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## THE INSURANCE BUSINESS RULES, 2021

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The Guernsey Financial Services Commission (“the Commission”), in exercise of the powers conferred on it by sections 6, 29, 33, 37, 38A, 38B, and 85 of The Insurance Business (Bailiwick of Guernsey) Law 2002<sup>1</sup> (“the Law”) makes the following Rules.

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<sup>1</sup> Order In Council No, XXI of 2002.

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## PART 1 INTRODUCTION

### 1.1 Application

- (1) The Insurance Business Rules 2021 replace The Insurance Business (Accounts, Annual Return and Approved Eurobonds) Regulations, 1987<sup>2</sup>, The Insurance Business (Licensing) Regulations, 2010<sup>3</sup>, The Insurance Business (Annual Return) Regulations, 2008<sup>4</sup>, The Insurance Business (Public Disclosure of Information) Rules, 2010<sup>5</sup>, The Insurance Business (Public Disclosure of Information) Rules, 2018, The Insurance Business (Duties of General Representatives) Regulations, 2008<sup>6</sup>, The Licensed Insurer's (Conduct of Business) Rules, 2018<sup>7</sup> and The Insurance Business (Special Purpose Insurer) Rules 2016.
- (2) The Commission may in its absolute discretion, by written notice to a licensee, exclude or modify the application of any provision of these Rules.
- (3) The Commission may issue supplementary guidance regarding the standards of conduct and practice expected in relation to any aspect of the regulatory framework. Such guidance will not constitute rules of the Commission.

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<sup>2</sup> G.S.I. No. 4 of 1987.

<sup>3</sup> G.S.I. No. 18 of 2010.

<sup>4</sup> G.S.I. No. 15 of 2008.

<sup>5</sup> G.S.I. No. 19 of 2010.

<sup>6</sup> G.S.I. No. 16 of 2008.

<sup>7</sup> G.S.I. No. 45 of 2018.

## PART 2 LICENSING

### 2.1 Application for licences

- (1) An application for a licence under section 6 of the Law must include –
  - (a) a fully completed application form; in the standard format determined by the Commission and as published on its website;
  - (b) the appropriate fee;
  - (c) details of ownership, including –
    - (i) sufficient information to confirm the ultimate ownership of the proposed applicant;
    - (ii) sufficient information to confirm the applicant's controllers;
    - (iii) a list of the applicant's current shareholders and proposed shareholders on licensing, if different;
    - (iv) an organisation chart; in sufficient detail to identify all holdings between the applicant and its ultimate holding company and all material associated parties with whom the applicant will trade;
    - (v) the latest audited financial statements of the applicant and, where applicable, the ultimate holding company and the controller;
    - (vi) a short narrative outlining the background of the ultimate holding company and controller;

- (vii) where a trust is involved in the ownership chain, the following –
  - (A) a copy of the trust deed;
  - (B) the names and current addresses of the beneficiaries;
  - (C) the names and current addresses of the settlors;
  - (D) the names and current addresses of the trustees; and
  - (E) the relationship of the settlors to the beneficiaries;
- (viii) the proposed method of capitalisation, whether by way of share capital, letter of credit, subordinated loans, or otherwise;
- (ix) any other information that is relevant to a full understanding of the control or ownership of the applicant; or as may be requested by the Commission;
- (x) in the case of protected cell companies (“PCCs”) this information must be provided for each new cell applicant unless approval has been given, on a product or class basis, and the Commission has confirmed, in writing, that such information is not required for new cells covered by the product or class approval;
- (d) a business plan, in the standard format determined by the Commission, including –
  - (i) financial projections, covering at least the first three years of operations of the applicant following licensing; to include appropriate stress and testing including –

- (A) forecast profit and loss account; broken down into a technical account and non-technical account;
  - (B) forecast balance sheet;
  - (C) forecast statement of solvency at each year end; and
  - (D) for long term business, forecast statement approved by an actuary;
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- (ii) a description of the nature of the risks which the applicant intends to write;
  - (iii) an explanation of the applicant's strategy for managing risks associated with carrying on insurance business, particularly in relation to reinsurance;
  - (iv) details of any loss history; identifying the source of the information and past actuarial studies, as appropriate;
  - (v) confirmation that financial projections are consistent with the loss history and actuarial studies and where these cannot be provided an explanation of why this is the case;
  - (vi) the rationale for setting up the company in the Bailiwick;
  - (vii) a summary of any proposed portfolio transfers together with an actuarial valuation establishing transfer value;
  - (viii) the investment policy to be adopted by the applicant together with the names of any investment managers to be utilised;
  - (ix) an outline, consistent with the business plan, of exposures to be underwritten, reinsurance to be obtained, and the dividend policy to be pursued, where known;

- (x) a summary of the reinsurance programme detailing –
  - (A) reinsurers;
  - (B) security ratings; and
  - (C) attachment points;
- (xi) for protected cell companies; where the cell applicant is to be reliant on the core for solvency, a solvency projection showing the allocation of core capital to all individual cells;
- (xii) for general business only –
  - (A) a summary of the fronting arrangements detailing fronters, security ratings, and commission structures;
  - (B) a summary of how loss reserves are to be calculated and accounted for;
- (xiii) for long term business only –
  - (A) the names and addresses of the parties providing services in relation to policyholder protection agreements;
  - (B) copies of the agreements between the parties in relation to the policyholder protection arrangements;
- (xiv) details of any other forms of business to be undertaken;
- (e) information required in respect of the applicant's personal and third party service providers including –

- (i) the names and addresses of the current and proposed –
  - (A) directors;
  - (B) officers;
  - (C) managers;
  - (D) general representative;
  - (E) consultants;
  - (F) money laundering reporting officer, where they are not the money laundering reporting officer of the general representative; and
  - (G) compliance officer, where they are not the compliance officer of the general representative;
- (ii) for all current and proposed directors, and general representatives, a Personal Questionnaire, in the standard format determined by the Commission, or a statement from the current or proposed general representative confirming that the Personal Questionnaire already held by the Commission is correct;
- (iii) the name, address, date of birth, qualifications, and employment history of insurance representatives to be authorised by the applicant;
- (iv) a copy of the auditor's acceptance to act for the applicant;
- (v) a copy of the actuary's acceptance to act for the applicant;
- (vi) details of any other relevant third party service providers; including claims handlers and loss adjusters;

- (f) the memorandum and articles of association;
- (g) the certificate of incorporation;
- (h) the details of the bank mandate signing powers; and
- (i) confirmation that share capital has been received and that letters of credit and subordinated loans are in place and available to the applicant.

