19th June 2012

NOTICE

Insurance (Group Supervision) Amendment Rules 2012

The Insurance (Group Supervision) Rules 2011 (the "Rules") have been amended for clarity as follows:

1. As previously communicated, the Authority has determined that eligible capital instruments that meet the requirements of the Rules for inclusion in a particular tier of capital but for the requirement that the coupon payment on the instrument would be cancellable or deferrable indefinitely upon breach (or if it would cause a breach) in the ECR may continue to be included in the applicable tier until 1st January, 2024.

2. The terminology for delineating the nature of responsibilities of parent companies has been clarified.

3. The term insurance reserves has been defined for the purposes of reports by the group actuary *as the aggregate of amounts shown on line 17(d) and line 27(d) of form 1 in schedule 1 of these Rules.*

4. The compliance function has been reworded to provide more clarity as follows:
    a. *Compliance function is responsible for identifying, measuring, monitoring and reporting compliance risk across the insurance group and developing and implementing strategies for mitigating material compliance risk.*

5. The Audit Function has been reworded to provide more clarity. The rules regarding the internal auditor have been clarified in relation to independence and compensation.

6. Additionally there were small changes made to Schedule 1 with the addition of reinsurance receivables from both foreign and domestic affiliates and an expansion of the types of segregated accounts companies to be included.

7. In form 8 the type of preferred shares has been expanded to include shares issued by a subsidiary and schedule 2 changes the Group Actuary's Certificate to the Group Actuary's Opinion.

8. All other changes are minor housekeeping amendments.

9. Comments on the draft Rules are invited by 15th August 2012 and should be sent to policy@bma.bm

DRAFT
June 15, 2012

BERMUDA

INSURANCE (GROUP SUPERVISION) AMENDMENT RULES 2012

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

Citation

1. These Rules which amend the Insurance (Group Supervision) Rules 2011 (the "principal Rules") may be cited as the Insurance Group Supervision Amendment Rules 2012 and shall come into operation on January 1, 2013.

Amends Paragraph 2

2. Paragraph 2 of the principal Rules is amended by adding the following definition "insurance reserves" after the definition "fit and proper"-

> ""insurance reserves" comprise the aggregate of amounts shown on line 17(d) and line 27(d) of Form 1 of Schedule 1;".

Amends Paragraph 3

3. Paragraph 3 of the principal Rules is amended-

(a) by deleting the word "ensure" where it appears in subparagraph (2) and substituting the words "establish and maintain";

(b) by deleting the words "either on the group or the parent of the group" where they appear in subparagraph (4) and substituting the words "the group".

Amends Paragraph 4

4. Paragraph 4 of the principal Rules is amended –

(a) by adding after the word "establish" where it appears in subparagraph (3) the words "and maintain";

(b) by amending subparagraph (4) by –

(i) adding after the word "establish" where it appears in subparagraph (4) the words "and maintain";

(ii) deleting all the words after the words "financial operations";

(c) by adding after subparagraph (4) the following subparagraph –

"(4A) The compensation of persons responsible for the group internal audit function should not compromise their independence, and where an element of the compensation structure is performance based, the assessment should be based on the performance objectives of the function itself.".

(d) by adding after the word "establish" where it appears in subparagraph (5) the words "and maintain";

(e) by adding after the word "establish" where it appears in subparagraph (7) the words "and maintain".

Amends Paragraph 5

5. Paragraph 5 of the principal Rules is amended-

(a) by deleting the words "establish, maintain and review" where they appear in subparagraph (4) and substitute the words "establish and maintain";

(b) by deleting the words "for ensuring" where they appear in subparagraph (5) and substituting the words “must establish and maintain”;

(c) by deleting the words “ensuring that any deficiencies in performance are addressing in a timely fashion” where they appear in subparagraph (7)(e) and substituting the words “addressing in a timely manner any deficiencies in performance”.

Amends Paragraph 6
6. Paragraph 6 of the principal Rules is amended-

(a) by deleting the words “ensuring that any deficiencies in performance are addressed in a timely manner” where they appear in subparagraph (1) and substituting the words “addressing in a timely manner any deficiencies”;

(b) by deleting the words “must ensure” where they appear in subparagraph (2) and substituting the words “are responsible for staffing”;

(c) by deleting the words “must ensure that systems and controls are established that” where they appear in subparagraph (3) and inserting the words “are responsible for establishing”;

(d) by repealing subparagraph (4)(d) and substituting the following-

“(d) filing all required returns and financial statements in an accurate, complete and timely manner.”

Amends Paragraph 7
7. Subparagraph 7(4) is amended by adding after the words “persons performing equivalent roles” where they appear the words “for which the internal audit function has audit responsibility”.

Amends Paragraph 9
8. Paragraph 9 of the principal Rules is amended by repealing subparagraph (1) and substituting it with the following –

“(1) The compliance function is responsible for identifying, measuring, monitoring, and reporting compliance risk across the insurance group and developing and implementing strategies for mitigating material compliance risks.”

