

CAYMAN ISLANDS



Supplement No. 3 published with Extraordinary Gazette No.  
129 dated 20<sup>th</sup> December, 2012.

**THE INSURANCE LAW, 2010  
(LAW 32 OF 2010)**

**THE INSURANCE (CAPITAL AND SOLVENCY)(CLASSES B, C AND D  
INSURERS) REGULATIONS, 2012**

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**THE INSURANCE (CAPITAL AND SOLVENCY) (CLASSES B, C AND D  
INSURERS) REGULATIONS, 2012**

In exercise of the powers conferred by section 40 of the Insurance Law, 2010, the Governor in Cabinet makes the following Regulations -

1. These Regulations may be cited as the Insurance (Capital and Solvency) (Classes B, C, and D Insurers) Regulations, 2012. Citation

2. In these Regulations - Interpretation

“admissible assets” includes class 1 assets, class 2 assets, class 3 assets, class 4 assets, class 5 assets, class 6 assets, class 7 assets and class 8 assets unless otherwise approved by the Authority;

“bank grade” means bank obligations including securities issued by, loans made to, securities or loans guaranteed by, and accounts receivable from, any deposit taking institution;

“capital” means those amounts shown in shareholder equity or equivalent section of the insurer balance sheet;

“catastrophe risk” means the gross modeled loss for all risk associated with a 1 in 100 year event and a 1 in 10 year event;

“class 1 assets” means -

- (a) cash and cash equivalents including time deposits and money market funds rated AA or higher;
- (b) investment grade obligations of government or central banks rated AA or above;
- (c) incoming irrevocable letters of credit where acceptable by the Authority;
- (d) loans or notes receivable where supported by irrevocable letters of credit acceptable by the Authority;
- (e) income tax receivables; or
- (f) instalment premiums not yet due;

“class 2 assets” means -

- (a) high investment grade bonds or paper rated AA or higher (or equivalent);
- (b) exchange rate derivative contracts, designated and accounted for as hedging, with a maturity of one year or less and interest rate derivative contracts, designated and accounted for hedging, regardless of the maturity date;
- (c) receivables from insurers or highly rated reinsurers;
- (d) unearned premiums recoverable from insurers or highly rated reinsurers;
- (e) unpaid claims and adjustment expenses recoverable from insurers or highly rated reinsurers outstanding for less than one year; or
- (f) gold and other commodities acceptable to the Authority;

“class 3 assets” means -

- (a) bonds, and debentures (including commercial paper) rated investment or bank grade, that mature or are redeemable in less than one year;
- (b) accounts receivable outstanding ninety days or less from agents brokers, subsidiaries and policyholders, including installment premiums and other receivables;
- (c) investment income due and accrued; or
- (d) unpaid claims and adjustment expenses recoverable from licensed insurers or highly rated reinsurers, outstanding for over twelve months;

“class 4 assets” means -

- (a) term deposits, bonds, and debentures (including commercial paper) rated investment or bank grade, that mature or are redeemable in one year or more;
- (b) investment grade bonds or paper rated A (or equivalent); or
- (c) receivables and recoverables for medium rated reinsurers outstanding for less than twelve months;

“class 5 assets” means -

- (a) investment grade bonds or paper rated BBB;
- (b) investment grade obligations of government or central banks rated BBB
- (c) related party loans not yet called for; or
- (d) receivables and recoverables for medium rated reinsurers outstanding for twelve months or more;

“class 6 assets” means -

- (a) mortgage-backed securities rated A or higher;
- (b) common shares;
- (c) exchange traded funds
- (d) exchange traded derivatives
- (e) non-cumulative preference shares;

- (f) investments in collective investment schemes, unit trusts, hedge funds, mutual funds or other similar assets; or
- (g) real estate;

“class 7 assets” means -

- (a) accounts receivable outstanding over ninety days, from agents, brokers, subsidiaries, associates and policyholders, including installment, premiums and other receivables;
- (b) other recoverables including salvage and subrogation on unpaid claims;
- (c) residential mortgages;
- (d) cumulative preferred shares;
- (e) unlisted equity securities;
- (f) private equity funds;
- (g) limited partnerships;
- (h) mortgage-backed securities rated lower than A; or
- (i) commercial mortgages;

“class 8 assets” means -

- (a) deferred policy acquisition expenses;
- (b) commissions, net of an adjustment for unearned commissions (net value) and if the net value is negative, report zero;
- (c) other intangible and nonfinancial assets up to a limit of one per cent of total assets and for this purpose any excess over the limit is included in the amount deducted from capital available;
- (d) other loans; or
- (e) term deposits bonds and debentures (including commercial paper) rated not-investment grade, that mature or are redeemable in one year or more;

“filing date” means the date on which an insurer is required to submit the annual return required in the Law;

“government grade” means government obligations including securities issued by, loans made to, or securities or loans guaranteed by, and accounts receivable from the government of a country rated A or equivalent or higher in the latest rating issued by a recognized rating agency or other rating agency approved by the Authority;