## **2.2 Non-locally incorporated domestic insurers**

- (1) The Commission may, by written agreement, waive or modify these requirements in the case of an insurer writing only domestic business, within the Bailiwick of Guernsey, which is incorporated and regulated in another jurisdiction.

## PART 3 ANNUAL RETURNS

### 3.1 Annual returns

- (1) A licensed insurer's annual returns must include –
  - (a) an up-to-date business plan, including –
    - (i) for non-life business –
      - (A) a spreadsheet showing unaudited financial projections, in the standard format determined by the Commission, showing the anticipated operations of the licensed insurer for the twelve months following the financial year end to which the annual return relates;
      - (B) a written summary of the licensed insurer's proposed insurance programme with sufficient detail to fully describe the exposure accepted by them;
      - (C) a summary of the reinsurance programme; detailing the reinsurers, security ratings, and attachment points; and
      - (D) any other material factors that may be relevant to the regulation of the licensed insurer in the twelve months following the last financial year-end;
    - (ii) for life business –

- (A) a summary of the products to be offered and confirmation that the actuary has approved all such products in a form as specified by the Commission;
  - (B) a summary of the markets in which the products are to be offered;
  - (C) a valuation report prepared, by the actuary, in a form agreed with the Commission and in accordance with the standards set by the Commission;
  - (D) unaudited financial projections, in a form to be agreed with the Commission, showing the anticipated operations of the licensed insurer for the three years following the financial year-end to which the annual return relates; including premium volume, sums at risk, reinsurance, and capital requirements; and
  - (E) any other material factors that may be relevant to the regulation of the licensed insurer in the three years following the last financial year-end;
- (b) a completed declaration of reliance on reinsurers, in the standard format determined by the Commission, and, where a licensed insurer is a PCC, a separate declaration must be completed for each individual cell;
  - (c) a copy of the auditor's management letter or confirmation, from the general representative, that the auditors have confirmed that no auditor's management letter is required to be issued;
  - (d) a summary of the extent of adherence to the Corporate Governance principles set out in the Licensed Insurers' Corporate Governance Code;

- (e) a completed declaration signed by the general representative and in the standard format determined by the Commission;
- (f) a note explaining how the insurance reserves, including reserves in respect of incurred but not reported, or insufficiently reported, claims are calculated. Any actuarial report used for this purpose must be prepared in accordance with the standards set by the Commission; and
- (g) further financial information including –
  - (i) for a PCC; management accounts that include a breakdown by cell;
  - (ii) a summary of claims paid and outstanding, as at the end of the period covered by the annual insurance return, in a form agreed, with the Commission, as appropriate to the underwriting activity; and
  - (iii) a schedule of bank deposits and investments broken down by asset class.

### **3.2 Consolidated accounts**

- (1) Where the Commission has imposed a condition on a licensed insurer requiring the preparation of consolidated accounts, it may require all or any of the information and documents, required under this Part, to be prepared and submitted on a solo and consolidated basis.

### **3.3 Annual returns in a non-standard format**

- (1) The Commission may, on application, consider the acceptance of the annual returns in a format other than the standard format. Non-standard format annual returns will only be accepted following written confirmation from the Commission.

## PART 4 PUBLIC DISCLOSURE OF INFORMATION

### 4.1 Application of Part 4

- (1) This Part does not apply to –
  - (a) Category 5 licensed insurers as categorised under the Insurance Business (Solvency) Rules 2021 (“Solvency Rules”);
  - (b) Category 6 licensed insurers as categorised under the Solvency Rules;
  - (c) PCCs; or
  - (d) licensed insurers not incorporated in the Bailiwick.
  
- (2) In this Part, “relevant insurer” means a licensed insurer other than –
  - (a) a Category 1 licensed insurer, Category 2 licensed insurer, Category 3 licensed insurer, or Category 4 licensed insurer, as categorised under the Solvency Rules, with either –
    - (i) annual gross written premium income not exceeding £500,000;  
or
    - (ii) gross assets not exceeding £2,500,000,

providing that, if the insurer is in run off, by which it is no longer taking on new business but still has outstanding liabilities to existing policyholders, it would have met these conditions in its last full year of underwriting;

- (b) a licensed insurer that has reinsured 75% or more of its insurance risk with a group insurer and where that insurance group makes public disclosures equivalent to those required in these Rules;
- (c) a Category 2 licensed insurer or a Category 4 licensed insurer, as categorised in Solvency Rules and writing insurance for related group insurers only;
- (d) a Category 2 licensed insurer or a Category 4 licensed insurer, as categorised under the Solvency Rules and writing a single class of reinsurance for one fronting insurer in relation to a specific product or arrangement; or
- (e) a licensed insurer with a small number of commercial policyholders only.

