

Island of



Guernsey

## Ordinance of the States

**LV  
2014**

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Made ..... 10th December, 2014

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# **The Insurance Business (Bailiwick of Guernsey) (Amendment) Ordinance, 2014**



## **The Insurance Business (Bailiwick of Guernsey) (Amendment) Ordinance, 2014**

**THE STATES**, in pursuance of their Resolution of the 26<sup>th</sup> November, 2014<sup>a</sup>, and in exercise of the powers conferred on them by section 85 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, as amended<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

### **Amendment of the Insurance Business (Bailiwick of Guernsey) Law, 2002.**

1. The Insurance Business (Bailiwick of Guernsey) Law, 2002, as amended, is further amended as follows.

2. For section 7(2)(e) substitute the following paragraph -

"(e) the Commission is satisfied that the applicant will, upon being licensed, have capital resources which will enable it to comply with the relevant provisions of any rules of the Commission under sections 38A to 38C, unless the Commission proposes to modify the requirements of those provisions in respect of the applicant under section 30(2)".

3. In section 11(1)(b) for the words "other than those derivatives which

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<sup>a</sup> Article XIII of Billet d'État No. XIV of 2014.

<sup>b</sup> Ordres en Conseil Vol. XLII(2), p. 766; Order in Council No. XIII of 2010; Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXXIII, pp. 61 and 297; Ordinance No. VIII of 2010; No. XXXI of 2010; No. XXXVI of 2011; G.S.I. No. 33 of 2004; No. 4 of 2008; No. 15 of 2010; No. 83 of 2010.

are approved assets for the purposes of Schedule 2," substitute "except in accordance with the relevant provisions of any rules of the Commission under sections 38A to 38C,".

4. For section 11(5)(c) substitute the following paragraph -

"(c) the capital resources in respect of the company shall be calculated in such manner as the Commission may specify (which may differ from the relevant provisions of any rules of the Commission under sections 38A to 38C),".

5. For section 30 substitute the following section -

**"Capital resources of licensed insurer.**

30. (1) Subject to subsection (2), a licensed insurer shall at all times maintain capital resources in accordance with rules of the Commission under sections 38A to 38C.

(2) The Commission may by notice in writing served on an insurer, a class of insurers or insurers generally modify, subject to such conditions, if any, as may be specified in the notice, any prohibition, restriction or requirement relating to capital resources (including, without limitation, the calculation, maintenance and approval thereof) applicable in respect of that insurer, class of insurers or insurers and imposed by or under rules of the Commission under sections 38A to 38C; and for the purposes of this subsection, in deciding whether or not to modify the said prohibition, restriction or requirement, the Commission shall 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, complexity of business and business risks of the insurer or insurers concerned, and
- (d) any other information which is available to the Commission and which it considers relevant.

(3) The Commission may by notice in writing served on an insurer -

- (a) vary or rescind any modification made by it under this section, or
- (b) impose, vary or rescind any condition in respect of any such modification."

6. In section 31(1) for the words "the margin of solvency or approved asset requirements applicable to it by virtue of section 30" substitute "the capital resources requirements applicable to it by virtue of rules of the Commission under sections 38A to 38C".

7. In section 32(1)(a), (1)(b), (2) and (3) for "Minimum Capital Requirement" substitute "Capital Floor".

8. For section 33(2)(b) substitute the following paragraph -

- "(b) a calculation of the licensed insurer's capital

resources required to be maintained in accordance with rules of the Commission under sections 38A to 38C,".

9. In section 33(2)(f)(i) for the words "the margin of solvency and approved asset requirements" substitute "the capital resources requirements applicable to the licensed insurer by virtue of rules of the Commission under sections 38A to 38C".

10. For section 35(7)(b) substitute the following paragraph -

"(b) in the case of a licensed insurer the assets and liabilities of which are taken for the purposes of rules of the Commission under sections 38A to 38C (with the consent of the Commission given under those rules, where applicable) to include assets and liabilities of a subsidiary of that licensed insurer, accounts dealing with the state of affairs and the profit or loss of the licensed insurer and that subsidiary.".

11. For section 38B(b) substitute the following paragraph -

"(b) prescribe the manner in which licensed insurers must conduct, govern, manage and operate their business, and this includes, without limitation, matters relating to -

(i) corporate governance,

- (ii) internal controls and reporting,
- (iii) the holding of client and policyholder assets,
- (iv) financial resources,
- (v) technical provisions,
- (vi) capital requirements,
- (vii) liquidity requirements, and
- (viii) the calculation, maintenance and approval of anything described in subparagraphs (iv) to (vii),".

**12.** In section 46(b)(i) for the words "margin of solvency under this Law" substitute "capital resources required to be maintained in accordance with rules of the Commission under sections 38A to 38C".

**13.** In section 51(1) and (3) for the words "the margin of solvency requirement applicable to it by virtue of section 30" substitute "the capital resources requirements applicable to it by virtue of rules of the Commission under sections 38A to 38C".

**14.** After section 63(1)(i) insert the following paragraphs -

- "(ia) to modify, under section 30(2), any prohibition, restriction or requirement relating

to capital resources imposed by or under rules of the Commission under sections 38A to 38C,

(ib) to vary or rescind any modification made by the Commission under section 30(2),

(ic) to impose, vary or rescind any condition in respect of any such modification,".

15. In section 94(2)(d), for subparagraphs (iii), (iv) and (v) substitute the following paragraph -

"(iii) under or for the purposes of rules of the Commission under sections 38A to 38C, being an application relating to the capital resources requirements applicable by virtue of those rules (whether as enacted or as modified by the Commission under section 30(2)) including, without limitation, the calculation, maintenance and approval thereof.".

16. Schedule 2 is repealed.

17. In Schedule 5 -

(a) the definition of "approved assets" is repealed,

(b) after the definition of "capital base" insert the

following definition -

""**Capital Floor**"" shall be determined in accordance with rules of the Commission under sections 38A to 38C, whether generally or in any particular case or class of case,"

- (c) after the definition of "capital redemption contract" insert the following definition -

""**capital resources**"" shall be determined in accordance with rules of the Commission under sections 38A to 38C, whether generally or in any particular case or class of case,"

- (d) the definition of "Minimum Capital Requirement" is repealed,
- (e) the definition of "net premium income" is repealed, and
- (f) the definition of "Reserve Asset Requirement" is repealed.

#### **Repeal of regulations.**

18. The Insurance Business (Asset and Liability Valuation) Regulations, 2008<sup>c</sup> and the Insurance Business (Approved Assets) Regulations, 2008<sup>d</sup> are repealed.

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<sup>c</sup> G.S.I. No. 13 of 2008.

<sup>d</sup> G.S.I. No. 14 of 2008.

**Extent.**

19. This Ordinance has effect throughout the Bailiwick.

**Citation.**

20. This Ordinance may be cited as the Insurance Business (Bailiwick of Guernsey) (Amendment) Ordinance, 2014.

**Commencement.**

21. This Ordinance shall come into force on the day appointed by regulations of the States of Guernsey Policy Council.



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