

**THE INSURANCE MANAGERS (AMENDMENT) RULES,
2022**

Made: 1 September 2022

Coming into Operation: 2 September 2022

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by section 18 of *The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002*¹ (the “Law”) hereby makes the following Rules.

¹ Order in Council No. XXII of 2002.

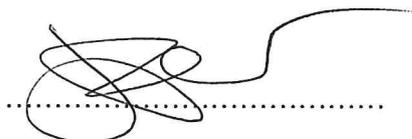
Citation and Commencement

1. These Rules may be cited as The Insurance Managers (Amendment) Rules, 2022 and amend the Insurance Managers Rules, 2021² (“the Rules”).
2. These Rules shall come into force on 2 September 2022.

Amendments

3. The Rules are amended in accordance with Annex A.

Dated this day of 1st day of September, 2022

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right. The signature is positioned above a horizontal dotted line.

J. P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

² No.139 of 2021.

Annex A

Amendments to The Insurance Managers Rules, 2021

1. In this section underlining indicates new text, to be added to the Rules, and striking through indicates text to be deleted:

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7.5 Professional indemnity ~~i~~Insurance

7.5.1 General

- (1) A licensee must always maintain insurance cover which is commensurate with the size and nature of its business activities. Cover must include professional indemnity insurance and insurance against employee dishonesty or fraud.

7.5.2 Minimum requirement

- (1) A licensee must maintain the minimum cover as set out in (2). The board is responsible for ensuring that the insurance arrangements for the licensee are adequate. Where the licensee concludes that the amount of insurance required, for the size and nature of the business, is greater than the maximum amount set out in (2)(b) then the amount of cover the licensee is required to maintain the higher amount.
- (2) Subject to (3), Licensees must maintain professional indemnity insurance, and employee dishonesty or fraud insurance, with the following minimum limits –
 - (a) on the basis of each and every loss, cover of at least ~~£250,000~~ £1,000,000; and

- (b) on an annual basis, £1,000,000 or three times fee income; from regulated activities, whichever is the greater.
- (3) Where the licensee also carries out unregulated activities, the licensee must consider whether the minimum indemnity limit of its insurance policies, and the scope of the insurance cover, are appropriate for its business as a whole, taking into account possible claims that may also arise from the unregulated business.
- (4) Notwithstanding (3), a licensee is not required to have aggregate insurance cover exceeding £10,000,000, provided that the board of the licensee has considered and decided that such level of cover is appropriate and sufficient for its business. The licensee must be able to evidence the board's assessment if requested by the Commission.
- (5) Where the deductible or excess exceeds £20,000 on the basis of each and every loss, the minimum capital requirement will increase to 125% of the deductible or excess.
- (6) A licensee must always maintain cover for –
- (a) negligence, errors, or omissions by the licensee or its employees;
- (b) any liability for the dishonest or fraudulent acts of employees which may fall on the licensee;
- (c) liabilities of its employees who, in the course of their duties to the licensee, perform functions in their own names;
- (d) liabilities which the licensee might incur, in any jurisdiction, in which it should reasonably foresee that it may be held liable for damages and costs;

- (e) where relevant, ombudsman awards; and
 - (f) legal defence costs.
- (7) The retroactive date for the insurance arrangements in this section must be the date the licensee was licensed by the Commission.

7.5.3 Notifications to the insurer

- (1) A licensee must –
- (a) when applying for cover, notify his professional indemnity insurer, through their professional indemnity insurance broker, of all material facts, which must include –
 - (i) the details of any condition imposed on the licensee under section 7 of the Law;
 - (ii) the revocation of the licensee’s licence under section 9 of the Law;
 - (iii) any regulatory penalty taken by the Commission against the licensee, or any of its directors or employees, under the Financial Services Commission (Bailiwick of Guernsey) Law, 1987¹ (“the FSC Law”) or any of the Regulatory Laws;

¹ Order In Council No. XXX of 1987.

- (iv) any prohibition order made against the licensee, or any of its directors or employees;
 - (v) any criminal proceedings commenced against the licensee, or any of its directors or employees; and
 - (vi) any criminal or regulatory investigation or formal enquiry which involves the licensee, or any of its directors or employees;
- (b) ensure that they comply with all warranties applying at the date of the commencement of the professional indemnity policies and any continuing warranties applying during the duration of the professional indemnity insurance policy;
 - (c) ensure that they make all notifications and disclosures which are required to be made to their professional indemnity insurers during the duration of the policy pursuant to its terms and conditions.
- (2) A licensee must notify their professional indemnity insurers, through the broker where appropriate, within fourteen days of the following events, or such earlier period as is specified in the professional indemnity policy, -
- (a) the details of any conditions imposed on the licensee under section 7 of the Law;
 - (b) the revocation of the licensee's licence under section 9 of the Law;
 - (c) any regulatory penalty taken by the Commission, against the licensee, or any of its directors or employees under the Law, the FSC Law, or any of the Regulatory Laws;

- (d) any prohibition order made against the licensee, or any of its directors or employees;
- (e) any criminal proceedings commenced against the licensee, or any of its directors or employees; and
- (f) any criminal or regulatory investigation or formal enquiry which involves the licensee, or any of its directors or employees.

7.5.4 Notifications to the Commission

- (1) A licensee must notify the Commission of the following events immediately –
 - (a) any actual or purported termination, avoidance, or invalidation of the licensee’s professional indemnity cover; or
 - (b) any notification made by a licensee to his professional indemnity insurers with respect to a claim, or potential claim, which may be made by the licensee under its professional indemnity policy.

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PART 9 SAVINGS, REVOCATIONS, TRANSITIONALS, AND COMMENCEMENT

9.1 Savings

- (2) Any exclusion or modification granted by the Commission, under regulations and rules revoked under these Rules or The Insurance Business Managers Rules, 2021, will continue to apply where the Law and these Rules provide scope for such exclusions or modifications.

9.2 Revocations

9.2.1 Revocation of The Insurance Intermediaries (Conduct of Business) Rules, 2014

- (1) The Insurance Intermediaries (Conduct of Business) Rules, 2014 are revoked.

9.2A Transitional Provision

- (1) Licensees must comply with the amendments made to rule 7.5 by the Insurance Managers (Amendment) Rules, 2022, at their next insurance renewal following the date on which the Insurance Managers (Amendment) Rules, 2022 come into force.

9.3 Citation and commencement

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EXPLANATORY NOTE

The Commission recognised that there are differences between insurance requirements under the Fiduciary, Investment and Insurance frameworks and that the relevant rules have been applied unchanged for many years.

Consequently, the Commission was prompted to review the requirements under the Insurance Managers Rules (*along with the Fiduciary Rules, the Capital Adequacy Rules, and the Insurance Intermediaries Rules*).

Following a public consultation, the proposed changes are being adopted and these amendments are being made to effect the changes.

Overall, the objective is to ensure that insurance requirements remain fit for purpose and consistent with the minimum licensing criterion to conduct business in a prudent manner, thereby helping to ensure appropriate levels of customer protection are maintained.