#### **4.2 Public disclosure of information**

- (1) A relevant insurer with a website must publish its annual audited financial statements, together with the information set out in Schedule 1, on that website. This information must be available for a minimum period of three years from the filing date.
- (2) A relevant insurer may withhold, redact, or summarise, all or any part of the information required by this rule where –
  - (a) the disclosure of such information would enable their competitors to gain undue advantage or otherwise cause detriment;
  - (b) there are obligations to policy holders, or other counterparty relationships, binding the relevant insurer to secrecy or confidentiality;
  - (c) the disclosure of such information would prejudice their position by making confidential information public; or

- (d) where the disclosure of such information is prohibited by any jurisdiction's legislation; or it breaches a direction issued by the Commission or any other relevant overseas authority.
- (3) Where a relevant insurer withholds, redacts, or summarises any information, in accordance with this rule, they must provide the Commission with written notification, explicitly approved by their board of directors, of the information to be withheld, redacted, or summarised and the reason why this is necessary.
- (4) A relevant insurer must file, with the Commission, on or before the filing date an electronic version of the relevant information.
- (5) A relevant insurer must publish the relevant information within fourteen days of the date of filing the relevant information with the Commission.

#### **4.3 Disclosure of information to persons with a valid interest**

- (1) A licensed insurer, to which this Part applies, must make its annual audited financial statements available to persons with a valid interest; including current and prospective policyholders and professional advisers.

#### **4.4 Disclosure policy**

- (1) A licensed insurer must prepare, and keep periodically under review, a disclosure policy that –
  - (a) identifies the parties responsible for drafting and reviewing the disclosures;
  - (b) sets out the processes for completion of the various disclosure requirements; and for review and approval by management;

- (c) identifies necessary disclosures, additional to the financial statements, and the method of disclosure of such information; and
- (d) identifies the specific information for which the disclosure is withheld and the basis on which the information has been withheld.

## **PART 5 DUTIES OF GENERAL REPRESENTATIVES**

### **5.1 Duties of general representatives**

- (1) A general representative of a licensed insurer must –
  - (a) act as the principal point of contact within the Bailiwick for all communications with the Commission;
  - (b) be responsible, on behalf of the licensed insurer, for filing the licensed insurer's annual return and business plan;
  - (c) be responsible for monitoring and reporting to the Commission on the licensed insurer's compliance with–
    - (i) the business plan filed;
    - (ii) any conditions or directions issued by the Commission;
    - (iii) Part 7 (Conduct of Business), where appropriate, and any other relevant legislation, Code of Conduct or Code of Practice;
    - (iv) The AML and CFT Handbook and any other anti-money laundering procedures and guidelines imposed by the Bailiwick; and
    - (v) solvency requirements imposed by law or the Commission;
  - (d) where appropriate, provide a money laundering reporting officer, resident in the Bailiwick, on behalf of the licensed insurer;
  - (e) where appropriate, provide a money laundering compliance office, resident in the Bailiwick, on behalf of the licensed insurer;

- (f) ensure that adequate books and records, in relation to the business of the licensed insurer carried out through its place of business in the Bailiwick, are maintained in the Bailiwick and available for inspection by the Commission;
- (g) be responsible for marketing literature and advertisements issued in or from within, the Bailiwick by that licensed insurer; and
- (h) be responsible for maintaining a register of any complaint made against the licensed insurer, in respect of business conducted in the Bailiwick, acting as the initial point of contact and address for such complaints.

## **5.2 Communication to the Commission**

- (1) The provisions of section 82(4) of the Law apply in respect of communications between the general representative and the Commission as they apply in respect of communication between an auditor, or actuary of a licensed insurer, and the Commission.

## **5.3 Power of the Commission to impose conditions**

- (1) The Commission may, at its discretion, at the time of granting a licence to an insurer, impose upon the general representative further duties or responsibilities in relation to that licensed insurer as a condition of the licence.

## **5.4 Waiver or modification of requirements**

- (1) The Commission may, at its discretion, agree to waive or modify any provisions of this Part.

## PART 6 SPECIAL PURPOSE INSURERS

### 6.1 Controllers, collateral, and participation

- (1) Special purpose insurer may only raise capital for underwriting –
  - (a) from qualified investors; whether via subscription for, or purchase of, debt or equity instruments or otherwise;
  - (b) by listing of securities; whether debt, equity, or derivative instruments, issued by the special purpose insurer on an investment exchange licensed by the Commission or a recognised investment exchange; or
  - (c) by such other means, or from such other persons, as may be approved in writing by the Commission.
- (2) The capital utilised for underwriting, by a special purpose insurer, may include the following contingent assets, as approved by the Commission –
  - (a) Type 1 letters of credit;
  - (b) reinsurance;
  - (c) partly paid shares.

## 6.2 Applications, consents, and requirements

- (1) An applicant for the licensing of a new insurer, or the creation of a new cell, which meets the definition of a special purpose insurer, must notify the Commission within the relevant application. It must provide the Commission with any information necessary to demonstrate compliance with this Part, the Law, and any associated legislation or codes.
- (2) Upon application by a PCC, the Commission may grant a single consent for the formation of further special purpose insurer cells, whether generally or limited in extent, without further or additional application to the Commission, providing the following conditions apply –
  - (a) that the business of initial and further cells complies, and will continue to comply, with the terms and limits of the business plan submitted to the Commission;
  - (b) that the ownership of further cells will be restricted to owners of the cells of the special purpose insurers previously approved;
  - (c) that, within seven calendar days of the effective date of insurance underwritten by a further cell, the general representative of the special purpose insurer must notify the Commission and provide them with –
    - (i) a completed application form in such form as the Commission prescribes;
    - (ii) a narrative business plan;
    - (iii) the relevant fee; and
    - (iv) confirmation of the effective date of insurance.
- (3) The authorisation of at least one Guernsey resident signatory is required for all bank payments made by a special purpose insurer.

