed Changes – Scope.....	5
Proposed Changes – Governance	6
Proposed Changes – Financial	9
Proposed Changes – Systems and Controls	16
Proposed Changes – Others.....	22
Annex – Policyholder Protection Scheme.....	26

Responses to this Consultation Paper are sought by 1 June 2023.

We welcome and encourage respondents to provide feedback or comment on any section and question. Feedback may be provided via the Consultation Hub section of the Commission's website (www.gfsc.gg).

Glossary

IBL – The Insurance Business (Bailiwick of Guernsey) Law, 2002
Solvency Rules – The Insurance Business (Solvency) Rules 2021
Insurance Business Rules – The Insurance Business Rules 2021
Insurance Managers Rules – The Insurance Managers Rules 2021

Purpose of the Consultation Paper

With a small life sector, the greater part of the insurance sector in Guernsey comprises retail and wholesale general (re) insurers. Whilst wholesale general (re) insurers (such as captives and Insurance-Linked Securities) make up the bulk of Guernsey (re) insurers, this paper is concerned with the smaller retail general sector. In the past, this sector has consisted of mainly domestic insurers with a small number of insurers writing business outside of Guernsey. However, recent years have seen a modest growth in the latter; and the Bailiwick wishes to see this growth continue.

The Commission's rules generally do not differentiate between retail and wholesale general (re) insurers. However, recent experience with several retail general insurers have drawn the Commission's attention to areas where rules need to be expanded or made more specific to address the risks presented by retail insurance. These changes will enable the industry in Guernsey to grow safely and to provide insurance services to policyholders who otherwise might find such services difficult to access.

Most retail general insurers in Guernsey use the services of an insurance manager. Insurance managers have historically serviced the captive insurance market and may not have relevant expertise for retail general insurance. Nevertheless, such insurance managers have a key role to play in the expansion of this sector and would benefit from a more bespoke regulatory approach. The Commission is therefore proposing to add requirements to the Insurance Managers Rules in respect of managers who service retail general insurers.

The rules will be issued principally under Insurance Business Law for insurers. There will also be some amendments to the Insurance Managers Rules. If appropriate, concrete proposals on fees will be the subject of the separate annual consultation process.

This paper contains proposals relating to retail general insurers only. Arguably, some of these proposals may have equal validity for other insurance sectors – for example life. However, the recent experience of the Commission suggests that additional consumer protection is needed primarily in the retail general sector. Almost all retail general insurers in Guernsey are local legal entities. A branch should agree with the Commission the application of these rules.

Executive Summary

The following changes for retail general insurers are proposed (as set out in the paper below):

Scope

- If there is any doubt, an insurer must class itself as a retail rather than a wholesale general insurer.

Governance

- All board members to be present in the Bailiwick for at least one board meeting a year; though not necessarily at the same time.
- The board must include two Non-Executive Independent Directors (INEDs) rather than one.
- A former employee of the insurance manager cannot become an INED for an insurer managed by that insurance manager for at least three years after leaving that insurance manager.
- The independence of the INED to be reviewed annually after 9 years.
- There should be an annual internal audit of a retail general insurer.
- The board must ensure that the external auditor has the right skills to audit a retail general insurer.

Financial

- Capital floor to rise from £100,000 to £250,000.
- Capital floor to apply to PCC cells.
- Prescribed Capital Ratio requirement to increase from the current minimum of 105% to 135%.
- Removal of Own Risk Solvency Assessment exemptions.
- Regulatory Solvency Reporting to increase from yearly to half-yearly.
- Minimum re-insurance requirements to be applied.
- Differentiated fees for retail general insurers.

Systems and controls

- A retail general insurer should have a legal opinion that it can sell into the UK if it does this.
- Stronger controls over third party funds.
- More specific public disclosure requirements.
- Complaints to be considered by boards at least semi-annually.
- Bespoke regulatory reporting requirements.

Others

- Insurance Managers to ensure they have the skills necessary to service retail general insurers, to the extent they develop this line of business.
- Minimum capital requirement of insurance managers servicing retail general insurers to increase from £25,000 to £100,000.

Proposed Changes – Scope

Definition

There were 35 clearly identifiable retail general insurers licensed in Guernsey (28 companies and 7 cells) at end-2020 – of which three were composite. However, the number is likely to be a little higher than 35 given that some insurers do not identify themselves as general retail insurers. One reason for this is that some insurers argue that their policyholders are not retail because there is an intermediary between the insurer and the policyholders (treated as a wholesale insurer) or that the client base is restricted to a certain class of person (again – wholesale) or that the premium is collected from the ultimate insured individual by the owners of the insurer (treated as a captive). In fact, all these cases are examples of retail general insurers.

The Insurance Business Rules (8/1) define a retail customer as:

1. an individual who, in relation to a licensed insurer, is acting for purposes other than that individual's trade, business, or profession;
2. a microenterprise; or
3. a charity other than a Non-Governmental Organisation ("NGO")

It seems to the Commission that this definition is clear enough and invalidates the above reasons as to why some insurers do not regard themselves as dealing with the retail public. Going further, if there is any uncertainty as to whether an individual is a retail customer or non-retail customer, the Commission considers that the insurer should treat the person as a retail customer. This principle will be incorporated in the Insurance Business Rules.

This proposal – linked with others set out below (such as around fees) – should ensure that all retail general insurers in Guernsey are identified as such; and that therefore the additional rules set out in the paper apply to them.

Q1: Do you have any comments on the definition of retail customer, and that if there is any doubt, then the entity should be treated as a retail insurer?

Proposed Changes – Governance

Directors

The Commission considers that all board members of a retail general insurer must attend at least one board meeting in Guernsey each year. The reason for this is that a retail general insurer entails reputational risk for the Bailiwick. Being physically present in Guernsey should help ensure all directors are aware of this.

Q2: Do you have any comments on the proposal to require that all directors of a retail general insurer must be physically present in the Bailiwick for at least one meeting of the board per calendar year?

The Minimum Criteria for Licensing in the IBL requires that a Guernsey licensed insurer must have at least one INED – broadly, that is a person otherwise unconnected with the insurer.

To address the challenge of a single INED being overwhelmed by shareholder representatives and executive board members, and the risk that a single INED may not wish to be seen as ‘difficult’, it is proposed that the minimum number of INEDs is increased to two for general retail insurers. Current retail general insurers would have six months to implement this rule.

Some in the industry may point out that it is difficult to find INEDs; and this will become even more difficult if each board has two INEDs. This may be true; however, in that case, this may well reflect a disinclination by the industry to look beyond the usual cohort of retired industry ex-colleagues and an unwillingness to pay a rate that is reflective of the responsibilities entailed by the job. It should also be added that whilst an insurance background is useful for this role; it is not essential. A questioning approach however is key. The Commission for several years has been pushing the industry informally to widen its INED constituency to ensure varied views are expressed around the boardroom tables. You often benefit from having individuals who are prepared to ask ‘obvious’ questions which those overly habituated to the insurance sector may well feel uncomfortable asking for fear of being perceived as ignorant. We have seen too many instances in the immediate past where boards failed to ask the obvious questions, behaving in a fashion that we might politely refer to as naive or asleep.

Q3: Do you have any comments on the proposal to increase the number of INEDs for retail general insurers to two?

It is common for a retired senior staff member of an insurance manager to become an INED of a firm serviced by the same insurance manager firm. This means that somebody who one day is working with executive colleagues; the next day has an oversight role over those colleagues. For most human beings, this creates emotional conflicts that make it difficult for such an INED to be impartial.

Therefore, to ensure the independence of INEDs for retail general insurers, the Commission proposes that, where a firm uses an insurance manager, it cannot consider as an INED an individual who has worked for that insurance manager in the previous three years.

In addition, a retail general insurer may change insurance manager. In that case, an executive previously employed by that insurance manager may retire and become employed as a director of that retail general insurer. In that case such a director will be working with board members with whom he previously worked when he/she worked for the previous insurance manager. This makes it difficult for that person to be truly independent. Again, therefore the Commission proposes a three-year gap before that person can be considered as an INED.

For the avoidance of doubt, that individual can still be appointed to the board as an Executive Director or a Non-Executive Director, but not as an INED. Having said this, all directors should take an objective view of their responsibilities.

