9/16/2015

A BILL

entitled

INSURANCE AMENDMENT (No. 3) ACT 2015

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WHEREAS it is expedient to amend the Insurance Act 1978, and to make consequential amendments;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Insurance Act 1978 (the "principal Act"), may be cited as the Insurance Amendment (No. 3) Act 2015.

Amends section 1

2 Section 1 (1) of the principal Act is amended—

(a) by inserting in the appropriate alphabetical order the following definitions—

"capital redemption contract" means a contract under which an insurer may receive and accumulate sums of money; and pay a sum or sums of money or render money's worth; on dates and in amounts that are not based on life contingencies of any person"; and "funding agreement" has a corresponding meaning;";

"Insurance Accounts Rules" means a prudential standard rule made by the Authority in accordance with the provisions of section 6A (f) of the Act;".

(b) in the definition of —

(i) "excepted long-term business" under sub-paragraph (b), by inserting after the word "1980" the words "and in accordance with the requirements of any Insurance Accounts Rules";

(ii) "minimum liquidity ratio" by inserting after the word "1980" the words "and in accordance with the requirements of any Insurance Accounts Rules";

(iii) "prescribed" by inserting the words "or rules made by the Authority in accordance with section 6A of this Act" after the word "regulations";

(iv) "total statutory capital" by inserting after the word "1980" the words "and in accordance with the requirements of any Insurance Accounts Rules";

(v) "total statutory capital and surplus" by inserting after the word "1980" the words "and in accordance with the requirements of any Insurance Accounts Rules".

(c) by deleting the definition of "solvency margin" and substituting the following—

"solvency margin" means, in relation to an insurer carrying on general business, the margin prescribed by regulation 11 of the Insurance Returns and Solvency Regulations 1980 and any requirements under the Insurance Accounts Rules and in relation to an insurer carrying on long-term business, the margin prescribed by regulation 13 of those Regulations and any requirements under the Insurance Accounts Rules";

(d) by inserting after sub-section (5), the following new sub-section—

"(6) For the purposes of this Act, a capital redemption contract or a funding agreement shall be deemed to be long-term business.";

Amends section 4F

3 Section 4F (1) of the principal Act is amended—

(1) in the definition of:

(a) "loss and loss expense provision" by inserting after the words " Regulations 1980" the words "for Class 1, Class 2, Class 3, Class A, Class B insurers and Special Purpose insurers and Insurance Account Rules for Class 3A, Class 3B, Class 4, Class C, Class D and Class E insurers";

(b) "net premiums written" by inserting after the words "Regulations 1980 the words "for Class 1, Class 2, Class 3, Class A, Class B insurers and Special Purpose insurers and Insurance Account Rules for Class 3A, Class 3B, Class 4, Class C, Class D and Class E insurers".

(2) by deleting the definition of "total assets" and substituting the following—

""total assets" in relation to Class C, Class D and Class E insurers means where such insurers maintain segregated accounts which:

(a) do not have recourse to the insurer's general account; or there are no financial transactions made between the segregated accounts of the segregated accounts company; the total assets reported on that insurer's balance sheet in the relevant year, less the amount held in any segregated account;

(b) have recourse to the insurer's general account; or there are financial transactions made between the segregated accounts of the segregated accounts company; the total assets reported on that insurer's balance sheet in the relevant year."

(3) by inserting in the appropriate alphabetical order the following definition—

"segregated accounts company"; has the meaning given under section 2 (1) of the Segregated Accounts Companies Act 2000;"

Amends section 6A

4 Section 6A (1) of the principal Act is amended by inserting the following paragraph after paragraph"(e)" —

"(f) statutory financial return.".

Amends section 14

5 Sections 14 (1) (ab) (ii) and (ab) (iii) of the principal Act are amended by inserting after the word "1980" "for Class 1, Class 2 and Class 3 insurers and Special Purpose Insurers and the requirements applicable under any Insurance Accounts Rules for Class 3A, Class 3B and Class 4 Insurers;".

