

**THE INSURANCE INTERMEDIARIES (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 Intermediaries (Amendment) Rules, 2022 and amend the Insurance Intermediaries 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 1st day of September, 2022

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

J. P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

² No.138 of 2021.

Annex A

Amendments to The Insurance Intermediaries Rules, 2021

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

...

7.7.3 Record keeping

- (1) Every licensee must maintain a register of complaints which include sufficient detail to allow it to be able to demonstrate that it has dealt with, or is dealing with, the complaints in accordance with these Rules.

7.8 ~~Professional indemnity i~~Insurance

7.8.1 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.

~~7.8.1~~ 7.8.2 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 is the higher amount.

- (2) Subject to (3), Every licensee 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 the annual basis, £1,000,000, or three times ~~fee income, whichever is the greater, but the Commission reserves the right to vary, in writing, these amounts in relation to individual licensees, where it is appropriate to do so.~~ income from regulated activities, whichever is 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 and sufficient 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 loss.

- (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 in 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.

7.8.2 Notifications to the insurer

- (1) A licensee must –
- (a) ...

PART 9 SAVINGS, REVOCATIONS, TRANSITIONALS, AND COMMENCEMENT

9.1 Savings

- (1) 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 7.8, by the Insurance Intermediaries (Amendment) Rules, 2022, at their next insurance renewal following the date on which the Insurance Intermediaries (Amendment) Rules, 2022 come into force.

9.3 Citation and commencement

...

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 Intermediaries Rules (*along with the Fiduciary Rules, the Capital Adequacy Rules and the Insurance Managers 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.