INEDs who do not meet this requirement but were approved by the Commission before the date the rules take effect will remain approved as a director for that retail general insurer; but they should reflect on whether they need to consciously assume a more critical stance in fulfilling their legal obligations.

Q4: Do you have any comments on the proposal that an individual who worked for an insurance manager during the previous three years cannot be classed as an INED?

The INED brings independent and impartial challenge to the remainder of the board. The longer an INED holds that position the more familiar they will become with the company and the other directors, and there is a risk that their independence and impartiality will be compromised.

There are currently no rules requiring an INED to be no longer classified as independent after a certain period, and there is no intention to introduce this more broadly. Nevertheless, because of the importance of the INED for retail general insurers it is proposed that the board must consider whether an INED remains independent after a certain length of time. Several retail general insurers have connections to the UK and so it is proposed that the timescale broadly follows the UK Corporate Governance Code 2018. Namely, that the independence of any

INED should be considered by the board once the individual has been a member for nine years, and then reconsidered annually thereafter. Such consideration must be clearly documented. There is no presumption that an INED must resign after nine years. For the avoidance of doubt, this rule would apply to all current INEDs.

Q5: Do you have any comments on the proposal that retail general insurers should consider and document whether an INED remains independent after nine years, then annually thereafter?

Internal Audit

Principle A:15 of the Finance Sector Code of Corporate Governance (“the Code”) states that “the insurer is required to have, or to have access to, an appropriate and effective internal audit function capable of providing the Board with independent assurance in respect of the insurer’s governance, including its risk management and internal controls”. The Code recognises that there will be different approaches to meeting these principles depending upon the nature, scale and complexity of the business.

The Commission proposes to apply this requirement in a specific manner for retail general insurers. Some retail general insurers do not in practice have an internal audit function appropriate to the business. Therefore, all retail general insurers should now formally maintain an internal audit function. The internal audit function however may be outsourced to an independent third party or to a group internal audit function. The general representative or insurance manager will be considered independent; but only where the function being audited is carried out by a group entity that is not part of the organisation which ordinarily undertakes the retail insurer’s management function. They will not be considered independent for a review of functions which they themselves carry out. In all cases the board must satisfy itself that the internal auditor has sufficient relevant knowledge and experience to carry out the function. An internal audit report should be submitted to the board at least once a year.

Q6: Do you agree that a retail general insurer should maintain an internal audit function; that this function should be independent of the general representative or insurance manager where work is carried out by them, and that an internal report should be made at least once a year to the board?

External Audit

All licensed insurers are required to appoint an auditor and the insurer must notify the Commission of the appointment. Following the revisions to IBL in 2021 the Commission no longer maintains a statutory list of approved auditors for all insurance companies; given moral hazard and the difficulty for the Commission to assess continually the insurance expertise of each external auditor. Nevertheless, the Commission wishes to ensure that retail general insurers use external auditors who are sufficiently knowledgeable and experienced in retail general insurance to carry out effective audits. It has become clear to the Commission that some retail general insurers have been using external auditors who do not have relevant expertise.

To ensure that a retail general insurer appoints an external auditor for its knowledge and experience of retail general insurance rather than, for example, price; it is proposed that the board of the insurer must document in detail the reasons why it appointed a particular auditor. The documentation must include consideration of the knowledge and experience of the auditor in respect of retail general insurance. For the avoidance of doubt, there is no requirement to choose a large auditor. The requirement simply requires that the auditor has relevant expertise.

Q7: Do you agree that retail general insurers should be required to document in detail the reasons why they appointed a particular auditor?

Proposed Changes – Financial

The capital and solvency rules for insurers are laid out in the Solvency Rules. These proposals consider the Capital Floor, the Minimum Capital Requirement (“MCR”) and Prescribed Capital Requirements (“PCR”).

Capital

The Solvency Rules require that insurers maintain minimum shareholders’ funds of at least 75% of the Capital Floor, or an equivalent sum, in any currency acceptable to the Commission. The purpose of the 75% is to allow for periodic losses and exchange rate movements. The minimum requirements relevant to retail general insurers are laid out below:

Insurer carrying on:	Capital Floor £	Shareholders’ funds £ (or ccy. equiv.)
General business	£100,000	£75,000
Long term and general business	£250,000	£187,500

A retail general insurer needs sufficient capital to withstand underwriting losses or deterioration in value of capital. Even if a firm with the minimum level of capital were to survive the loss, the costs of operating the company (directors fees, staff or insurance manager fees, legal and accounting costs, audit fees etc.), would likely make it insolvent before the business has run-off. In theory, the firm could be re-capitalised, but the Commission's experience is that the shareholders of retail general insurers in distress are not normally willing to provide additional capital.

The current minimum requirements do not differentiate between retail general insurers and other insurers. It is proposed that the minimum capital requirement for retail general insurers should be increased. This is especially necessary as the current capital floor was set in 1986 and has not been increased since then.

It is therefore proposed that the minimum levels of paid-up share capital and shareholders' funds for retail general insurers be increased to the following:

Insurer carrying on:	Capital Floor £ (or ccy. equivalent)	Shareholders' funds £ (or ccy. equiv.)
Retail general insurers	£250,000	£187,500

It is proposed that companies licensed at the date the rules become effective and whose paid-up share capital and shareholders' funds are less than the new minimum would be given two years to comply with this requirement. Firms licensed after the inception of the rules will be required to meet them from the point of licensing.

The Commission has previously received comments from industry that an increased share capital requirement may act as a barrier for a jurisdiction which encourages new and innovative business. The Commission acknowledges this comment, but new and innovative firms are as likely to fail as established ones, if not more so. A capital level of £250,000 is not unreasonable for shareholders who are fully committed to establishing a robust and enduring retail general insurance company. In fact, very few firms at present would be unable to meet this requirement.

An alternative approach is to base the capital requirement on say three months expenses. One problem with this approach is that it would be out-of-line with IBL's capital floor rules which are all otherwise based on an absolute amount. Another problem is if the resultant number is small in absolute terms, the relevant firm is left with minimal resources to deal with problems that may arise. Economies of scale are relevant.

Q8: Do you agree that minimum levels of paid-up share capital and shareholders' funds for general retail insurers should be increased to £250,000? Do you agree that existing firms should have three years to comply with the rules?

Capital – Protected Cell Company Cells

The protected cell company structure originated from a desire to provide captive services to firms which are not large enough to justify a stand-alone captive, and they have found other uses as wholesales vehicles such as for Insurance-Linked Securities. A small number of cells write general business, including retail.

There is no minimum capital floor requirement for a PCC cell. To ensure that clients who transact with cells of PCCs benefit from the same level of prudential and conduct requirements as a standard company, the Commission is proposing to apply all the rules for retail general insurance companies to retail general cells. A cell will be required to maintain the equivalent level of net funds and solvency as a retail company. The cell will need to meet all the operational and conduct requirements of a retail general insurer, for instance have its own internal auditor. The rules in respect of governance, for example the number of independent directors, will apply to the PCC as a whole.

The Commission is aware that cells writing retail general insurance may need a significant capital injection to maintain net funds of £250,000; but this must be weighed against the risk to policyholders from cells which have inadequate levels of funding. The Commission is also aware that some cells may be seen to contain 'riskless' business – that is a line of business re-insured with a highly rated insurer. And that these cells must of course meet the PCR requirement – although in practice this is usually less than £250,000. However, even in these circumstances, a minimum level of operational risk exists (not least around conduct risk); and a certain minimum level of capital is necessary to mitigate this. It is also important to avoid an unlevel playing field where retail business is perversely channelled into the least capitalised entities.

The Commission is also aware that cells may be used as incubators to test and grow new businesses, with the intention that the cell becomes a fully formed insurer in due course. In practice the Commission does not often see small cells develop into large stand-alone insurers, and the possibility of it happening must be weighed against the increased risk to policyholders over the period the cell has low levels of capital.

If cells are not treated equally with companies, there will be an incentive to put retail general business into a cell. This will achieve the opposite of the intention to increase protection for the consumer.

Currently, there are relatively few cells that write general retail insurance; however almost all would fail to meet the capital level proposed.