Amends section 16A

6 Section 16A of the principal Act is amended—

(a) in sub-section (1) by inserting —

(i) the words “and additional GAAP financial statements” after the words “statutory financial statements” in paragraph (d);

(ii) the following new paragraph after paragraph “(e)” as follows —

“(f) For the purposes of subsection (1) (d), material significance for the discharge of the Authority’s functions for the purposes of this paragraph shall include, but is not limited to; the following:

(i) identification of a material misstatement in the insurer’s statutory financial statements or group financial statements resulting from fraud, error or illegal acts or the consequences of them; or

(ii) conclusion that there is substantial doubt as to the ability of the insurer to continue as a going concern for a period of one year from the balance sheet date; or

(iii) identification of adjustments to the group financial statements, which individually or in aggregate, indicates to him that the previous year’s audited annual financial statements, prepared according to GAAP, were materially misstated; or

(iv) identification of adjustments to the insurer’s financial statements, which individually or in aggregate, indicates to him that the previous year’s audited annual financial statements, were materially misstated; or

(v) identification of a material weakness in internal control or material conflicts of interest during the conduct of normal audit procedures; or

(vi) unresolved disagreements with management pertaining to the application of GAAP or statutory reporting.”;

(b) by repealing paragraph (1A).

Inserts section 16AA
7 The principal Act is amended by inserting the following new section after section 16A —

Auditor to be Bermuda based auditor

“(16AA) Notwithstanding the requirement under sub-section (1) for an insurer to appoint an auditor approved by the Authority; every insurer shall be required to appoint an auditor based in Bermuda.”.

Amends section 17A
8 Section 17A of the principal Act is amended by inserting the following new sub-section after sub-section (2) —

“(2A) (1) Notwithstanding sub-section(1), a Class 3A, Class C or Class D insurer may, where appropriate; submit condensed general purpose financial statements prepared in accordance with any Insurance Accounts Rules instead of additional GAAP financial statements.

(2) Sub-sections (3), (4) and (5) (as respects the appointment and approval of auditors and the filing of audited financial statements) shall apply mutatis mutandis in relation to condensed general purpose financial statements submitted by a Class 3A, Class C or Class D insurer in accordance with sub-paragraph (1).".

Amends section 32

9 Section 32 (4) of the principal Act is amended—

(a) in paragraph "(b") by deleting the word "insurer" and substituting the words "Class 1, Class 2, Class 3, Class A, Class B insurer or Special Purpose Insurer;";

(b) by inserting the following new paragraph after paragraph "(b)" as follows—

"(ba) an event specified under any Insurance Accounts Rules occurs in relation to an audit of a Class 3A, Class 3B, Class 4, Class C, Class D or Class E insurer and the approved auditor qualifies his report accordingly, expresses an adverse opinion or denies an opinion in accordance with such Rules;";

(c) in paragraph "(d)" by deleting the words "or regulations" and substituting ", regulations or rules;".

Amends section 41

10 Sections 41 (1) (v) and (vi) of the principal Act are amended by deleting the words "or the regulations" inserting the words "or regulations or rules".

Amends section 53

11 Section 53 (1) (i) of the principal Act is amended by inserting after the word "prescribed"; the words "that is not otherwise prescribed by prudential rules made by the Authority in accordance with section 6A of this Act;".

Consequential amendment

12 Schedule 1 which amends the Insurance Returns and Solvency Regulations 1980 and the Insurance Accounts Regulations 1980 has effect.

Commencement

13 This Act comes into operation on 1 January 2016 and applies to all financial years commencing on or after 1 January 2016.

SCHEDULE 1 (Section 3)

AMENDMENTS TO THE INSURANCE RETURNS AND SOLVENCY REGULATIONS 1980

1. The Insurance Returns and Solvency Regulations 1980 are amended—

(a) in paragraph 2 by inserting in the appropriate alphabetical order the following definition—

““insurer” means for the purposes of these Regulations (and except where the context otherwise requires); a Class A, Class B, Class 1, Class 2, Class 3 insurer or Special Purpose Insurer;”

(b) in paragraph 5 by—

(i) repealing sub-paragraph (1) (a) (iii);

(ii) repealing sub-paragraph (1) (d);

(iii) inserting after sub-paragraph (1) (e) the

“(f) annual statutory declaration;

(g) statement of changes of control;

(h) own risk assessment;

(i) underwriting analysis;

(j) schedule of segregated accounts”.”