## **PART 7 CONDUCT OF BUSINESS**

### **7.1 Application of Part 7**

- (1) Part 7 applies to all Category 1 and Category 3 licensed insurers with respect to business with retail customers.

### **7.2 Due skill, care, and diligence when dealing with customers**

- (1) A licensed insurer must act with due skill, care, and diligence when dealing with customers.
- (2) A licensed insurer must have policies and procedures in place to ensure that employees and agents meet high standards of ethics and integrity and act with due skill, care, and diligence when dealing with customers.

### **7.3 Fair treatment of customers**

- (1) A licensed insurer must establish and implement policies and procedures on the fair treatment of customers as an integral part of its business culture.
- (2) A licensed insurer must adopt the fair treatment of customers as an integral part of their business culture and policies and procedures, to support this objective, must be properly embedded in the organisation.

### **7.4 Conflicts of interest**

- (1) A licensed insurer must avoid, or properly manage, any potential conflicts of interest.

- (2) A licensed insurer must take all reasonable steps to identify and avoid, or properly manage, conflicts of interest in its dealings with customers and must communicate these through appropriate policies and procedures.
- (3) Where conflicts of interest cannot be managed satisfactorily the licensed insurer must decline to act.
- (4) In cases where the Commission have concerns about the ability of a licensed insurer to manage conflicts of interest adequately, the Commission may consider requiring other measures.

#### **7.5 Dealing with intermediaries to ensure the fair treatment of customers**

- (1) A licensed insurer must have arrangements in place, in dealing with intermediaries, to ensure the fair treatment of customers.
- (2) A licensed insurer conducting business with intermediaries must do so only with intermediaries that are licensed in the Bailiwick or, if outside the Bailiwick, licensed in their home jurisdiction where such a licensing regime is in place.
- (3) Where a licensed insurer grants term of business to intermediaries they must –
  - (a) have in place a documented procedure for the appointment of new intermediaries;
  - (b) verify that the intermediaries have the appropriate knowledge and ability;
  - (c) establish that the intermediaries, both generally and in respect of their dealings with the licensed insurer, comply with applicable laws and regulatory requirements which are relevant to the services being provided to the customer;

- (d) have an application form, completed and signed by the intermediary, applying for introducer terms. The application form will require the applicant to disclose certain facts about its directors, its principals, and its partners, and as a minimum must include –
  - (i) verification of identity; and
  - (ii) experience and qualifications;
- (e) have a terms of business agreement, completed and signed by the intermediary applying for introducer terms, setting out that the intermediary –
  - (i) warrants that the agreement does not breach the provisions of the laws of the Bailiwick, or any other legal obligation in any relevant jurisdiction;
  - (ii) will only act as agent of the customer and not for or on behalf of the licensed insurer;
  - (iii) will observe the conditions of the agreement at all times; and
  - (iv) will clearly explain the risks inherent in the product to the customer;
- (f) ensure that the terms of business agreement promotes the fair treatment of customers and clarifies the respective roles of the licensed insurer and the intermediary including, where relevant –
  - (i) product development;
  - (ii) product promotion;
  - (iii) the provision of pre-contractual and point of sale information to customers;

- (iv) post sale policy servicing;
  - (v) claims notification and handling;
  - (vi) management information and other documentation required by the licensed insurer;
  - (vii) remedial measures; and
  - (viii) any other matters related to the relationship with customers;
- (g) require an intermediary outside the Bailiwick to further warrant that they will maintain every obligatory licence, authorisation, and registration and comply with, or procure compliance by its officers and agents with, all applicable laws and regulations of jurisdictions where they operate; and
  - (h) take measures to monitor the performance of the intermediary including; quality of the business, persistency of the business, anticipated and actual levels and patterns of business, financial exposure to the intermediary, and complaints made against the intermediary.

## **7.6 Development and distribution of insurance products**

- (1) A licensed insurer must take into account the interests of different types of consumers when developing and distributing insurance products.
- (2) A licensed insurer must ensure that products and distribution strategies are developed in accordance with the following principles –
  - (a) development of products and distribution strategies must include the use of adequate information to assess the needs of different consumer groups;

- (b) product development, including a product originating from a third party, must provide for a thorough assessment of the main characteristics of a new product, and of the related disclosure documents, by every appropriate department of the licensed insurer;
- (c) before bringing a product or service to the market, the licensed insurer must carry out a diligent review and testing of the product in relation to its business model, the existing rules and regulations, and its risk management approach. The policies, procedures, and controls put into place must enable the licensed insurer to –
  - (i) offer a product that delivers the reasonably expected benefits;
  - (ii) target the customers for whose needs the product is likely to be appropriate whilst preventing, or limiting, access by customers for whom the product is likely to be inappropriate;
  - (iii) ensure that distribution methods are appropriate for the product, particularly in light of the legislation in force, and whether or not advice should be provided;
  - (iv) assess the risks resulting from the product by considering changes associated with the financial environment, or stemming from the licensed insurer's policies, that could harm customers; and
  - (v) monitor a product after its launch to ensure it still meets the needs of target customers; assess the performance of the various methods of distribution used, with respect to sound commercial practices, and take the necessary remedial action;
- (d) a licensed insurer must provide relevant information, to its intermediaries, to ensure that they understand the target market, reducing the risk of mis-selling;

- (e) a licensed insurer must seek information from its intermediaries on the types of customers to whom the product meets the needs of in that target market, in order to enable the licensed insurer to assess whether its target market is appropriate and to revise its distribution strategy for the product, or the product itself, when needed.

## **7.7 Promotion of products and services in a manner that is clear, fair, and not misleading**

### **7.7.1 Introduction**

- (1) A licensed insurer must promote products and services in a manner that is clear, fair, and not misleading.