Existing cells writing retail general business, and the PCC itself for those aspects of the rules that affect the company as a whole, will have two years from the time the rules come into effect to meet the requirements within these rules.

Q9: Do you have any comment on the proposal that PCC cells which write retail general insurance should meet the same standards as a retail general insurance company?

Solvency - Prescribed Capital Ratio (PCR) requirement

The PCR requirement for a commercial general insurer is the capital required to ensure that the licensed insurer can meet its obligations over the next 12 months with a probability determined at a 99.5% confidence level. Whilst the calculation is specific to commercial insurers, that category is itself broad and does not differentiate between the non-payment of a loss for a large company which understood the risk profile of the insurer from whom it was purchasing cover and a member of the public who had not such ability and assumed a retail policy was rock solid under all circumstances. The Commission therefore proposes to increase capital required to meet the PCR for retail general insurers.

The Commission operates a ladder of intervention approach for all insurers. Any ratio below 105% triggers regulatory intervention; although the Commission can – and does – apply a higher percentage in certain cases. The Commission now proposes to apply a higher percentage across-the-board to all retail general insurers. The Commission proposes 135%. There is no scientific reason for choosing this number. However, the Commission is aware that several other regulators in practice apply a generic number – ranging from 135% to 155% - for some insurance sectors. Very few retail general insurers in Guernsey have a PCR requirement below 135%, so the application of this approach is feasible.¹ It is also better to be transparent about this approach so that prospective insurers are clear about what is required of them. This higher number will enable the Commission to act at an earlier stage than otherwise if a retail general insurer begins to have solvency problems. It also links into more frequent reporting of the ratio; as detailed below.

Any retail general insurer below the minimum will be expected to come up to that number within two years.

¹ This change will be brought about by applying 'Stage 1 - Early Warning' to retail general insurers with between 100% and 135% of the PCR requirement in the Commission's 'Guidance Note on Supervisory Ladder of Intervention'.

Q10: Do you agree that retail general insurers should have a higher minimum capital requirement than wholesale general insurers?

Own Risk Solvency Assessment (ORSA)

Part 8 of the Solvency Rules lays out the requirements for the preparation of an Own Risk and Solvency Assessment ('ORSA') and an Own Solvency Capital Assessment ('OSCA'). An OSCA is the licensed insurer's own assessment and calculation of its solvency requirements. The ORSA comprises the OSCA; an insurer's assessment of its own risk management; and an assessment of the adequacy of capital resources to meet future capital requirements. Currently general insurers are required to do an OSCA only and not an ORSA if their Minimum Capital Requirement (MCR) falls below £1,500,000.

At present about half of current retail general insurers do not complete an ORSA; given the above de minimis exemption. The process for calculating the ORSA requires the identification and quantification of all the risks facing an insurer, together with any mitigants. This forms a critical part of the firm's risk management. The Commission has become aware of issues with some small retail general insurers having inadequate risk management; even though they may have many retail policyholders. The Commission no longer considers it appropriate that there should be exemptions for small retail general insurers which allow them to avoid assessing their risk management and future capital requirements. It is proposed that, subject to any other exceptions in the Solvency Rules, all retail general insurers should produce an ORSA.

It is worth noting that the Commission's approach to ORSAs is one of 'horses for courses' - namely that a relatively simple business can best be served by a straight-forward and short ORSA; and one of practical use to the board.

The requirements for all insurers that are not retail general insurers will remain the same.

Q11: Do you have any comments on the proposal that the current exception which allows general retail insurers with MCR's below £1,500,000 to prepare an OSCA and not an ORSA be removed for retail general insurers?

At present, all insurers must report certain data once a year (Insurance Business Rules Part 3), including 'a spreadsheet showing unaudited financial projections, in the standard format determined by the Commission, showing the anticipated operations of the licensed insurer for

the twelve months following the financial year end to which the annual return relates' (Insurance Business Rules 3.1 (1)(a) (i) (A)). In a letter of 3 August 2018, the Commission requested that those firms required to submit an ORSA, also submit the aforesaid data half-yearly. Given that all retail general insurers will now have to submit an ORSA, it follows that all these entities will also be included in the request to submit additional half-year data. The Commission now proposes to regularise the six-month reporting requirement for all relevant insurers by including it in the Insurance Business Rules; rather than simply making a request. This proposal will also include all retail general insurers. This proposal is intended to ensure that the financial status of retail general insurers is as current and transparent to the Commission as reasonably possible; and that there is a formal obligation of firms to submit accurate data for regulatory purposes.

Q12: Do you agree with making reporting as specified; and with making this a formal requirement for all those having to submit an ORSA?

Reinsurance

The Commission has seen examples of reinsurance being arranged with reinsurers with weak capital positions. This is unusual as many insurers would only contemplate using a rated reinsurer. In the case of some Guernsey retail insurers, retrocession cost seems to outweigh this convention. The Commission is concerned that the failure of a reinsurer could cause an insurer to be unable to pay claims to its customers. The Solvency Rules already apply default credit factors to outstanding reinsurance balances based upon the credit rating of a reinsurer; but these factors are all less than 100%. In addition, retail insurers often use reinsurance for excess loss coverage. In that case the failure of a reinsurer could have a crippling impact on the solvency of the insurer. To protect retail policyholders, the Commission is proposing to strengthen the rules for retail general insurers.

The Commission is proposing that retail general insurers may only place reinsurance with reinsurers that meet at least one of the following requirements²:

1. Licensed by the Commission;
2. Licensed in a member state of the G-10;
3. Licensed in Bermuda;
4. Licensed in the Republic of Ireland;
5. Maintains an acceptable credit rating (please see below);
6. Not rated but is a 100% owned subsidiary of a (re)insurer which is rated, in which case the reinsurer can be assumed to have the same rating as its rated ultimate parent; or
7. The potential exposure is protected by collateral representing the full exposure under the contract. The collateral must be held in cash by a bank with a credit rating equal to

² This list consciously differs from the List of Recognised Insurers; given that the latter simply sets out which insurers are recognised for local insurance purposes.

or above, the ratings listed below; or in investment-rated bonds by an investment-rated custodian. The insurer must have legal advice confirming that the collateral agreement will be effective in the event of default by the reinsurer.

An acceptable credit rating is one which is the same or higher than those listed below:

Firm	Minimum Rating
AM Best	bbb-
Fitch	BBB-
Moody's	Baa3
Standard & Poor's	BBB-

The requirements will also apply to those reinsurers within the same group as the insurer. These reinsurers pose an additional risk that the insurer may be obliged to do business with them and therefore will not carry out proper due diligence or apply adequate mitigation.

Occasionally an insurer may act as “fronter” for a reinsurance company whereby most or all of a particular risk is passed onto the reinsurer. For the avoidance of doubt, the rules for retail general insurers will apply to all insurers regardless of how much of the risk is retained, and no exemptions will be given for firms because they consider themselves to be a “fronter” for a reinsurer.

Q13: Do you have any comments on the proposal that retail general reinsurers may only use reinsurers as specified in the above table?

Fees

Retail general insurers have a greater ability than other insurers to damage the reputation of the Bailiwick through not fulfilling contracts with policyholders. Over recent years, the Commission has had to dedicate increasing amounts of time to dealing with retail general insurers. The cost of this work is borne by other licence holders through their annual fees. Fees should reflect the user-pays principle, and on this basis retail general insurers fees should be increased. The aim is not to shift supervisory resources from one sector to another but to increase the resources available for retail general insurers; noting that the 2019 IAIS report on Guernsey remarked how thin were our insurance supervisory resources³. Any increase in fees for retail insurers will not therefore result in a commensurate decrease in fees for others but it will mean that they stay lower than they otherwise would be.

³ 'Detailed Assessment of Observance IAIS Insurance Core Principles (ICPs) Bailiwick of Guernsey' p42; GFSC website

Fees payable by licensees are determined annually following a fees consultation and they will not form part of these rules; but we plan that fees paid by retail general insurers be increased to reflect the additional work they create for the Commission. The Commission has yet to fully develop its funding needs for 2024 but retail insurers can expect an increase considerably larger than that applied to all other sectors.

The current annual fee for a commercial insurer is £9,960. The Commission proposes to divide this category into two – one for business insurers and one for retail insurers.