(c) deleting paragraph 6 and substituting the following—

“6 The cover sheet shall—

(a) bear the name of the insurer and the title “Statutory Financial Return”;

(b) state the certificate of registration number;

(c) state the class(es) of registration;

(d) state the period covered by the return;

(e) state the currency in which amounts are shown in the insurer’s statutory financial statements and whether that currency is the currency in which those amounts are required by of regulation 10(2) of the Insurance Accounts Regulations 1980 to be shown;

(f) state the name of the insurer’s ultimate parent;

(g) state the name of the insurer’s parent company;

(h) state the industry sector of the insurer's parent;

(i) state the insurer's ownership structure; (for example: mutual company; company limited by shares; limited partnership; permit company; branch insurer; trust company; owned by a government or a government agency);

(j) state the insurer's company structure;

(k) state the nature of the insurance business carried on by the insurer, including but not limited to—

(i) whether the insurer is a member of an insurance group;

(ii) whether the insurer has segregated accounts;

(iii) whether the insurer is in run-off

(l) state the conditions, if any, which have been imposed on the insurer's registration under section 4 of the Act;

(m) state the particulars, if any, of any direction issued by the Authority;

(n) state the classes of business written and separated by Class of Business type, Gross Premium Written, Premium Ceded, Net Premium Written, Net Earned Premium, Net Known Loss & Loss Expense Provision, and Net Loss but Not Reported Loss & Loss Expense Provision;

(o) state any non-Bermuda branches or subsidiaries within the insurance group (if applicable);

(p) state the names of all of the insurer's directors; the effective date of appointment of each director; the effective date any director ceased to act; and the title and position held by any director (if applicable); and

(q) state the names of all of the insurer's officers; the effective start date of employment of all officers; date any officer ceased to act; and the title and position held by any officer.".

(d) in paragraph 7 by—

(i) repealing sub-paragraph (1) (d);

(ii) deleting the words "or the declaration of the statutory ratios" in sub-paragraph (3)(c).

(e) in paragraph 8 by repealing sub-paragraph (2) (f).

(f) in paragraph 8A by deleting the words “Part II” and substituting “Part IV”.

(g) in paragraph 10 by—

(i) deleting the words “figure C and figure D in sub-paragraph (1);

(ii) repealing sub-paragraph (1A).

(h) in paragraph 12 by repealing sub-paragraph (1A);

(i) inserting after paragraph 14A the following—

“Annual statutory declaration

14B An annual statutory declaration shall be signed by at least two directors of the insurer; and by the insurer’s principal representative in Bermuda and shall state whether—

(a) the information in the latest statutory financial return, including any supporting schedules and attachments; fairly represents the financial condition and position of the insurer in all material respects and are in compliance with the Act, any applicable regulations, Insurance Code of Conduct and any direction, condition or restriction imposed on the insurer by the Authority;

(b) the insurer has sufficient resources as at the date of the latest statutory balance sheet to enable the insurer to continue as a going concern; and to satisfy its obligations as and when they fall due for a period of twelve months post the relevant balance sheet date.”.

Statement of Changes of Control

14C The insurer shall provide a statement of changes of control relating to the relevant year which shall –

(a) confirm any change of an insurer’s shareholder controllers since the last statutory financial return;

(b) state the year end date;

(c) attach a register of shareholder controllers of the insurer confirming the following:

(i) any increase or decrease in the number of shareholder controllers;

(ii) changes to the position that a shareholder controller is appointed to or holds an office in;

(iii) changes in the ownership percentage of a shareholder controller (whether increase or decrease);

(iv) the date a person became a new shareholder controller;

(v) the date a person ceased to be a shareholder controller;

(d) state the name of the ultimate parent company;

(e) state the industry of operation of the ultimate parent company;

(f) state the jurisdiction and name of the direct parent company;

(g) state the jurisdiction of the ultimate parent company;

(h) state whether or not there has been any change of directors since the filing of the last statutory financial return; if yes, provide:

(i) the number of new directors;

(ii) the first and last name of each new director and his title;

(iii) date of birth;

(iv) the date a director was appointed;

(v) the date a director ceased to act.