### **7.7.2 General promotion**

- (1) A licensed insurer must ensure that any materials promoting or advertising its products or services –
  - (a) are clear, fair, and not misleading;
  - (b) do not contain any statement, promise, or forecast which is untrue;
  - (c) are not designed in such a way as to distort or conceal any relevant subject material;
  - (d) are clearly recognisable as an advertisement;
  - (e) are easily understandable;
  - (f) accurately identify the product provider;
  - (g) include the regulatory status of the licensed insurer;

- (h) are consistent with the coverage offered;
  - (i) are consistent with the result reasonably expected to be achieved by the customers of that product;
  - (j) state prominently the basis for any claimed benefits and any significant limitations;
  - (k) do not hide, diminish, or obscure important statements or warnings;
  - (l) where appropriate, state that the investment value is not guaranteed or that the value may fluctuate, and;
  - (m) in the case of long term business –
    - (i) do not employ phrases such as “tax-free” or “tax-paid” without making clear which taxes are being referred to;
    - (ii) do not contain information about past performance unless it contains a warning that past performance is not necessarily a guide to future performance; and
    - (iii) where appropriate, state that a whole of life or endowment policy is intended to be a long term contract and that surrender values, especially in early years, are frequently less than the total amount of premiums paid.
- (2) The above requirements apply to information upon which intermediaries may also rely.

### 7.7.3 Independent review

- (1) Before a licensed insurer promotes or advertises an insurance product it must take reasonable steps to ensure that the information provided is accurate, clear, and not misleading.

- (2) Procedures must provide for an independent review of promotional material intended for customers other than by the person or organisation that prepared or designed it.

#### 7.7.4 Inaccurate, unclear, or misleading material

- (1) If a licensed insurer becomes aware that the promotional or advertising material is not accurate and clear, or is misleading, it must –
  - (a) inform the party responsible for that material;
  - (b) withdraw the material; and
  - (c) notify any person that it knows to be relying on the information as soon as reasonably practicable.

#### 7.7.5 Overseas promotion and advertising

- (1) A licensed insurer must take all reasonable steps to ensure that, in addition to compliance with these Rules, any form of promotion or advertising outside the Bailiwick is in accordance with the legislation in force in that country or territory.

### **7.8 Provision of timely, clear, and adequate pre-contractual and contractual information to customers.**

- (1) A licensed insurer must provide timely, clear, and adequate pre-contractual and contractual information to customers.
- (2) The licensed insurer must take reasonable steps to ensure that a customer is given appropriate information about a product in order that the customer can make an informed decision about the arrangements proposed.

- (3) Where a licensed insurer uses intermediaries for the distribution of insurance products they must be satisfied that the intermediaries are providing information, to customers, in a manner that will assist them in making an informed decision.
- (4) The information provided must be sufficient to enable customers to understand the characteristics of the product they are buying and help them understand whether it meets their requirements.
- (5) While the level of product information required may vary, it must include information on the key features including, where appropriate –
  - (a) the name of the licensed insurer, its legal form, and the group to which it belongs;
  - (b) the type of insurance contract on offer; including the policy benefits;
  - (c) a description of the risk insured by the contract and of the excluded risks;
  - (d) the level of the premium, the due-date, and the period for which the premium is payable; the consequences of late or non-payment; and provisions for premium reviews;
  - (e) the type and level of charges to be deducted from, or added to, the quoted premium; and any charges to be paid directly by the customer;
  - (f) the circumstances in which interest would accrue after the insurance has matured;
  - (g) whether or not there are rights to surrender values in the contract and, if so, what those rights are;
  - (h) when the insurance cover begins and ends; and

- (i) prominent and clear information on significant or unusual exclusions or limitations. A significant exclusion or limitation is one that would tend to affect the decision of consumers generally to buy. An unusual exclusion or limitation is one that is not normally found in comparable contracts. In determining what exclusions or limitations are significant, a licensed insurer must consider the exclusions or limitations that relate to the significant features and benefits of a policy and factors which may have an adverse effect on the benefit payable under it.
  
- (6) Where an intermediary is not used for the distribution of insurance products the licensed insurer must seek to gather sufficient information so that adequate disclosure or, where appropriate, a fair presentation of risk can be made by the customer.
  
- (7) "Fair presentation of risk" means to disclose every material circumstance which the customer knows, or ought to know, or to provide the licensed insurer with sufficient information to put that insurer on notice that it needs to make further enquiries for the purpose of revealing those material circumstances. In relation to disclosure of a circumstance "material " means it would influence the judgment of a prudent insurer in determining whether to accept the risk and on what terms.
  
- (8) A licensed insurer, conducting long term business, must provide a cancellation notice to long term policyholders offering the policyholder an appropriate cooling off period.

## 7.9 Advice

- (1) Where a licensed insurer provides advice to a customer in relation to an insurance contract they must take into account the customer's disclosed circumstances.
  
- (2) Where a licensed insurer engages an intermediary in relation to the provision of insurance contracts, and the intermediary provides advice to a customer in relation to an insurance contract, the licensed insurer must require that the intermediary take into account the customer's disclosed circumstances.