Cells are charged £3,255 annually. Given that the supervisory oversight of a retail insurer operating in a cell is no different than were it outside a cell and that this paper argues that a cell should be subject to the same requirements, this approach is anomalous. It also creates a perverse incentive to put more retail business into a cell. The Commission therefore proposes to apply the same fee to retail cells as are charged to retail insurers.

Domestic insurers, along with mutual, friendly and provident societies, are charged various fees up to £19,075. Although this paper applies to them so far as they have retail policyholders, these entities have not required untoward demands on the Commission. The annual fee for this category will merely change in accordance the Commission's general funding needs.

Q14: Do you agree that, as a matter of principle, retail general insurers should pay a higher fee than other insurers to reflect their greater risk and therefore greater use of resources by the Commission?

Proposed Changes – Systems and Controls

Legal

Guernsey retail insurers serve policyholders in several jurisdictions across the world. The most pertinent jurisdiction is the UK where Guernsey insurers are accessed primarily through UK intermediaries. It is important for the Guernsey insurer itself and for the wider reputation of the Bailiwick that a Guernsey insurer does not become an unlicensed UK insurer. For this reason, most Guernsey retail insurers operating in this market already secure a legal opinion that they are not acting in this capacity. Several of the changes in this paper – for example around transparency – should further mitigate this risk. However, the Commission proposes to make obtaining a legal opinion of this nature mandatory. In practice, most Guernsey retail insurers already obtain such a legal opinion, but some do not.

Many Guernsey retail insurers provide insurance in jurisdictions other than the UK. The experience of the Commission is that some firms have had – at least in the past – a view that marketing into a foreign jurisdiction requires limited due diligence and all is permissible unless explicitly forbidden. This approach can lead to significant regulatory issues down the line for the firm and distress for policyholders. For these insurers, the Commission proposes to require that the board should agree an approach for each separate jurisdiction, based on whatever data is available. This can go as far as a legal opinion but may instead comprise other data, such as that made available to the insurer through local intermediaries. Whatever the case, the board must sign-off on documentation explaining why it is comfortable insuring policyholders in that jurisdiction; in line with its own risk appetite. For the avoidance of doubt, the Commission is not proposing that a retail general insurer must secure regulatory consent before marketing into a jurisdiction, but they should be sure that they are operating appropriately under such jurisdictional exemptions as may exist for those providing overseas insurance capacity.

Q15: Do you agree that a legal opinion be required for the UK and either a legal opinion or some other form of documentation for other jurisdictions?

Cash Management

Some retail general insurers have arrangements whereby funds are not under the direct control of the insurer. Examples might be where the funds are provided as a claims fund which is available to a separate claims management company, or the broker pays across premiums infrequently. The Commission has seen examples of boards having very little or no knowledge of how the funds are being managed. In some cases, the company has handed control over its bank accounts to third parties, and the Commission has also seen examples of Guernsey boards not even being aware of what bank accounts have been created in the company's name.

The Commission proposes to make rules that any funds held by third parties must be governed by a written agreement which clearly identifies whether the funds are being held by a third party as claims fund, float or other arrangement and sets out the basis on which funds will be paid to or returned to the insurer. The board must review at least annually the purpose of the funds, verify the amounts held and the mitigants. Where the amount transferred is excess to requirements for the purpose, or the mitigants are considered insufficient, the insurer should take appropriate action.

For all third party payments the rules will require that no payment may be made without at least one of the signatories or electronic approvers being a Guernsey resident director or manager of the company, or a Guernsey resident employee of the general representative.

Q16: Do you have any comments on the proposal that there should be a written agreement between the retail general insurer and a third party relating to the transfer of funds to the third party, and that such an arrangement should be reviewed annually?

Q17: Do you have any comments on the proposal that any transfer or payment of a retail general insurer's funds to a third party must be signed or electronically approved by a Guernsey resident director or manager of the company, or a Guernsey resident employee of the general representative?

Disclosure of Information to the Public

Consumer transparency – which allows consumers to make up their own mind as to whether to buy a financial product based on public data – is an important part of any regulatory framework⁴. The Insurance Business Rules currently lay out the requirements for the public disclosure of information by insurance companies. The Rules require certain insurers to publish data about themselves – for example a profile of themselves, corporate governance, technical reserves and so on (as specified in Schedule 1 of IBR).

Nevertheless, there are several exemptions in the public disclosure rules. For example, one exemption is a quantitative de minimis qualification, namely for insurers with:

- annual gross written premium income not exceeding £500,000 or gross assets not exceeding £2,500,000, providing that, if the insurer is in run off (by which it is no longer taking on new business but still has outstanding liabilities to existing policyholders), it would have met these conditions in its last full year of underwriting (IBR 4.1).

A related exemption is for insurers with a ‘small number of commercial ‘policyholders’. Another exemption is where a Guernsey insurer has ‘75% or more of its insurance risk with a

⁴ See section 5 of the Principles of Conduct of Finance Business; and, more generally, section 7.3 of the Insurance Business Rules for the fair treatment of customers.

group insurer and where that insurance group makes public disclosures equivalent to those required in these Rules'. Insurers may also choose not to publish data where they consider that to do so would give away commercial data of use to a competitor; albeit subject to submitting an explanation for this to the Commission.

Less than half of retail general insurers qualify for the quantitative de minimis exemption specified above. However, for whatever other reason, very few retail general insurers currently meet the public disclosure requirements.

As background, the current public disclosure rules were issued shortly before the IAIS assessment of the Bailiwick in 2019. That assessment registered only a 'Partially Compliant' score for the relevant Insurance Core Principle⁵.

The Commission considers that the status quo is unacceptable for a jurisdiction that includes retail general insurer policyholders; not least given industry's desire to expand this sector. It therefore proposes to abolish all current exemptions for retail general insurers. All retail general insurance policyholders – and their brokers – have a right to know where the insurer is based, and its financial status. PCCs and their retail cells will also be required to disclose.

In general, the Commission is disinclined to agree exemptions; which will have to be agreed explicitly for each insurer. However, these will be considered for instance where there are competitive grounds for not disclosing certain data to where to do so is not in the interest of policyholders.

It is notable that those few firms that do comply with the current requirements do so with limited inconvenience by simply highlighting the relevant key data and attaching their statutory accounts with contact details. The requirements do not therefore seem onerous.

In line with the above, the Commission however is also proposing that all retail general insurers must disclose prominently on their website, all marketing material and communication with customers and potential customers some basic details, namely:

1. postal address of the insurer's registered office or branch, whichever is appropriate;
2. e-mail address or telephone number for the insurer (not a service company or any related company such as a broker);
3. postal address and either e-mail address or telephone number for complaints against the insurer;
4. the existence of the Channel Islands Financial Ombudsman, and provide details of its website;
5. whether the insurer and the producer (i.e. broker, intermediary or other similar party) share a common controller (as defined by IBL).

⁵ 'Detailed Assessment of Observance IAIS Insurance Core Principles (ICPs) Bailiwick of Guernsey' p28; GFSC website.

All required data should be on a website. This website can be part of a group website but there must be pages specific to Guernsey and the Guernsey insurer.

For the avoidance of doubt, all the above applies to retail general insurer cells.

Q18: Do you agree the current exemptions on public disclosure should be withdrawn for retail general insurers, that non-compliance as currently set out should be subject to Commission agreement, and that the above additional data should also be required?

Q19: Do you agree that all retail general insurers should have a dedicated website on which they disclose the information required by these rules?

Conduct risk – Complaints

The Insurer Business Rules define a complaint as:

“any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide a financial service, or product, which alleges that the complainant has suffered, or may suffer, financial loss, material distress, or material inconvenience; a complaint may involve, but is different from, a claim and does not include a pure request for information”

Complaints are a key indicator of whether customers feel they are being treated fairly. The Commission has seen examples of where complaints are dealt with by outsourced companies and either insufficient information is considered by the board, or complaints are not considered at all.

The Insurance Business Rules already contain requirements for the general representative around the maintenance of the complaints register and acting as a point of contact for complaints on behalf of the insurer. It is proposed that an additional requirement be introduced such that the board of every retail insurer consider, and document, the consideration of, complaints (either individually or in aggregate), including outcomes, at least half yearly. The rules will not be prescriptive about the format for the reporting of complaints to the board. A board may appoint a complaints sub-committee to deal with the details of complaints, but it must report to the board at least half-yearly.