Amends Paragraph 10
9. Paragraph 10 of the principal Rules is repealed and substituted by the following:

“(1) The actuarial function is responsible for —

(a) assessing the appropriateness and reasonableness of methodologies and assumptions relating to obligations to policyholders;

(b) providing independent support to the risk management function in the modeling and estimation of current and potential obligations to policyholders and appropriate levels of reserves against those obligations;

(c) providing independent support to the risk management function by providing input into pricing, reserves and risk mitigation techniques including ceding reinsurance and the purchase of protection;

(d) evaluating and provide independent advice on insurance reserves and a comparison of estimated policyholder obligations to actual policyholder payments; and

(e) providing a written report to the parent board and other appropriate boards and committees at least annually.

(2) In evaluating insurance reserves, the actuarial function shall apply methodologies and procedures to assess their sufficiency, taking into consideration uncertainties of estimation and data limitations."

Amends Paragraph 11

10. Paragraph 11 of the principal Rules is amended-

(a) by deleting subparagraph (1) and substituting the following –

"(1) The risk management and internal controls framework of a group must be well integrated into the group's overall system of governance and must contain policies, procedures and processes for implementing the strategies and policies developed by the risk management function to identify, measure, monitor and control in a timely manner the material risks of the insurance group."

(b) by deleting the words "to the parent board" where they appear in subparagraph (4) and substituting the words "of the group".

Amends Paragraph 19

11. Paragraph 19 of the principal Rules is amended-

(a) by deleting subparagraphs (1) and (2) and substituting the following-

"(1) The insurance group must ensure that the value of the insurance group's assets exceeds the group's liabilities by the sum of –

(a) the aggregate minimum margin of solvency (MSM) of each qualifying member of the group controlled by the parent company; and

(b) where the parent company exercises significant influence over a member of the group but does not control the member, the parent company's percentage shareholding in the member multiplied by the member's MSM.";

(b) by deleting the abbreviations "US" and "UK" where they appear in subparagraph (4) and substituting the words "United States" and "United Kingdom", respectively.

Amends Paragraph 21

12. Paragraph 21 of the principal Rules is amended-

(a) by adding the words "or under rules made under section 6A of the Act" after the words "section 6D of the Act" where they appear in subparagraph 21(3)(a)(i);

(b) by deleting subparagraph (5)(b) and substituting the following –

“(b) the value deducted pursuant to subparagraph 21(3)(a)(ii) of these Rules;”;

(c) by deleting subparagraph (6)(vii);

(d) by deleting subparagraph (7)(vii);

(e) by amending subparagraph (9) by deleting the date “2018” and replacing it with “2024”.

Amends Paragraph 23
13. Subparagraph 23(11) of the principal Rules is repealed and replaced by the following-

“(11) Group Financial Statements shall be accompanied by an unaudited statement for public disclosure with respect to the group’s compliance with the MSM and ECR.”

Amends Paragraph 27
14. Paragraph 27 of the principal Rules is amended by deleting the words “loss expense” and substituting the words “insurance reserves”.

Amends Paragraph 29
15. Subparagraph 29(3)(b) of the principal Rules is amended by inserting the words “or subparagraph 3(4)” after the words “the Act”.

Amends Form 1
16. Form 1 of Schedule 1 of the principal Rules is amended-

(a) by deleting the word “company” in Line 7(a) and inserting the word “group”;

(b) by repealing Line 11 and replacing with the following-

“11.	REINSURANCE BALANCES RECEIVABLE		
(a)	Foreign Affiliates	XXX	XXX
(b)	Domestic Affiliates	XXX	XXX
(c)	Pools & associations	XXX	XXX
(d)	All other insurers	XXX	XXX
(e)	Total reinsurance balance receivable	XXX	XXX”;

(c) by repealing Line 13 and replacing with the following-

“13. SUNDRY ASSETS:

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(a) Derivative instruments XXX XXX

(b) Segregated accounts companies-

LT business –variable annuities XXX XXX

(c) Segregated accounts companies-

LT business - other XXX XXX

(d) Segregated accounts companies -

General business XXX XXX

(e) Deposit assets XXX XXX

(f) Other sundry assets XXX XXX

(g) Total sundry assets XXX XXX";

(d) by repealing Line 17(b) and replacing with the following-

"(b) Less: Reinsurance recoverable balance

(i) Foreign Affiliates XXX XXX

(ii) Domestic affiliates XXX XXX

(iii) Pools & associations XXX XXX

(iv) All other insurer XXX XXX";

(e) by repealing Line 27(b) and replacing with the following-

"(b) Less: Reinsurance recoverable balance on long-term business

(i) Foreign affiliates XXX XXX

(ii) Domestic affiliates XXX XXX

(iii) Pools & associations _____ _____

(iv) All other insurer XXX XXX";

(f) by adding the following after Line 31-

"32. Amounts due to affiliates XXX XXX";

(g) by amending the notes to Line 15 as follows –

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(i) by re-lettering the paragraph as "(a)" and adding the words "not securing policyholder obligations" after the words "total encumbered assets";

(ii) by adding after subparagraph (a) a new subparagraph as follows-

"(b) The details of the total encumbered assets for securing policyholder obligations including asset type, purpose of encumbrance, and amount shall be included.