## 7.10 Servicing and disclosure in relation to policies

### 7.10.1 Introduction

- (1) A licensed insurer must –
  - (a) service policies appropriately, through to the point at which all obligations under the policy have been satisfied;
  - (b) disclose, to the policyholder, information on any contractual changes during the life of the contract; and
  - (c) disclose, to the policyholder, further relevant information depending on the type of insurance product.
- (2) A licensed insurer must satisfy its obligations, under a policy, in an appropriate manner and in accordance with the contractually agreed terms and legal provisions. This must include fair treatment in the case of switching between products or an early cancellation of a policy.
- (3) Licensed insurers must maintain a relationship with the customer throughout the policy lifecycle.
- (4) Where there is an ongoing relationship between the customer and the intermediary, the licensed insurer remains ultimately responsible for servicing policies throughout the lifecycle and ensuring that intermediaries have appropriate policies and procedures in place, in respect of the policy, servicing activities that they perform on the licensed insurer's behalf.
- (5) Information which must be disclosed to the policyholder includes –
  - (a) any change in the name of the licensed insurer, its legal form, or the address of its head office and any other offices, as appropriate;
  - (b) any acquisition, by another undertaking, resulting in organisational changes as far as the policyholder is concerned; and

- (c) where applicable, information on a portfolio transfer; including policyholder's rights in this regard.
- (6) Licensed insurers must provide evidence of cover to the policyholder, including policy inclusions and exclusions, promptly after inception of a policy.
- (7) Information to be provided by or on behalf of a licensed insurer on an ongoing basis, including changes in policy terms and conditions or amendments to the legislation applicable to the policy, will vary by type of policy.
- (8) The licensed insurer must provide, or must ensure that the intermediary provides, the following information to a retail customer regarding products with an investment element, at least annually which, at a minimum, include
  - (a) participation rights in surplus funds;
  - (b) basis calculation and state of bonuses;
  - (c) the current surrender value;
  - (d) premiums paid to date; and
  - (e) for unit-linked life insurance; a report on the performance and investment strategy of each underlying investment fund and a statement of changes of the investments, including the number and value of the units and movements during the past year, administration fees, taxes, charges, and current status of the portfolio of investments underlying the insurance contract.
- (9) The above requirements do not apply to the licensed insurer, in respect of a customer, where the customer has self-service access to a statement service.

- (10) Where there are changes in terms and conditions, the licensed insurer must notify the policyholder of their rights and obligations regarding such changes and obtain the policyholder's consent as appropriate.

#### 7.10.2 Renewal notices

- (1) A licensed insurer, in respect of general insurance business only, must –
  - (a) not unduly withhold renewal notices if they are ordinarily used; and
  - (b) ensure that renewal notices contain a warning about the duty of disclosure; including the necessity to advise changes affecting the policy which have occurred since the policy inception or last renewal date, whichever was the later.

### 7.11 Timely, fair, and transparent claims handling

#### 7.11.1 Introduction

- (1) A licensed insurer must handle claims in a timely, fair, and transparent manner.
- (2) A licensed insurer must have fair and transparent claims handling and claims dispute resolution policies and procedures in place.
- (3) Licensed insurers must maintain written documentation on their claims handling procedures which include all steps from the claim being raised to its settlement. Such documentation may include expected timeframes for these steps, which might be extended in exceptional cases.
- (4) A licensed insurer must ensure that –
  - (a) claimants are informed about procedures, formalities, and common timeframes for claims settlement;

- (b) claimants are given information about the status of their claim in a timely and fair manner;
  - (c) claim-determinative factors such as depreciation, discounting, or negligence are illustrated and explained in clear language to claimants. The same applies where claims are denied in whole or in part.
- (5) A licensed insurer must ensure that the claims assessment process is fair. At the minimum this requires avoidance of conflicts of interest, as well as competence and ongoing training of the staff involved, appropriate for the type of insurance policy and the level of technical and legal expertise required in relation to the insurance policy and the claim.

#### 7.11.2 Claims disputes

- (1) Where there is a dispute between the claimant and the licensed insurer in the course of a claims settlement on the claims settlement amount, or coverage, the licensed insurer must ensure that the staff handling claims disputes are experienced in claims handling and appropriately qualified.
- (2) The licensed insurer must ensure that its dispute resolution process follows a balanced and impartial approach.
- (3) Decisions must include the reasoning relating closely to the specific disputable issues, in clear language.

#### 7.11.3 Outsourcing

- (1) If the licensed insurer outsources, whether in part or in full, any of the claims handling processes they remain ultimately responsible for the provision of fair and transparent claims handling, claims dispute resolution, and compliance with the Rules.
- (2) The licensed insurer must maintain close oversight over outsourced processes.

#### 7.11.4 Interest

- (1) In respect of long-term insurance business only; when the payment of a claim is delayed by more than two months the licensed insurer must pay interest on the cash sum due, or make an equivalent adjustment to the sum due, unless the amount of such interest would be immaterial.
- (2) Subject to the satisfaction of applicable customer due diligence requirements; the two month period must run from the date the licensed insurer is notified of the insured event and after all conditions for payment of the claim are met, or, in the case of a unit-linked policy, from the date on which the licensed insurer became liable for payment if later.
- (3) Interest will be calculated at the relevant market rate from the end of the two month period until the actual date of payment of the claim.

#### 7.12 Timely and fair manner complaints handling

- (1) A licensed insurer must handle complaints in a timely and fair manner.
- (2) A licensed insurer must have in operation, and ensure compliance with, a written procedure for the effective consideration, and fair and proper handling, of any complaints relating to their insurance business.
- (3) A licensed insurer must ensure that each of its officers and employees responsible for dealing with customers is, at all times, aware of this procedure and of the obligation to follow it.
- (4) Licensed insurers must make information on their policies and procedures on complaints handling, available to its customers.
- (5) Licensed insurers must respond to complaints without delay.