Q20: Do you have any comments on the proposal that boards of retail general insurers will consider, and document, consideration of complaints regularly and at least half yearly?

Data

At present, the Commission receives relatively little data on the details of general retail insurance; with most regulatory data focussing on prudential risk. For example, there is no requirement to report to the Commission on the number of policyholders insured. This makes it difficult for the Commission to assess either the absolute or the relative riskiness of each insurer when allocating supervisory resources. The Commission therefore proposes to require retail general insurers to report the conduct data specified below once a year:

- 1) Underwriting
 - a) number of clients by class of insurance;
 - b) gross and net written premium income by class;
 - c) expense ratio by class;
 - d) brokerage, commission or related charges paid to associated companies; and
 - e) reinsurance premiums paid to associated companies.
- 2) Persistency
 - a) percentage of policyholders lapsing / not renewing by class of insurance.
- 3) Claims
 - a) net claims ratios by class; and
 - b) percentage of claims rejected by class.
- 4) Location of policyholders
 - a) list of all jurisdictions in which policyholders are resident by class of insurance; and
 - b) Notification of what action has been to ensure that the insurer is allowed to carry on business in each jurisdiction into which it writes business.
- 5) Intermediaries
 - a) list of intermediaries with total amount of gross premium;
 - b) list of intermediaries which are an associated party of the insurer; and
 - c) location and licensed status of all intermediaries contracted by the firm.
- 6) Outsourcing
 - a) details of all functions that are outsourced (including to associated entities) including the name, jurisdiction, regulatory status and relationship with the insurer.

7) Reinsurance

- a) Details of each reinsurer with balances at the year end, including:
 - i) credit rating;
 - ii) amounts that are outstanding at year end;
 - iii) amounts that are outstanding for more than three months by reinsurer; and
 - iv) any right of offset and whether the insurer has legal advice which confirms that it is enforceable.

8) Complaints

- a) total number of complaints received during the year, broken down by type;
- b) total number of complaints that took more than 90 days to resolve to the satisfaction of the complainant;
- c) number of all complaints referred to CIFO or another ombudsman;
- d) details of all complaints where an ombudsman has found in favour of the complainant; and
- e) for each complaint where the ombudsman has found in favour of the complainant, an explanation of what actions have been taken by the firm to prevent a repeat of the failings which led to the finding.

In conducting its business, the Commission would expect a Guernsey retail general insurer to have the above data for its own business reasons.

Q21: Do you agree that retail general insurers should provide additional data to the Commission? Do you agree with the above list?

Proposed Changes – Others

Insurance Manager Resources, Skills and Knowledge

Guernsey has a well-established captive insurance sector with individual captives often outsourcing various functions to insurance managers. This model generally works well for captive insurers; but the Commission has seen examples of insurance managers taking on retail general insurer clients without having adequate resources, knowledge or skills to manage the different business model and risks presented by retail general insurance. To ensure that insurance managers can manage retail general insurers adequately the Commission is proposing to add rules to the Conduct of Business section of the Insurance Manager Rules in respect of retail general insurers' clients only.

The Commission has also seen examples of insurers where the insurance manager has failed to identify that policyholders meet the definition of retail customers, and the firm has been treated as commercial or even as a captive. We propose that every time an insurance manager

takes on a new client it must assess whether the insurer's customers are retail, bearing in mind the definition in the Insurance Business Rules, and that, where the manager has concluded that they are not retail, the board must document the reason for its conclusion. At the inception of the new rules all insurance managers must carry out this exercise for all insurer clients within six months, and where they identify that a firm should be classed as a retail insurer, make appropriate changes to their policies and procedure within the next six months.

When an insurance manager identifies that an insurer has retail clients but the insurer itself does not consider its clients are retail, and so does not follow the requirements for a retail general insurer, then the insurance manager must notify the Commission and consider what steps it should take to protect the interests of policyholders.

The requirements for a retail general insurer are different to those of a captive insurer or even a commercial insurer. To ensure that the manager can manage the insurer effectively its board must carry out and document a gap analysis between the insurance manager's resources, skills and knowledge and the requirements of the retail general insurer. Where there is a gap, the board of the manager must determine and document how it will be filled and what mitigation will be put in place until that time. Where there is a gap between the manager's resources, skills and knowledge and the insurer's requirements that cannot be filled or mitigated before the manager provides services, then the manager should decline the appointment.

Areas that the manager should consider as part of its gap analysis should include but are not limited to:

- Resources required to manage the insurer effectively;
- Knowledge and experience, including understanding the risks of:
 - a. the products to be sold;
 - b. distribution channels;
 - c. the markets into which the products are sold;
 - d. claims handling;
 - e. reserving methodology and
 - f. the relevant reinsurance market.

Appropriate mitigants or ways to bridge an identified gap might include the appointment of third-party actuaries with relevant experience to assess reserving methodologies, or the employment by the manager of individuals with relevant experience, skills and qualifications. Mitigants that would not be acceptable would include unquestioning acceptance of assurances by the insurer that its business model is simple and manageable within current resources, or the hope that the manager's staff would "learn on the job".

The Commission, at its discretion, may ask to review the above analysis. And, if the Commission is unconvinced, the Commission may stop the manager to undertake retail business. This may be done through a condition.

Q22: Do you agree with the proposed amendments to the Insurance Managers Rules in respect of managers dealing with retail general insurers?

Insurance Manager Capital Assessment

Section 29(3) of IBL states that a general representative of a licensed insurer shall not resign his position, and the insurer shall not remove him, unless a replacement general representative has given the Commission written notice that he has consented to accept the position, or the Commission has agreed in writing to the resignation or removal of the general representative.

The general representative may seek to resign if it becomes concerned about the governance of an insurer, or the insurer becomes financially distressed. If the insurer cannot find an alternative general representative that is acceptable to the Commission, the Commission may decline to agree to the resignation of the general representative. This is particularly the case where the Commission considers that the general representative has failed to meet his obligations under Part 5 of the Insurance Business Rules, and this failure has contributed to the extent or severity of the insurer's problems.

When an insurer is in financial difficulties it may require more resources from its general representative, and the insurer's difficulties may be such that the general representative is unable to recover all its costs. Most general representatives are licensed insurance managers and the current minimum capital requirement for an insurance manager is £25,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher. This amount was set several years ago and is no longer adequate for managers managing retail general insurers. It also does not allow for the situation whereby the manager is required to continue servicing an insurer but is no longer able to recover costs from the insurer.

The Commission proposes to increase the minimum capital requirement for insurance managers that manage general retail insurers to £100,000. Most, but not all, insurance managers already meet this proposed requirement.

Q23: Do you agree that the minimum capital requirement for insurance managers dealing with retail general insurers should be increased to £100,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher?

Conclusion

To support a growing retail general insurance sector, it is necessary to develop a different regulatory regime from that required for wholesale general insurance. This is because retail policyholders need more regulatory protection than wholesale policyholders and because, unfortunately, our recent experience is that several Guernsey based retail general insurers have been materially mismanaged to such a degree as to present a material risk of policyholder losses. This paper presents an evolutionary approach which elaborates several aspects of the current regulatory system around, for example governance, financial requirements, and controls to create a workable solution. It is the Commission's hope that these changes will be generally welcomed by the local insurance industry, many of whose participants have already put in place several of the proposed regulatory changes.

Annex – Policyholder Protection Scheme

This part of the paper should be viewed as having the status of a discussion paper rather than a formal consultation paper proposing a definitive solution to a problem. The Commission is in listening mode but recent interactions with industry have given it cause to believe that there might be more support for a low-cost scheme than it had originally thought would be the case.

In the Bailiwick, there is a deposit protection scheme for customers of Guernsey banks and there is a tied asset scheme for customers of long-term insurers⁶. There is nothing equivalent for general insurance policyholders of an insurer licensed in Guernsey if it is unable to meet its liabilities. For the avoidance of doubt, there is no scope for Guernsey insurers to buy into the UK policyholder protection scheme.