(i) state whether or not a registered insurance manager has been appointed to manage the insurer's affairs. If no insurance manager has been appointed state:

(i) the number of officers of the insurer;

(ii) the title and first and last name of each officer ~~his~~;

(iii) date of birth of each officer;

(j) state whether or not there has been any change of officers since the filing of the last statutory financial return if yes, provide:

(i) the number of new officers;

(ii) the title and first and last name of each new officer ;

(iii) date of birth of each officer;

(iv) the date an officer was appointed;

(v) the date an officer ceased to act.

Own risk assessment

14D (1) The Insurer's own risk assessment shall provide -

(b) an overview of the insurance program (including but not limited to: affiliated; third party; source of business and details of policy limits or aggregate limits);

(c) details of any significant changes planned for the next 12 months;

(d) confirmation of fronting insurer(s) if applicable;

(e) details of any investment in and advances to Affiliates (over 10% of the amount stated on Line 4 of the statutory balance sheet) by including:

(i) name of affiliate;

(ii) nature of balance;

(iii) inter-company balances and obligations.

(f) details of any reinsurance by including:

(i) reinsurer(s) name;

(ii) premiums ceded;

(iii) paid loss recoverable;

(iv) reinsurance recoverable on loss expense provisions or insurance reserves.

(g) details of any collateral including but not limited to:

(i) collateral posted to contracts written to policy limits;

(ii) collateral (for example; funds withheld or letters of credit):

(iii) form of collateral;

(iv) amount of collateral provided;

(v) amount of assets encumbered.

(h) details of the number of employees of the insurer residing in Bermuda;

(i) details of the discount on loss reserves by:

(i) line of business;

(ii) discount rate or range of rates;

(iii) amount of discount on loss reserves.

(j) details of investments based on own risk assessment ("ORA") rate of:

	ORA rating Category	S&P	Moody's	AM Best	Fitch
1	ORA Rating 1	AAA	Aaa	A++	AAA
2	*ORA Rating 2*	*AA+ to AA-*	*Aa1 to Aa3*	*A+*	*AA+ to AA-*
3	ORA Rating 3	A+ to A-	A1 to A3	A	A+ to A-
4	ORA Rating 4	BBB+ to BBB-	Baa1 to Baa3	A-	BBB+ to BBB-
5	ORA Rating 5	BB+ to BB-	Ba1 to Ba3	B++ to B	BB+ to BB-
6	ORA Rating 6	B+ to B-	B1 to B3	B- to C+	B+ to B-
7	ORA Rating 7	CCC+ to CCC-	Caa1 to Caa3	C, C-	CCC+ to CCC-
8	ORA Rating 8	Below CCC-	Below Caa3	Below C-	Below CCC-

(k) details of known or notified legal actions, disputes or arbitration;

(l) risk register;

(m) risk appetite;

(n) investment guidelines.

Underwriting analysis

14E An insurer shall provide details of its underwriting analysis as follows:

(a) the statutory lines of general business written, as set out in Table A, by:

(i) gross premium written;

(ii) net premium written;

(iii) related gross premiums written;

(iv) unrelated gross premiums written;

(v) connected gross premiums written;

(vi) insurance premiums written;

(vii) reinsurance premiums written.