- (6) Complainants must be kept informed about the progress of their complaint.
- (7) Licensed insurers must send a written response in relation to the complaint prior to the complaint response date. A final response must –
  - (a) accept the complaint and offer any appropriate redress or remedy;
  - (b) offer redress or remedy without accepting the complaint; or
  - (c) reject the complaint and give clear reasons for doing so.
- (8) Licensed insurers must, in the final response, inform the complainant that if they remain unsatisfied they can refer the complaint to the Channel Islands Financial Ombudsman and also advise the complainant that they may inform the Commission directly of the complaint.
- (9) If the licensed insurer fails to issue a final response, by the complaint response date, they must inform the Commission within fourteen days after the complaint response date.
- (10) A licensed insurer must inform the Commission within fourteen days of it first becoming aware of a significant complaint and must advise the complainant that it may inform the Commission directly of the complaint.
- (11) A licensed insurer must maintain a register of complaints received, along with sufficient detail to allow it to be able to demonstrate that it has dealt with, or is dealing with, complaints in accordance with these Rules and any other applicable provisions of the Law.
- (12) Licensed insurers must analyse the complaints they receive to identify failings, trends, and recurring risks, and to identify and enable them to correct any common root causes.
- (13) Licensed insurers must analyse complaints that they receive against intermediaries, in respect of products that the intermediaries have distributed on their behalf, to enable them to assess the complete customer experience and identify any issues that need to be addressed.

## PART 8 GENERAL PROVISION

### 8.1 Interpretation

- (1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.
- (2) In these Rules the following definitions should be followed -

**“acceptable rating agency”** means a rating agency prescribed in Schedule 5 of the Insurance Business (Solvency) Rules 2021;

**“customer”** means a client, policyholder, or potential policyholder with whom a licensed insurer, or intermediary, interacts and includes other beneficiaries and claimants with legitimate interest in the policy;

**“complaint”** means any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide a financial service, or product, which alleges that the complainant has suffered, or may suffer, financial loss, material distress, or material inconvenience; a complaint may involve, but is different from, a claim and does not include a pure request for information;

**“complaint response date”** means three months from the date which the complaint is first received by the licensed insurer, or the licensed insurer first becomes aware of the complaint, whichever date is earlier;

**“filing date”** means the date six months after the licensed insurer’s financial year end;

**“fully funded special purpose insurer”** means an insurer or cell which satisfies the following requirements –

- (a) the insurer or cell has, at all times, assets the value of which are equal to or exceed its aggregate maximum risk exposure and the insurer or cell is able to pay the amounts it is liable for as they fall due;

- (b) the proceeds of the debt or equity issuance or other financing mechanism are –
  - (i) fully paid-in; or
  - (ii) in the form of contingent assets where the finance provider has achieved a financial rating (counterparty, credit, or financial strength as applicable) of at least A- as of the date of the application and as determined by an acceptable rating agency;
  - (iii) in the form of contingent assets where the finance structure has been approved by the Commission;
- (c) according to the terms of such financing mechanism, the claims of participants in any such mechanism, against the assets of the insurer or the cell, are subordinate to the claims of creditors under the contracts of insurance underwritten by the insurer or the cell;
- (d) the insurer or cell only enters into contracts, or otherwise assumes obligations or contingent liabilities, which are solely necessary for it to give effect to the purposes set out in its agreed business plan; and
- (e) to the extent that more than one insurance contract is in place within the insurer or cell; each of the insurance contracts is structured so that the insurer or cell meets the fully funded requirements, as described in this definition, individually for each contract;

**“microenterprise”** means an enterprise which employs fewer than ten persons and whose annual turnover does not exceed £2 million;

**“qualified investor”** means –

- (a) a Government, local authority, public authority, or supra-national body (in the Bailiwick or elsewhere);
- (b) a person, partnership, unincorporated association, or body corporate which has total assets of at least £5,000,000;
- (c) Guernsey registered or authorised collective investment schemes; or
- (d) a company quoted on an investment exchange licensed by the Commission or a Recognised Investment Exchange;

**“Recognised Investment Exchange”** means a recognised investment exchange as defined under The Protection of Investors (Bailiwick of Guernsey) Law, 2020;

**“relevant information”** means the financial statements and information required to be published, by a relevant insurer, under these Rules;

**“retail customer”** means a customer who is –

- (a) an individual who, in relation to a licensed insurer, is acting for purposes other than that individual's trade, business, or profession;
- (b) a microenterprise; or
- (c) a charity other than a Non-Governmental Organisation (NGO);

**"significant complaint"** means a complaint alleging a breach of the Law, *mala fides*, malpractice, or impropriety, or repetition or recurrence of a matter previously complained of (whether significant or otherwise);

**"special purpose insurer"** means an insurer or cell of a protected cell company which conducts insurance business and is a fully funded special purpose insurer funded from the proceeds of one or more of the following –

- (a) a debt or equity issuance; or
- (b) some other financing mechanism approved by the Commission;

**"Type 1 letter of credit"** means a Type 1 letter of credit as defined in the Insurance Business (Solvency) Rules 2021.

## **PART 9 SAVINGS, REVOCATIONS, CITATION AND COMMENCEMENT**

### **9.1 Savings**

- (1) Any exclusion or modification granted by the Commission, under any regulations or rules revoked by rule 9.2, will continue to apply where the Law and these Rules provide scope for such exclusion or modification.

### **9.2 Revocations**

#### **9.2.1 Revocation of The Insurance Business (Accounts, Annual Return and Approved Eurobonds) Regulations, 1987**

- (1) The Insurance Business (Accounts, Annual Return and Approved Eurobonds) Regulations, 1987 are revoked.

#### **9.2.2 Revocation of The Insurance Business (Public Disclosure of Information) Rules, 2010**

- (1) The Insurance Business (Public Disclosure of Information) Rules, 2010 are revoked.

#### **9.2.3 Revocation of The Insurance Business (Public Disclosure of Information) Rules, 2018**

- (1) The Insurance Business (Public Disclosure of Information) Rules, 2018 are revoked.

#### **9.2.4 Revocation of The Licensed Insurer's (Conduct of Business) Rules, 2018**

- (1) The Licensed Insurer's (Conduct of Business) Rules, 2018 are revoked.