A policyholder protection scheme can give comfort to policyholders if their insurer can no longer pay claims. Its existence may make Guernsey more appealing to some types of policy holder.

There are several ways in which a policyholder protection scheme could be structured:

- Limited to retail general insurers or to include long term and/or commercial insurers;
- Funded pre- or post-event;
- Funded solely by retail general insurers or by the industry more widely;
- A limit on the amount that could be paid by amount and/or proportion of claim;
- A simple framework or administered by a separate legal corporate entity.

One relatively low-cost model might be set up so that, if a retail general insurer goes into liquidation, the liquidator will notify the Commission of any shortfall of funds available to settle all the insurer's outstanding claims. The Commission will then make a call on all insurance entities licensed at the time the firm became insolvent up to the amount of the last annual fee paid by the entity to the Commission. Those funds will then be used to settle claims by the liquidator. The maximum amount any entity will have to pay is the equivalent to two years' fees to the Commission, and there will be no more than one call in any five-year period.

The maximum amount raised would be around £2.5m, based on the current income from general insurance fees. Whilst this may not appear large, many retail general insurers are small, and it is also unlikely that they will lose all their assets. Such a scheme might make a significant contribution towards ensuring that retail general insurer policyholders receive a reasonable level of compensation in the event of an insurer failure; and that all claims will be paid.

⁶ Through the standard condition applied to long term insurers which requires that assets representing at least 90% of policyholder liabilities must be held in trust.

Q24: Do you think that a policyholder protection fund should be created? How do you consider that the scheme might be arranged? Please include scope of coverage, funding, limits and governance in your response. Do you have any comment on the fund being financed by a post-event levy paid by all insurer entities at an amount equivalent to the annual fee paid to the Commission for the relevant year? Do you have any suggestions for an alternative arrangement that would enable the creation of a policyholder protection fund?

GUERNSEY STATUTORY INSTRUMENT NO.

THE INSURANCE BUSINESS (AMENDMENT) RULES, 2023

Made: ***

Coming into Operation: ***

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 6, 29, 33, 37, 38A, 38B, and 85 of *The Insurance Business (Bailiwick of Guernsey), 2002*¹ (the “Law”) hereby makes the following Rules.

¹ Order in Council No. XXI of 2002.

Citation and Commencement

1. These Rules may be cited as The Insurance Business (Amendment) Rules, 2023 and amend the Insurance Business Rules, 2021² (“the Rules”).
2. These Rules shall come into force on **** 2023.

Amendments

3. The Rules are amended in accordance with Annex A.

Dated this ** day of ***, 2023

.....

J. WINSER

Chairman of the Guernsey Financial Services Commission
For and on behalf of the Commission

² No.137 of 2021.

Annex A

Amendments to The Insurance Business Rules, 2021

1. In this section underlining indicates new text, to be added to the Rules, and striking through indicates text to be deleted:

...

PART 3 ANNUAL RETURNS AND AUDITS

3.1 Annual returns

- (1) A licensed insurer's annual returns must include –

- (a) an up-to-date business plan, including -

...

- (g) further financial information including –

- (i) for a PCC; management accounts that include a breakdown by cell;

- (ii) a summary of claims paid and outstanding, as at the end of the period covered by the annual insurance return, in the form agreed, with the Commission, as appropriate to the underwriting activity; and

- (iii) a schedule of bank deposits and investments broken down by asset class.

- (2) Retail general insurers must also include in their annual return all information set out in the requirements at Schedule 3.

3.2 Consolidated accounts

...

3.3 Annual returns in a non-standard format

- (1) The Commission may, on application, consider the acceptance of the annual returns in a format other than the standard format. Non-standard format annual returns will only be accepted following written confirmation from the Commission.

3.4 Audit

- (1) A licensee offering retail insurance services must maintain an internal audit function.

- (2) An internal audit function, in compliance with (1) –

- (a) must be undertaken at least once a year;

- (b) must be undertaken by an auditor whom the board is satisfied has the relevant knowledge and experience;

- (c) may be outsourced to a group internal audit function;

- (d) may be outsourced to an independent third party; and

all decisions of the board must be clearly documented.

- (3) All insurers must appoint an external auditor in accordance with the Law and, on appointment, the board must detail the reasons for the appointment of the chosen auditor, to include their consideration of the knowledge and experience of that auditor in respect of general retail insurance.

...

PART 4 PUBLIC DISCLOSURE OF INFORMATION

...

4.1 Application of Part 4

(1) This Part does not apply to –

- (a) Category 5 licensed insurers as categorised under the Insurance Business (Solvency) Rules 2021 (“Solvency Rules”);
- (b) Category 6 licensed insurers as categorised under the Solvency Rules;
- (c) PCCs, unless that PCC provides general retail insurance; or
- (d) licensed insurers not incorporated in the Bailiwick.

(2) In this Part, “relevant insurer” means a licensed insurer other than -

- (a) a Category 1 licensed insurer, Category 2 licensed insurer, Category 3 licensed insurer, or Category 4 licensed insurer, as categorised under the Solvency Rules, which does not offer retail general insurance, and which has ~~with~~ either –
 - (i) annual gross written premium income not exceeding £500,000; or
 - (ii) gross assets not exceeding £2,500,000,

providing that, if the insurer is in run off (by which it is no longer taking on new business but still has outstanding

liabilities to existing policyholders), it would have met these conditions in its last full year of underwriting;

- (b) a licensed insurer, which does not offer retail general insurance, that has reinsured 75% or more of its insurance risk with a group insurer and where that insurance group makes public disclosures equivalent to those required in these Rules;
- (c) a Category 2 licensed insurer, or a Category 4 licensed insurer, as categorised in the Solvency Rules and writing insurance for related group insurers only;
- (d) a Category 2 licensed insurer, or a Category 4 licensed insurer, as categorised under the Solvency Rules and writing a single class of reinsurance for one fronting insurer in relation to a specific product or arrangement; or
- (e) a licensed insurer, which does not offer retail general insurance, with a small number of commercial policyholders only.

4.2 Public disclosure of information

- (1) ~~A relevant insurer with a website must publish its annual audited financial statements, together with the information set out in Schedule 1, on that website. This information must be available for a minimum period of three years from the filing date. All relevant insurers, which are retail general insurers, must maintain a website which displays its annual audited financial statements, the information set out at Schedule 1, and any further information which would be of use to the customer including that set out at rule 4.2A. The information must be available for a minimum period of three years from the filing date.~~
- (1A) All other relevant insurers with a website must publish their annual audited financial statements, together with the information set out at Schedule 1, on that website. The information must be available for a minimum period of three years from the filing date.

(2) A relevant insurer, which is not a retail general insurer, may withhold, redact, or summarise, all or any part of the information required by this rule where –

(a) the disclosure of such information would enable their competitors to gain undue advantage or otherwise cause detriment;

(b) there are obligations to policy holders, or other counterparty relationships, binding the relevant insurer to secrecy or confidentiality;

(c) the disclosure of such information would prejudice their position by making confidential information public; or

(d) where the disclosure of such information is prohibited by any jurisdiction's legislation; or it breaches a direction issued by the Commission or any other relevant overseas authority; and

where that insurer is a general retail insurer, such action may only be taken with the prior written consent of the Commission.

(2) Where a relevant insurer withholds, redacts, or summarises any information, in accordance with this rule, they must provide the Commission with written notification, explicitly approved by their board of directors, of the information to be withheld, redacted, or summarised and the reason why this is necessary.

...

(5) A relevant insurer must publish the relevant information within fourteen days of the date of filing the relevant information with the Commission.

4.2A Further disclosure requirements for retail general insurers

- (1) All retail general insurers must ensure that the following information is prominently displayed on their website, on all marketing materials, and all communications with both customers and potential customers –
 - (a) the postal address of the insurer's registered office or, where the insurer is a branch, the postal address of the branch;
 - (b) the email address or telephone number for direct communication with the insurer;
 - (c) the postal address and either email address or telephone number for lodging complaints against the insurer;
 - (d) details for contacting the Channel Islands Financial Ombudsman;
 - (e) whether the insurer and the producer share a common controller.

4.3 Disclosure of information to persons with a valid interest

...

