

BERMUDA MONETARY AUTHORITY

INSURANCE DEPARTMENT

GUIDANCE NOTE #9

**FIT AND PROPER CRITERIA AND APPROVAL
PROCESS FOR APPROVED ACTUARY**

MARCH 2005

GUIDANCE NOTE: FIT AND PROPER CRITERIA AND APPROVAL PROCESS FOR THE APPROVED ACTUARY

Introduction

- 1 The role of the Approved Actuary is integral to the Bermuda insurance supervisory model. The primary role of the Approved Actuary is to opine on the adequacy of the Total Long-term Business Insurance Reserves, 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 Total Long-term Business Reserves 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 Approved Actuary 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, the Guidance Note is not intended to be exhaustive. The Authority, through the Guidance, hereby sets out its understanding of the legal provisions affecting the Approved Actuary and provides 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 role of the Approved Actuary.
- 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 a revised version.
- 6 Guidance should be understood as reflecting the minimum standard that the Authority expects Approved Actuaries 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 Approved Actuaries 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 Approved Actuaries 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 as Long-term insurers under the Act, and to all Approved Actuaries approved by the Authority pursuant to the Act.

Definitions

- 8 **Approved Actuary.** An Approved Actuary is a natural person approved by the Authority as qualified to provide an opinion as to the adequacy of an insurer's Total Long-term Business Reserves as reported in its statutory financial statements.

Fitness and Propriety of the Approved Actuary

- 9 Prior to appointing a candidate for Approved Actuary, 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 Approved Actuary is no longer fit and proper, the insurer must take timely steps to replace the Approved Actuary 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 Approved Actuary meets, or in the case of an incumbent Approved Actuary 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 Approved Actuary, 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 Approved Actuary is not subject to any conflicts of interests that would affect the Approved Actuary's ability to objectively fulfill his or her role.
- 13 An Approved Actuary may be an employee of or a consultant to the insurer. In these instances, the Approved Actuary must disclose such a relationship to the Authority. Additionally the Approved Actuary must confirm in the Letter of Undertaking that the Approved Actuary is not subject to any actual, potential or perceived conflicts that may prevent the Approved Actuary from objectively fulfilling his or her role.

Criteria for Approval

- 14 Prior to approving a person as the Approved Actuary, the Authority will assess whether the Approved Actuary 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 Society of Actuaries in the U.S., the Institute of Actuaries of Australia, or a person recognized by the Authority as an actuary;
 - b) meets the education and examination requirements to be considered qualified to sign Statutory reserve opinions for long-term business by their relevant association; and,
 - c) has experience in reserve evaluation for the long-term business as written by the insurer.

- 16 The Authority will not normally approve a person unless they meet the criteria as described in paragraph 15.
- 17 While the Approved Actuary may be an employee of, or consultant to, the insurer, a person will not be approved as the Approved Actuary 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 Approved Actuary's ability to objectively fulfill its role.

Approval Process for Approved Actuary

- 18 Before the Authority will approve the appointment of an Approved Actuary, 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 Approved Actuary.
 - A Letter of Undertaking from the Approved Actuary.
 - If applicable, a written explanation from the previously Approved Actuary of the reasons for the revocation of his appointment by the insurer.
 - A resignation letter, if applicable, from the previously Approved Actuary.

Certificate of Approval

- 19 The Authority will, upon approval of the candidate issue a certificate of approval. Such certificate may restrict the approval to specific lines of business if the Approved Actuary has not demonstrated broad insurance expertise.

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.