9.2.5 Revocation of The Insurance Business (Special Purpose Insurer) Rules, 2016

- (1) The Insurance Business (Special Purpose Insurer) Rules, 2016 are revoked.

9.2.6 Revocation of The Insurance Business (Licensing) Regulations, 2010

- (1) The Insurance Business (Licensing) Regulations, 2010 are revoked.

9.2.7 Revocation of The Insurance Business (Annual Returns) Regulations, 2008

- (1) The Insurance Business (Annual Returns) Regulations, 2008 are revoked.

9.2.8 Revocation of the Insurance Business (Duties of General Representatives) Regulations, 2008

- (1) The Insurance Business (Duties of General Representatives) Regulations, 2008 are revoked.

**9.3 Citation and commencement**

- (1) These rules may be cited as the Insurance Business Rules.
- (2) These rules come into force on 1<sup>st</sup> November 2021.

Dated this 29th day of October 2021



C.A. SCHRAUWERS

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

## SCHEDULE 1

### INFORMATION TO BE DISCLOSED

#### 1. PROFILE OF THE INSURER

Disclosures must include appropriately detailed information about the company profile; including the nature of its business, a general description of its key products, the external environment in which it operates, and information on the relevant insurer's objectives and the strategies in place to achieve them.

#### 2. CORPORATE GOVERNANCE

Disclosures must include the key features of the relevant insurer's corporate governance framework, management controls, and risk management framework including how these are implemented.

#### 3. TECHNICAL RESERVES

Detailed quantitative and qualitative information about the determination of technical provisions must be disclosed.

#### 4. INSURANCE RISK

Appropriately detailed quantitative and qualitative information on all reasonably foreseeable and relevant material insurance risk exposures and their management must be disclosed; including the use of reinsurance.

#### 5. FINANCIAL PERFORMANCE

Disclosure must include appropriately detailed quantitative and qualitative information on financial performance; in total and by segmented financial performance. Where relevant, disclosures must include a quantitative source of earnings analysis, claims statistics including claims development, pricing adequacy and information regarding returns on investment assets and components of such returns.

## 6. CAPITAL ADEQUACY

Disclosure about the financial position of the relevant insurer must include appropriately detailed quantitative and qualitative information about capital adequacy. A licensed insurer must disclose information that enables users to evaluate their objectives, policies and processes for managing capital, and to assess its capital adequacy. This information encompasses the Prescribed Capital Requirement and the Minimum Capital Requirement of the relevant insurer. If an internal model is used to determine capital resources and requirements, information about the model must be provided, having due regard to proprietary or confidential information.

## 7. FINANCIAL INSTRUMENTS

Disclosure about the financial position of the relevant insurer must include appropriately detailed quantitative and qualitative information about financial instruments and other investments by class.

## 8. ENTERPRISE RISK MANAGEMENT AND ASSET-LIABILITY MANAGEMENT

Disclosure about the financial position of the relevant insurer must include appropriately detailed quantitative and qualitative information about enterprise risk management including asset-liability-management in total and, where appropriate, at a segmented level.

## SCHEDULE 2

### THE PRINCIPLES OF CONDUCT OF FINANCE BUSINESS

#### 1. Integrity

A licensee should observe high standards of integrity and fair dealing in the conduct of its business.

#### 2. Skill, Care, and Diligence

A licensee should act with due skill, care and diligence towards its customers and counterparties.

#### 3. Conflicts of Interest

A licensee should either avoid any conflict of interest arising or, where a conflict arises, should ensure fair treatment to all its customers by disclosure, internal rules of confidentiality, declining to act, or otherwise. A licensee should not unfairly place its interests above those of its customers and, where a properly informed customer would reasonably expect that the firm would place their interests above its own, the firm should live up to that expectation.

#### 4. Information about Customers

A licensee should seek from customers it advises, or for whom it exercises discretion, any information about their circumstances and investment objectives which might reasonably be expected to be relevant in enabling it to fulfil its responsibilities to them.

#### 5. Information for Customers

A licensee should take reasonable steps to give a customer it advises, in a comprehensible and timely way, any information needed to enable them to make a balanced and informed decision. A licensee should similarly be ready to provide a customer with a full and fair account of the fulfilment of its responsibilities to them.

## **6. Customer Assets**

Where a licensee has control of, or is otherwise responsible for, assets belonging to a customer which it is required to safeguard, it should arrange proper protection for them, by way of segregation and identification of those assets or otherwise, in accordance with the responsibility it has accepted.

## **7. Market Practice**

A licensee should observe high standards of market conduct and should also comply with any code of standard as in force and issued or approved by the Commission.

## **8. Financial Resources**

A licensee should ensure that it maintains adequate financial resources to meet its finance business commitments and to withstand the risks to which its business is subject.

## **9. Internal Organisation**

A licensee should organise and control its internal affairs in a responsible manner, keeping proper records, and where the firm employs staff or is responsible for the conduct of finance business by others, should have adequate arrangements to ensure that they are suitable, adequately trained and properly supervised and that there are well-defined compliance procedures.

## **10. Relations with Guernsey Financial Services Commission**

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

## EXPLANATORY NOTE

These Rules have been re-drafted in line with the Commission's Revision of Laws Implementation Project.

Following the implementation of the 2020 Laws all Rules made, under the previous enactments, were checked for validity and legality. The Rules were re-drafted to bring them into line with the Commission's current legal drafting practice.

In the case of the Insurance Business Law 2002 a number of matters which were previously dealt with by Regulation had their status changed to being dealt with by Rules.

In order to reflect this change the Commission decided to consolidate all of the previously enacted Regulations into a single set of Rules.

These Rules have been re-drafted and re-formatted but the content and legal meaning remains the same as that under the previous Rules.