7.1 Application of Part 7

- (1) Part 7 applies to all Category 1 and Category 3 licensed insurers with respect to business with retail customers.

7.1A Governance

- (1) This rule only applies to licensees offering retail general insurance.
- (2) A licensee offering retail insurance services must ensure that all directors must physically attend at least one board meeting, in the Bailiwick, per annum.
- (2) Each board must include, at a minimum, two Independent Non-Executive Directors (“INEDs”).
- (3) Non-executive directors will not be considered to be independent directors of that entity, by the Commission, where –
 - (a) they have been employed by the insurance manager of that entity at any time within the three years prior to the appointment; or
 - (b) they have been employed by any previous insurance managers of that entity –
 - (i) who have acted as insurance manager of that entity within the previous three years; and
 - (ii) no less than three years have elapsed, prior to the appointment, since that insurance manager ceased to be the insurance manager for that entity; and
 - (c) this sub-rule does not apply to INEDs appointed prior to this rule coming into force¹.

¹ This Rule came into force on ****

(4) The independent status of an INED -

- (a) must be reviewed, by the board, on the occasion that the INED has been a member of that board for a period of nine years;
- (b) must be reviewed, by the board, on an annual basis thereafter;
and
- (c) such reviews must be clearly documented by the board; and

7.2 Due skill, care, and diligence when dealing with customers

- (1) A licensed insurer must act with due skill, care, and diligence when dealing with customers.

...

7.6 Development and distribution of insurance products

- (1) A licensed insurer must take into account the interests of different types of consumers when developing and distributing insurance products.
- (1A) Guernsey retail general insurers who sell into the UK market must obtain a legal opinion on the legality of that offering, to that market, prior to making the offering.
- (1B) Where Guernsey retail general insurers provide insurance in jurisdictions other than the UK, the Board must agree an approach for each separate jurisdiction.
- (2) A licensed insurer must ensure that products and distribution strategies are developed in accordance with the following principles –

...

7.12 Timely and fair manner complaints handling

- (1) A licensed insurer must handle complaints in a timely and fair manner.

...

- (13) Licensed insurers must analyse the complaints that they receive against intermediaries, in respect of products that the intermediaries have distributed on their behalf, to enable them to assess the complete customer experience and identify any issues that need to be addressed.

- (14) The board of a retail general insurer must –

- (a) consider all complaints, either individually or in aggregate, and the outcome of such complaints; and

- (b) document all such considerations,

on a regular basis and not less than half-yearly.

- (15) Where the board of a retail general insurer appoints a sub-committee to deal with the detail of complaints, in accordance with (14), that sub-committee must report to the board on a regular basis and no less than half-yearly.

7.13 Cash management

- (1) Rule 7.13 applies to all retail general insurers.

- (2) Any funds held by third parties must be governed by a written agreement which –

- (a) clearly identifies whether the funds are being held by a third party as claims fund, float, or other agreement; and
 - (b) sets out the basis on which funds will be paid or returned to the insurer.
- (3) The board must, at least annually -
 - (a) review the purpose of the fund;
 - (b) verify the amounts held; and
 - (c) review and verify the mitigants, including consideration of the solvency position of the transferee.
- (4) Where an amount transferred is in excess to requirements for the purpose, or the mitigants are considered insufficient, the insurer must take appropriate action.
- (5) Payments to facilitate transfers to third parties require the approval of at least one signatory, or electronic approver who is either –
 - (a) a Guernsey resident director or manager of the licensee; or
 - (b) a Guernsey resident employee of the general representative.

PART 8 GENERAL PROVISION

8.1 Interpretation

(1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.

(2) In these Rules the following definitions should be followed –

“acceptable rating agency” means a rating agency prescribed in Schedule 5 of the Insurance Business (Solvency) Rules 2021;

...

“retail customer” means a customer who is –

(a) an individual who, in relation to a licensed insurer, is acting for purposes other than that individual’s trade, business, or profession

(b) a microenterprise; or

(c) a charity other than a Non-Governmental Organisation (NGO); and in cases where it is not clear whether an individual qualifies as a retail customer, in accordance with this definition, they must be treated as a retail customer;

“significant complaint” means a complaint alleging a breach of Law, *mala fides*, malpractice, or impropriety, or repetition or recurrence of a matter previously complained of (whether significant or otherwise);

...

SCHEDULE 1

INFORMATION TO BE DISCLOSED

This Schedule applies, in full, to PCCs providing retail general insurance. In addition, paragraphs 4 to 8 apply to each cell, within the PCC, offering retail general insurance.

1. PROFILE OF THE INSURER

...

SCHEDULE 2

THE PRINCIPLES OF CONDUCT OF FINANCE BUSINESS

...

10. Relations with Guernsey Financial Services Commission

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

SCHEDULE 3

ANNUAL RETURNS FOR GENERAL RETAIL INSURERS

The information that general retail insurers must provide may include, but will not be limited to –

1. Underwriting

- a. number of clients by class of insurance;
- b. gross and net written premium income by class;
- c. expense ratio by class;
- d. brokerage, commission, or related charges paid to associated companies; and
- e. reinsurance premiums paid to associated companies.

2. Persistency

- a. percentage of policyholders lapsing/not renewing by class of insurance.

3. Claims

- a. net claims ratios by class; and
- b. percentage of claims rejected by class.

4. Location of policyholders

- a. list of all jurisdictions in which policyholders are resident by class of insurance; and
- b. confirmation that regulatory approval has been given to carry on business in all jurisdictions, or appropriate legal advice has been received which confirms that the insurer can write business in each jurisdiction for that class of insurance.

5. Intermediaries

- a. list of intermediaries with total amount of gross of premium;
- b. list of intermediaries which are an associated party of the insurer; and
- c. location and licensed status of all intermediaries contracted by the firm.

6. Outsourcing

- a. details of all functions that are outsourced (including to associated entities) including the name, jurisdiction, regulatory status, and relationship with the insurer.

7. Reinsurance

- a. Details of each reinsurer with balances at year end, including –
 - i. credit rating;
 - ii. amounts that are outstanding at year end;
 - iii. amount that are outstanding for more than three months by reinsurer; and
 - iv. any right of offset and whether the insurer has legal advice which confirms that it is enforceable.

8. Complaints

- a. total number of complaints received during the year broken down by type;
- b. total number of complaints that took more than 90 days to resolve to the satisfaction of the complainant;
- c. number of all complaints referred to the Channel Islands Financial Ombudsman or any other ombudsman;
- d. details of all complaints where an ombudsman has found in favour of the complainant; and
- e. for each complaint where the ombudsman has found in favour of the complainant, an explanation of what actions have been taken by the firm to prevent a repeat of the failings which led to the finding.

GUERNSEY STATUTORY INSTRUMENT NO.

**THE INSURANCE BUSINESS (SOLVENCY)
(AMENDMENT) RULES, 2023**

Made: ***

Coming into Operation: ***

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 38A of *The Insurance Business (Bailiwick of Guernsey) Law, 2002*¹ (the “Law”) makes the following Rules.

¹ Order in Council No. XXI of 2002.

Citation and Commencement

4. These Rules may be cited as The Insurance Business (Solvency) (Amendment) Rules, 2023 and amend The Insurance Business (Solvency) Rules, 2021² (“the Rules”).
5. These Rules shall come into force on **** 2023.

Amendments

6. The Rules are amended in accordance with Annex A.

Dated this *** day of **, 2023

.....

J. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

² No.136 of 2021.

Annex A

Amendments to The Insurance Business (Solvency) Rules, 2021

2. In this section underlining indicates new text, to be added to the Rules, and striking through indicates text to be deleted:

...

2.1 General Rules

- (1) A licensed insurer must, at all times, hold regulatory capital resources greater than or equal to its Minimum Capital Requirement ("MCR").

...

- (4) The Capital Floor of a licensed insurer is –
- (a) £100,000 for a licensed insurer carrying on general business other than retail general business;
 - (aa) £250,000 for a licensed insurer carrying on retail general business;
 - (b) £250,000 for a licensed insurer carrying on long term business;
 - (c) £250,000 for a licensed insurer carrying on both long term business and general business; or
 - (d) an amount specified in writing by the Commission.

- (5) For PCCs, which do not provide retail general insurance, the Capital Floor only applies to the overall PCC. There is no Capital Floor for each cell or the core.