Table A

1	Accident and Health, Travel, Personal Accident
2	Agriculture
3	Asbestos
4	Aviation - Hull, Liability and War
5	Construction
6	Credit / Surety
7	Crime and Fidelity
8	Crime and Fraud
9	Cyber Risk
10	Energy - Onshore and offshore
11	Environmental Risk
12	General liability - Public, Products, Umbrella, Product recall

13	Life and Accident and Health (General Business approval)
14	Marine - P&I, Cargo, Hull and Liability, War
15	Medical Malpractice
16	Mortgage
17	Motor - APD and Liability
18	Political Risks
19	Professional Liability - Professional Indemnity, D&O, Bankers Blanket, E&O
20	Property Catastrophe
21	Property Damage and Business Interruption
22	Property Retro
23	Structured/Finite Reinsurance
24	Terrorism
25	Warranty, Residual Value
26	Workers Compensation/Employers Liability
27	Incidental long-term business (Not to be include if a composite license)

(b) details of geographical location of the general business gross premiums written.

(c) details of the statutory lines of long-term business written, as set out in Table B, by:

(i) gross premium written;

(ii) net premium written;

(iii) related gross premiums written;

(iv) unrelated gross premiums written;

(v) connected gross premiums written;

(vi) insurance premiums written;

(vii) reinsurance premiums written.

Table B

1	Mortality
2	Critical Illness
3	Longevity
4	Deferred Annuities
5	Disability Income: Active lives with premium guarantee of -
6	Less than or equal to 1 year
7	More than 1 year but less than 5 years
8	Greater than 5 years
9	Disability Income: Actives lives for other
10	accident and sickness
11	Disability Income: Claims in payment
12	Disability Income: Claims in payment for other
13	accident and sickness
14	Group Life

15	Group Disability
16	Group Health
17	Stop Loss
18	Rider
19	Variable Annuities

(d) details of geographical location of the long-term business gross premiums written.

Schedule of segregated accounts

14F An insurer shall provide the following information for each segregated cell by statutory lines of business written under the schedule of segregated accounts:

(a) the cell reference number;

(b) the name;

(c) total assets;

(d) total liabilities;

(e) statutory capital and surplus;

(f) cash and investments;

(g) net loss reserves;

(h) reinsurance recoverables;

(i) statutory lines of business written as set out in Tables A and B;

(j) gross premiums written;

(k) net premium written;

(l) currency used;

(m) whether or not there is any inter- relationship between segregated cells (including, but not limited to; contractual arrangements, reinsurance, guarantees, transfers or loans);

(n) whether or not there is access to the general account assets;

(o) the remedial actions or update on proceedings when a segregated cell is in deficit; is insolvent; or is subject to litigation."

(j) repealing paragraphs 13 and 14A.

(k) deleting Schedules I and II and substituting the following—

"SCHEDULE I

(Reg. 10(1))

GENERAL BUSINESS SOLVENCY MARGIN

Figure A

1. For the purposes of regulation 10, figure A has the following value in relation to the class of insurer indicated—

Class 1	$120,000
Class 2	$250,000
Class 3	$1,000,000

Figure B

2. (1) For the purpose of regulation 10, sub-paragraphs (2) and (3) set out the method of calculating figure B in relation to Class 1, Class 2, and Class 3 insurers.

(2) Where the net premiums—

(a) written by a Class 1, Class 2, or Class 3 insurer in its current financial year; or

(b) projected to be written by an insurer, on application for registration as a Class 1, Class 2, or Class 3 insurer, in its first financial year, do not, or (as the case may be) are not projected to, exceed $6,000,000, figure B shall be calculated as 20% of those net premiums.

(3) Where the net premiums—

(a) written by a Class 1, Class 2, or Class 3 insurer in its current financial year; or

(b) projected to be written by an insurer, on application for registration as a Class 1, Class 2, or Class 3 insurer; do not, or (as the case may be) are projected to exceed $6,000,000, figure B shall be calculated as $1,200,000 plus the following percentage of the net premiums written which exceed $6,000,000 in relation to the class of insurer indicated-

Class 1	10%
Class 2	10%
Class 3	15%

(4) In this paragraph, "net premiums written" in relation to any financial year means in relation to a Class 1, Class 2, or Class 3 insurer, the net amount, after deductions of any premiums ceded by the insurer for reinsurance, of the premiums written by the insurer in that year in respect of general business and "net premiums projected to be written" has a corresponding meaning.

