

BERMUDA MONETARY AUTHORITY

INSURANCE DEPARTMENT

GUIDANCE NOTE #3

**FIT AND PROPER CRITERIA AND APPROVAL
PROCESS FOR LOSS RESERVE SPECIALISTS**

MARCH 2005

GUIDANCE NOTE: FIT AND PROPER CRITERIA AND APPROVAL PROCESS FOR THE LOSS RESERVE SPECIALIST

Introduction

- 1 The role of the Loss Reserve Specialist is integral to the Bermuda insurance supervisory model. The primary role of the approved Loss Reserve Specialist is to opine on the adequacy of the loss and loss expense provisions, reflected in insurers' statutory financial statements and statutory financial returns, and any other matters specified by the Bermuda Monetary Authority (the "Authority"). This opinion assists the Authority in monitoring the adequacy of loss and loss expense provisions of insurers, as at a certain date, based on information known as at the date of the preparation of the opinion. This Guidance describes the eligibility criteria and the approval process for the Loss Reserve Specialist of an insurer. The Guidance Notes are intended to provide information on the application of the Insurance Act and corresponding regulations.
- 2 The Authority recognizes the need for clarity as to the scope and implementation of the provisions of the Insurance Act and related regulations (the "Act")¹, if the regulatory system is to command the confidence of insurers and policyholders. It seeks, therefore, to ensure that those operating in Bermuda have a good understanding of the nature of the requirements and of the Authority's approach in implementing the Act.
- 3 While the Authority aims to provide clarity as to its approach, this Guidance Note is not intended to be exhaustive. The Authority, through the Guidance, hereby sets out its understanding of the legal provisions affecting the eligibility criteria and the approval process for Loss Reserve Specialists and to provide additional information about the Authority's regulatory approach and expectations regarding these matters.² Interpretation of statutes is ultimately a matter for the Bermuda courts. (The applicable sections of the Act are in brackets.)³

¹ The insurance legislation is comprised of the Insurance Act 1978 (as amended by the Insurance Amendment Acts, 1981, 1983, 1985, 1995, 1998 and 2001) and the regulations promulgated under that Act (the "Regulations"). The Regulations are the Insurance Accounts Regulations 1980 (as amended by The Insurance Accounts Amendment Regulations 1981, 1985 and 1989) and the Insurance Returns and Solvency Regulations 1980 (as amended by The Insurance Returns and Solvency Amendment Regulations 1981, 1985 and 1989). References herein to the "Act" are to the Insurance Act 1978 (as amended) and the Regulations.

² The legislative summary in this Guideline is not intended to be a substitute for provisions of the Act. The reader is advised to refer to the provisions of the Act and not to rely on the interpretation of those provisions contained in this Guideline.

³ "IA" means the Insurance Act 1978. "IAR" means the Insurance Accounts Regulations 1980. "IRASR" refers to the Insurance Returns and Solvency Regulations 1980.

- 4 Other guidelines issued by the Authority contain additional information related to the eligibility criteria and approval process for Loss Reserve Specialists.
- 5 The Authority's guidance is of general application and seeks to take account of the wide diversity of institutions that may be licensed under the Act. There may be a need for revision of the Guidance Notes from time to time. Material changes in the Guidance will be published, generally through the issue of revised versions.
- 6 Guidance should be understood as reflecting the minimum standard that the Authority expects insurers to observe at all times. For references in these Guidance Notes with respect to the changes in legislation contained in the Insurance Amendment Act 2004, insurers must take immediate steps to ensure they are in compliance with the Act. In relation to other matters contained in the Guidance Notes, the Authority encourages insurers to come into compliance as soon as possible and, in any event, not later than 31st December 2005 or a later date as may be agreed with the Authority in a particular case.

Application

- 7 This guidance applies to all insurers registered under the Act who carry on general business, and to all Loss Reserve Specialists approved by the Authority pursuant to the Act.

Definitions

- 8 **Loss Reserve Specialist.** A Loss Reserve Specialist is a natural person approved by the Authority as qualified to provide an opinion as to the adequacy of an insurer's loss and loss expense provisions for its General Business as reported in its statutory financial statements.

Fitness and Propriety of the Loss Reserve Specialist

- 9 Prior to appointing a candidate for Loss Reserve Specialist, the insurer must consider whether its candidate meets the eligibility criteria of the Authority and whether the candidate is fit and proper to fulfill its role. This requires considering whether, commensurate with the nature, scale and complexity of the insurer's business and the requirements and standards of the Act, the person possesses the appropriate integrity, competency, resources, qualifications and experience. Wherever appropriate, the insurer should seek confirmation of this in advance from the candidate.
- 10 If an insurer becomes aware at any time that its Loss Reserve Specialist is no longer fit and proper, the insurer must take timely steps to replace the Loss Reserve Specialist with a person who meets the eligibility and fit and proper criteria.