- (5A) For PCCs providing retail general insurance, the Capital Floor applies to each cell providing retail general insurance.

- (6) The MCR of a licensed insurer must be no less than the Capital Floor.

...

2.3 Regulatory Capital Resources of a PCC

- (1) The total regulatory capital resources of a PCC is the sum of notional regulatory capital resources of each cell and the core, pursuant to these Rules.

- (2) For a cell, the notional regulatory capital resources to meet the notional PCR must be calculated as if it were a stand-alone insurer, subject to a maximum of the PCR for that cell, and in accordance with these Rules.

- (2A) For a cell which carries on retail general insurance business, the notional regulatory capital resources must be, at least, £250,000 or currency equivalent.

- (3) For a cell, the notional regulatory capital resources to meet the notional PCR must be calculated as if it were a stand-alone insurer, subject to a maximum of the PCR for that cell, and in accordance with these Rules.

...

4.2 General Business – PCR standard formula

...

4.2.9 Counterparty default risk capital – other

- (1) The capital requirement for other default risk must be determined for each counterparty and each exposure type as the value of the gross exposure, less any amount offset in case of default, multiplied by (1-Recovery Rate) and the Other Default Risk Capital Factor. The Recovery Rate and the Other Default Risk Capital Factors are as determined in accordance with Schedule 7.

4.2.9A Counterparty default risk capital – reinsurance

- (1) Retail general insurers must only place reinsurance with reinsurers that meet at least one of the following requirements –
 - (a) they are licensed by the Commission;
 - (b) they are licensed by a member state of the G-10;
 - (c) they are licensed in Bermuda;
 - (d) they are licensed in the Republic of Ireland;
 - (e) they maintain an acceptable credit rating, where such rating is the same of higher than –
 - (i) an AM Best rating of bbb-;
 - (ii) a Fitch rating of BBB-;
 - (iii) a Moody's rating of Baa3; or
 - (iv) a Standard & Poor's rating of BBB-;
 - (f) if not rated, they are a 100% wholly owned subsidiary of a reinsurer, or insurer, which is rated, in which case the reinsurer can be treated as having the same rating as its ultimate parent;
or
 - (g) the potential exposure is protected by collateral representing the full exposure under the contract and the collateral is held –
 - (i) in cash, by a bank with a credit rating equal or above the ratings listed at (e); or

(ii) in investment-rated bonds, by an investment rated custodian, and

the insurer must have legal advice confirming that the collateral agreement will be effective in the event of default by the reinsurer; and

these requirements also apply to reinsurers within the same group as the insurer seeking reinsurance.

....

8.2 Own Risk Assessment

...

- (3) A licensed insurer, who is not a retail general insurer, meeting at least one of the following criteria is not required to perform an ORSA –
- (a) a licensed insurer classified as a Category 6 licensee;
 - (b) a licensed insurer which is dormant with no outstanding insurance liabilities;
 - (c) a licensed insurer that would otherwise be required to perform an OSCA only and whose board of directors considers the PCR to be sufficient. In such cases this should be clearly stated, either in the documentation submitted with the annual return, or in separate correspondence. Any such statement should be accompanied by the supporting rationale for this decision; and
 - (d) a licensed insurer notified, in writing, by the Commission.
- (4) Unless otherwise notified in writing by the Commission, a licensed insurer meeting at least one of the following conditions may limit their assessment to an OCSA only –

- (a) a category 1 licensed insurer writing life business with an MCR below £350,000;
- (b) a Category 2 licensed insurer with an MCR below £7,500,000;
- (c) a Category 3 licensed insurer with an MCR below £1,500,000;
- (d) a Category 4 licensed insurer with an MCR below £7,000,000;
- (e) a Category 5 licensed insurer; and
- (f) a Protected Cell Company,

unless the licensed insurer provides retail general insurer.

- (5) An ORSA must be performed at least once a year.

(5A) All insurers submitting an ORSA must also submit to the Commission at six monthly intervals, a spreadsheet showing unaudited financial projections, in the standard format, determined by the Commission, showing the anticipated operations of the licensed insurer for following twelve months.

...

Schedule 11

Green Criteria

...

Criteria	Date Added
The Common Principles for Climate Mitigation Finance Tracking	{Day}/{Month}/20xx *****

Schedule 12

Transitional Arrangements

1. Licensees will have three years, from the date on which The Insurance Business (Solvency)(Amendment) Rules, 2023 come into force, to implement the additional MCR set out at rule 2.1.

GUERNSEY STATUTORY INSTRUMENT NO.

THE INSURANCE MANAGERS (AMENDMENT) RULES, 2023

Made: ***

Coming into Operation: ***

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 3, 18, 20, 61 and 62 of *The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey), 2002*¹ (the “Law”) makes the following Rules.

¹ Order in Council No. XXII of 2002.

Citation and Commencement

7. These Rules may be cited as The Insurance Managers (Amendment) Rules, 2023 and amend the Insurance Managers Rules, 2021² (“the Rules”).
8. These Rules shall come into force on **** 2023.

Amendments

9. The Rules are amended in accordance with Annex A.

Dated this * day of **, 2023

.....

J. P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

² No.139 of 2021.

Annex A

Amendments to The Insurance Managers Rules, 2021

In this section underlining indicates new text, to be added to the Rules, and striking through indicates text to be deleted:

...

5.1 Minimum Capital Requirement of Licensees

- (1) The Minimum Capital Requirement of a licensed insurance manager which does not manage general retail insurers is £25,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher.
- (2) The Minimum Capital Requirement of a licensed insurance manager which manages general retail insurers is £100,000, or 125% of the licensee's professional indemnity insurance deductible or excess, if higher.

5.2 Method of calculation

...

7.1 Application of Part 7

- (1) Rules, in this Part, which apply to **all insurance managers** are clearly marked.
- (2) The remaining rules in this Part apply to any insurance manager who advises or arranges insurance products in relation to the general public and is required to appoint an authorised insurance representative ("AIR") and, for the purposes of this Part, the term AIR includes any individual authorised by a licensee as a financial adviser.

7.1A Client assessments

(1) When any licensed insurance manager takes on a new client they must

=

- (a) assess whether the client services retail customers;
- (b) record the reasons where the result of the assessment is found to be that the client is not considered to service retail customers; and
- (c) carry out a gap analysis in accordance with Schedule 2.

(2) All licensed insurance managers must –

- (a) ensure that the assessment set out at (1) is carried out for all its existing clients; and
- (b) where clients are identified as being general retail insurers, update their policies and procedures accordingly

within six months of this rule coming into force.

(3) Where a licensed insurance manager identifies that a client is offering general retail insurance, but this is not recognised by that insurer, the licensed insurance manager must –

- (a) take appropriate steps to protect the interests of policyholders; and
- (b) notify the Commission.

7.2 Authorised insurance representatives

...

8.1 Interpretation

(1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.

(2) In these Rules the following definitions should be followed –

“accounting reference date” means the date to which the licensee’s accounts are prepared;

...

“long term insurance products” means any policy or product falling under Schedule 1 of the Law excluding permanent health, credit life assurance, and any contracts on human life that are renewable annually;

“retail customer” means a customer who is –

(a) an individual who, in relation to a licensed insurer, is acting for purposes other than that individual’s trade, business, or profession;

(b) a microenterprise;

(c) a charity other than a Non-Governmental Organisation (NGO); and

in cases where it is not clear whether an individual qualifies as a retail customer, in accordance with this definition, they must be treated as a retail customer.

PART 9 SAVINGS, REVOCATIONS, CITATION, AND COMMENCEMENT

...

SCHEDULE 1

THE PRINCIPLES OF CONDUCT OF FINANCE BUSINESS

...

10. Relations with Guernsey Financial Services Commission

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

SCHEDULE 2

GAP ANALYSIS

Areas that the manager should consider as part of its gap analysis should include, but are not limited to:

1. Resources required to manage the insurer effectively;
2. Knowledge and experience, including the risks of –
 - a. the products to be sold;
 - b. distribution channels;
 - c. the markets into which the products are sold;
 - d. claims handling;
 - e. reserving methodology; and
 - f. the relevant reinsurance market.