Figure C

3. For the purposes of regulation 10, figure C shall be calculated as the following

percentage of the aggregate—

(a) of the amounts shown by the insurer in completing lines 17 and 18 of Form 1 or Form 1A (as applicable) in the Insurance Accounts Regulations 1980, or

(b) of those amounts as projected by the insurer on application for registration, in relation to the class of insurer indicated-

Class 1	10%
Class 2	10%
Class 3	15%

SCHEDULE III

(Reg. 12(1))

MINIMUM MARGIN OF SOLVENCY FOR LONG-TERM BUSINESS

Class	Minimum Margin of Solvency ('MMS')
A	greater of $120,000 or 0.5% of assets;
B	greater of $250,000 or 1% of assets;

where assets shall be the total assets reported on an insurer's balance sheet in the relevant year less the amount held in a segregated account."

AMENDMENTS TO THE INSURANCE ACCOUNTS REGULATIONS 1980

2. The Insurance Accounts Regulations 1980 are amended—

(a) in paragraph 3 by—

(i) deleting the word "regulations." after the word "other" and substituting the word "rules" in sub-paragraph (1);

(ii) inserting before the word "insurer" the words "Class 1, Class 2, Class 3, Class A or Class B" in sub-paragraph (3).

(b) in paragraph 4 by—

(i) deleting the words "1 and 2" and substituting "Form 1A and 2A" in paragraph (1);

(ii) repealing sub-paragraph (1A);

(iii) inserting before the word "insurer" the words "Class 1, Class 2, Class 3, Class A or Class B" in sub-paragraphs (2) and (3);

(iv) deleting the words " Form 1 or as the case may be," in sub-paragraph (3)(a);

(v) deleting the words " Form 2 or, as the case may be," in sub-paragraph (3)(b).

(c) in paragraph 5 by inserting before the word "insurer" the words "Class A and Class B".

(d) in paragraph 8 by—

(i) inserting before the word "insurer" the words "Class 1, Class 2, Class 3, Class A or Class B" in sub-paragraph (1);

(ii) repealing paragraph (2);

(iii) deleting the words "Class 3A, Class 3B, Class 4, Class A, Class B, Class C, Class D and Class E" and substituting the words "Class 1, Class 2, Class 3, Class A and Class B" in sub-paragraph (3).

(e) in paragraph 9 by—

(i) inserting before the word "insurer" the words "Class 1, Class 2, Class 3, Class A or Class B" in sub-paragraph (1);

(ii) repealing paragraphs (2) (a) and (b);

(iii) repealing paragraphs (3) (a) and (b);

(iv) deleting the words "Class 3A, Class 3B, Class 4, Class A, Class B, Class C, Class D and Class E" and substituting the words "Class 1, Class 2, Class 3, Class A and Class B" wherever they appear.

(f) in Schedule I by—

(i) repealing Forms 1 and 2;

(ii) deleting the words in the titles of Form 1A and Form 2A "Class 3A, Class 3B or Class 4" and substituting the words "Class 1, Class 2, Class 3";

(iii) deleting the words in Form 5 Line 34 "(INCREASE) DECREASE IN POLICY RESERVES (Actual Liabilities)"; and substituting the words "General Business: Class 1, Class 2, Class 3 Insurer";

(iv) deleting the words in Form 7 Line 4 "(INCREASE) DECREASE"; and substituting the words "(DECREASE) INCREASE".

(g) in Schedule II by—

(i) repealing Parts I and II;

(ii) deleting the title of Part V and substituting the following—

"Part V (Reg 8 (2))

Matters to be set forth in Notes to the Statutory Statement of Income-Class 1, Class 2, Class 3, Class A, Class B, section 24 (6) composite and Special Purpose Insurer";

(iii) deleting the title of Part VI and substituting the following—

"Part VI (Reg 8 (2))

Matters to be set forth in Notes to the Statutory Statement of Income-Class 1, Class 2, Class 3, Class A, Class B, section 24 (6) composite and Special Purpose Insurer".