- 11 An insurer must provide information when requested by the Authority, to demonstrate that its candidate for Loss Reserve Specialist meets, or in the case of an incumbent Loss Reserve Specialist continues to meet, the eligibility and fit and proper criteria according to this Guidance Note.

Acceptance of an Engagement

- 12 Prior to accepting an appointment as the Loss Reserve Specialist, and on an on-going basis, the candidate must be satisfied that, given the scale and complexity of the business as written by the insurer, the estimation of the liabilities of the insurer pursuant to the Act is within the person's professional expertise and proficiency, and that the Loss Reserve Specialist is not subject to any conflicts of interests that would affect the Loss Reserve Specialist's ability to objectively fulfill his or her role.
- 13 A Loss Reserve Specialist may be an employee of or a consultant to the insurer. In these instances the Loss Reserve Specialist must disclose such a relationship to the Authority. Additionally the Loss Reserve Specialist must confirm in the Letter of Undertaking that the Loss Reserve Specialist is not subject to any actual, potential or perceived conflicts that may prevent the Loss Reserve Specialist from objectively fulfilling his or her role.

Criteria for Approval

- 14 Prior to approving a person as the Loss Reserve Specialist, the Authority will assess whether the Loss Reserve Specialist is fit and proper to fulfill the role required. Fit and proper criteria would include whether, commensurate with the nature, scale and complexity of the insurer's business and the requirements and standards of the Act, the person possesses the appropriate integrity, competency, resources, qualifications (including membership in relevant associations) and experience.
- 15 A person will generally be considered fit and proper if the person is:
- a) a member in good standing of the Institute of Actuaries (for England and Wales), the Faculty of Actuaries (in Scotland), the Canadian Institute of Actuaries, the American Academy of Actuaries, the Institute of Actuaries of Australia, or the Casualty Actuarial Society (in the US); and
 - b) meets the education and examination requirements to be considered qualified to sign Statutory loss reserve opinions for general business by their relevant association; and,
 - c) has experience in loss reserve evaluation for the business as written by the insured.
- 16 The Authority will not normally approve a loss reserve specialist unless the person meets the criteria as described in paragraph 15. Where an insurer, other

- than a Class 4 insurer, can demonstrate to the reasonable satisfaction of the Authority that circumstances exist as to why a person who should be approved as the Loss Reserve Specialist, and that the person otherwise has competency in loss reserve evaluation, appropriate for the insurer, and the person otherwise meets the fit and proper criteria, the Authority may use its discretion to approve the appointment of the person.
- 17 In the event that an insurer wishes to appoint a Loss Reserve Specialist who does not appear to meet the criteria of paragraph 15, the insurer should seek preliminary discussions with the Authority in order as to identify any issues that would need to be addressed prior to such an appointment.
- 18 When making an approval pursuant to paragraph 17, the Authority will give due regard to the particular circumstances, such as the business as written by the insurer to be opined on. Any such approval given will not be for more than 3 years.
- 19 While the Loss Reserve Specialist may be an employee of, or consultant to, the insurer, a person will not be approved as the Loss Reserve Specialist if the person is:
- the chief executive officer, the chief operating officer or the chief financial officer (or a person performing like functions for the insurer);
 - a director of the insurer;
 - a person with underwriting authority for the insurer; or,
 - a person in any other role with the insurer where in the view of the Authority there is a conflict of interests that would affect the Loss Reserve Specialist's ability to objectively fulfill its role.

Approval Process for Loss Reserve Specialist

- 20 Before the Authority will approve the appointment of a Loss Reserve Specialist, as part of the approval process the Authority will require the following information:
- A resume with information about relevant qualifications, including membership in professional associations, employment history and related work experience
 - Copies of certificates and confirming evidence from relevant associations attesting to the fact that the candidate is a member in good standing of the associations.
 - If applicable, a written explanation from the insurer explaining the reason for any change in the Loss Reserve Specialist
 - A Letter of Undertaking from the Loss Reserve Specialist

- If applicable, a written explanation from the previously approved Loss Reserve Specialist of the reasons for the revocation of his appointment by the insurer
- A resignation letter, if applicable, from the previous approved Loss Reserve Specialist

Certificate of Approval

- 21 The Authority will, upon approval of the candidate issue a certificate of approval. Such certificate may restrict the approval to current lines of business if the Loss Reserve Specialist has not demonstrated broad insurance expertise. Additionally the certificate will be limited to 3 years or less if the Loss Reserve Specialist does not meet the criteria of paragraph 15.

End of guidance note.

If you have questions on this or other guidance from the Insurance Department please email info@bma.bm . Please put "Insurance Guidance" in the title of your email.