Asset type	Amount of encumbrance
Cash	XXX
Total quoted investments	XXX
Total unquoted investments	XXX
Other asset types	XXX
Total assets encumbered	**XXX**"

Amends Form 2
17. Form 2 of Schedule 1 is amended as follows-

(a) by repealing Line 13 and replacing with the following –

"13. MINIMUM PREMIUMS CEDED XXX XXX";

(b) by repealing Line 30 and replacing with the following:

"30. COMBINED OPERATING EXPENSES

(a) General and administration XXX XXX

(b) Personnel cost XXX XXX

(c) Other XXX XXX

(d) Total combined operating expenses XXX XXX";

(c) by repealing the Notes to Line 37.

Amends Form 8

18. Form 8 of Schedule 1 is amended by repealing subparagraph (a)(ii) of Line 1 and replacing with the following-

“(ii) (A) Preferred shares:		
Authorized shares of par value		
each issued and fully paid shares	XXX	XXX
aggregate liquidation values for:	20XX	XXX
(ii)(B) Preferred shares issued by a		
subsidiary:	XXX	XXX
Authorized shares of par value		
each issued and fully paid shares	20XX	XXX
aggregate liquidation values for:	20XX	XXX”.

Amends Instructions to Group Statutory Balance Sheet

19. The “Instructions Affecting the Group Statutory Balance Sheet” for Form 1 is amended-

(a) by repealing the Instructions for Line 11 and replacing with the following-

“11. Reinsurance Balances Receivable	There shall be disclosed severally - (a) Foreign affiliates: reinsurance balance received from foreign affiliates (b) Domestic affiliates: reinsurance balance received from domestic affiliates (c) Pools and associations: Reinsurance balances receivables from pools and associations (d) All other insurers (e) Total reinsurance balances receivable: The total of (a) to (d) inclusive. ”;

(b) by repealing the Instructions for Line 13 and replacing with the following-

“13. Sundry assets

Any asset not accounted for in lines 1 to 12 and 14 may be included here if it has a readily realisable value except non-admitted assets (such as prepaid expenses, intangible assets, deferred tax assets). There shall be disclosed severally –

(a) Derivative instruments:

Derivative instruments with a favourable position shall be included here.

(b) Segregated accounts companies - LT business – variable annuities

(c) Segregated accounts companies - LT business – Others

(d) Segregated accounts companies – General business

(e) Deposit assets.

(f) Other sundry assets: Other assets not included above (such as unsettled sales of investments).

(g) Total sundry assets: The total of (a) to (d) inclusive.";

(c) by amending the Instructions for Line 17 by repealing subparagraph (b) and replacing with the following –

"(b) Less: Reinsurance recoverable balances (net of related provisions for uncollectible amounts): Unpaid and/or paid losses and loss expenses recoverable from -

(i) Foreign affiliates

(ii) Domestic affiliates

(iii) Pools and associations; and

(iv) All other insurers.";

(d) by amending the Instructions for Line 27 by repealing subparagraph (b) and replacing with the following:

"(b) Less: Reinsurance recoverable balance on long-term business: Unpaid and/or paid losses and loss expenses recoverable

(i) Foreign affiliates

(ii) Domestic affiliates

(iii) Pools and associations; and

(iv) All other insurers.".

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Amends Instructions to Group Statutory Statement of Income

20. The "Instructions Affecting the Group Statutory Statement of Income" for Form 2 is amended-

(a) by deleting the words "and other considerations" for the instructions for Line 13 and substituting with "Premiums ceded";

(b) by repealing the Instructions for Line 30 and replacing with the following-

"Combined operating expenses	This shall be disclosed annually (a) General and administration; (b) Personnel cost; (c) Other; and (d) Total combined operating expenses; this shall be the total of (a), (b) and (c)";

Amends Instructions to Group Statutory Statement of Capital and Surplus

21. The "Instructions Affecting the Group Statutory Statement of Capital and Surplus" for Form 8 is amended by repealing the instructions for Line 1(a)(ii) and replacing with the following-

"(a).(ii)(A) **Preferred shares:**

This shall comprise of preferred shares.

The aggregate liquidation value shall be disclosed.

(ii)(a)(B). **Preferred shares issued by a subsidiary:**

This shall comprise of preferred shares

issued by a member of a group. The aggregate

liquidation value shall be disclosed".

Amends Schedule 2

22. Schedule 2 of the principal Rules is amended-

(a) by amending paragraph 1 by-

(i) by adding the words "and the contact person" after the words "designated insurer" where they appear in subparagraph (b);

(ii) by adding the words "or paragraph 3(4)" after the words "section 32A of the Act" where they appear in subparagraph (d);

(b) by deleting the words "Opinion" where it appears in the title after paragraph 2 and substituting the word "Certificate";

(c) in paragraph 3 by-

(i) deleting the word “certificate” where it appears in subparagraphs (1) and (2) and substituting the word “opinion”;

(ii) by deleting the words “liabilities” where it appears in subparagraph (1) and substituting the words “insurance reserves”.

Made this day of 2012

Alan Cossar
Chairman
Bermuda Monetary Authority

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