(h) in Schedule III by—

(i) repealing Parts I and II;

(ii) deleting the title of Part IV and substituting the following—

"Part IV (Reg (2))

INSTRUCTIONS AFFECTING THE STATUTORY BALANCE SHEET- Class 1, Class 2, Class 3, Class A, Class B, section 24 (6) composite and Special Purpose Insurer".

(i) in Schedule IV by—

(i) repealing Parts I and II;

(ii) deleting the title of Part IV and substituting the following—

"Part IV (Reg (2))

INSTRUCTIONS AFFECTING THE STATUTORY BALANCE SHEET- Class 1, Class 2, Class 3, Class A, Class B, section 24 (6) composite and Special Purpose Insurer".

INSURANCE AMENDMENT BILL 2015

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Insurance Act 1978 (the "principal Act") by making a number of changes to the regulation of insurance business.

It seeks to address matters relating to aligning Bermuda's insurance framework to take into account Solvency II standards and initiatives; and technical amendments to enhance the supervisory and regulatory regime relating to Class 1, Class 2, Class 3, Class A and Class B insurers ("captive insurers").

Clause 1 provides a citation for the Bill and defines "principal Act" as the Insurance Act 1978.

Clause 2 makes provision for new definitions to be called "capital redemption contract" Insurance Accounts Rules; amends the definitions of "excepted long-term business"; "minimum liquidity ratio"; "prescribed"; "total statutory capital" and total statutory capital and surplus; replaces the definition of "solvency margin"; and provides for a new sub-paragraph (6) to be inserted which clarifies that a capital redemption contract or a funding agreement shall be deemed to be long-term business.

Clause 3 proposes to amend the definitions under section 4F relating to "loss and loss expense provision; "net premiums written"; substituting the definition of "total assets" and inserts a definition of "segregated accounts company".

Clause 4 proposes to amend section 6A to insert a new sub-paragraph "(f) statutory financial return"; as the Authority shall make a new prudential rule which shall require insurer classes 3A, 3B, 4, C, D and E ("commercial insurers") to submit annual financial returns in accordance thereof. Such measures are proposed in line with commitments of the jurisdiction to obtain Solvency II equivalence.

Clause 5 amends section 14 to make provision for the new Insurance Accounts Rule which will now apply to commercial insurers. All requirements currently imposed under the Insurance Accounts Regulations 1980 and the Insurance Returns and Solvency Regulations; shall be amended to remove reference to commercial insurers and shall now only capture captive insurers.

Clause 6 amends section 16A to legislate the previous "policy" position of the Authority in relation to the matters which the Authority shall take into account when the discharging its functions re “material significance” under paragraph (1) (e); and a new paragraph (2A) is proposed to be inserted to require auditors to keep copies of audit report working papers in Bermuda for at least 5 years.

Clause 7 inserts a new section 16AA which requires insurers to appoint an auditor (approved by the Authority and) which shall be based in Bermuda.

Clause 8 amends section 17A to allow for Class 3A, C or D insurers to submit instead of additional GAAP financial statements; “condensed general purpose financial statements”; which shall be prepared in accordance with requirements to be set out under a new insurance prudential standard rule. All existing requirements under paragraphs (3), (4) and (5) shall also apply to the submission of condensed general purpose financial statements by an aforementioned insurer.

Clause 9 amends section 32 by redefining the obligations in relation to captive classes only (as previously noted; the new statutory financial return reporting for all commercial insurers shall be prescribed in a new prudential standard rule).

Clause 10 proposes to amend section 41 by clarifying that such requirements shall also capture any rules made (to take into account the new statutory financial return reporting for all commercial insurers which shall be prescribed in a new prudential standard rule).

Clause 11 amends section 53 as a housekeeping measure to provide clarity that anything that is permitted or required to be prescribed under this section may be prescribed in regulations by the Minister; other than those matters prescribed by prudential rules made by the Authority under section 6A.

Clause 12 proposes to make provision for consequential amendments to the Insurance Returns and Solvency Regulations 1980 and the Insurance Accounts Regulations 1980.

Clause 13 provides for the commencement date of the Act.