“gross premium written” means total written premiums prior to any deductions;

“highly rated reinsurer” means reinsurance in which the counterparty is rated A- or higher or equivalent in the latest rating of a recognized rating agency or as approved by the Authority;

“investment grade” means a security (excluding a security that is included in the government or bank grades) with a rating of, or in excess of, grade BBB (or equivalent);

“medium rated reinsurer” means reinsurance in which the counterparty is rated BBB or higher or equivalent in the latest rating of a recognized rating agency or as approved by the Authority;

“minimum capital requirement” means the minimum capital that an insurer must maintain in order to operate in accordance with the Law as set out in Schedule 1;

“net written premium” means gross premium written, less reinsurance premium ceded;

“net earned premium” means net written premium applicable to the expired part of the policy period or reinsurance agreement period;

“not-investment grade” means any item not included in government grade, bank grade or investment grade;

“prescribed capital requirement” means the total risk based capital that an insurer must maintain in order to operate in a safe and sound manner as set out in Schedule 1;

“recognized rating agency” means A.M Best Company, Fitch, Moody’s, Standard and Poor’s and any other agency approved by the Authority;

“reinsurance premium ceded” means the premium ceded to reinsurers; and

“unearned premium reserve” means an insurer’s liability for its unearned premium as of any given valuation date.

Application

3. These Regulations apply to class B insurers, class C insurers and class D insurers.

Margin of solvency

4. For the purposes of the definition of “margin of solvency” in section 2(1) of the Law -

- (a) assets are prescribed as admissible assets; and
- (b) liabilities are prescribed as liabilities, including minority interest, calculated and valued on the basis required by the accounting standards in accordance with which the insurer’s financial statements are prepared and shall include all liabilities arising out of its contracts of insurance.

Prescribed capital requirement

5. (1) For the purposes of section 8(2)(a) of the Law, the minimum margin of solvency for each licence class is stipulated as the prescribed capital requirement, as set out in Schedule 1.

Schedule 1

(2) As an alternative to the prescribed capital requirement in Schedule 1, a class B(iii) or class D insurer may choose to use its own internal capital model subject to the approval of the Authority and for the purposes of this regulation, this will be deemed to be the prescribed capital requirement.

Margin of solvency for segregated portfolio

6. For the purposes of section 8(4)(a) of the Law, the margin of solvency in respect of a segregated portfolio is met where -

- (a) the segregated portfolio will be able to satisfy its liabilities in respect of, or attributable to, that particular segregated portfolio as they become due in the ordinary course of its business; and
- (b) the assets representing the share capital and reserves attributable to the segregated portfolio plus all other assets attributable to or held within the segregated portfolio, including incoming letters of credit, exceed the liabilities in respect of or attributable to that particular segregated portfolio.

7. (1) For the purposes of sections 4(5)(f) and 8(2)(c) of the Law, capital is prescribed as the minimum capital requirement and for each licence class shall be as set out in Schedule 1. Minimum capital requirement  
Schedule 1

(2) At each filing date a class B, class C or class D insurer shall calculate and record the minimum capital requirement and prescribed capital requirement, and if required the enhanced capital requirement, in the form prescribed in Schedule 2. Schedule 2

8. Notwithstanding the amounts prescribed, the Authority may prescribe that a class B insurer, class C insurer or class D insurer should maintain a higher level of capital based on risk factors specific to that class B insurer, class C insurer or class D insurer and the Authority may exclude from the calculations assets that the Authority deems inappropriate. Requirement for higher level of capital

9. (1) Unless otherwise approved by the Authority, a Class B insurer, Class C insurer or Class D insurer shall keep solvency equal to or in excess of the total prescribed capital requirement. Requirement for solvency in excess of prescribed capital requirement

(2) Where the capital of a licensee falls below the prescribed capital requirement but is greater than minimum capital requirement the licensee shall meet with the Authority and present a remedial action plan to the Authority.

(3) Where the capital of a licensee falls below the minimum capital requirement the Authority may consider regulatory actions available.

10. (1) An insurer shall, on or before its filing date, furnish the Authority with the insurer's capital and solvency return. Capital and solvency return

(2) An insurer shall keep a copy of its capital and solvency return at its principal office for a period of five years beginning with its filing date, and shall produce it to the Authority if so directed by it on or before a date specified in the direction.

SCHEDULE 1

(Regulations 5 and 7)

PREScribed CAPITAL REQUIREMENT AND MINIMUM CAPITAL REQUIREMENT

<b>Class of Insurance</b>	<b>Minimum Capital Requirement ("MCR")</b>	<b>Prescribed Capital Requirement ("PCR")</b>
Class B(i)	General: US\$100,000  Long-term: US\$200,000  Composite: US\$300,000	General: PCR = MCR  Long-term: PCR = MCR  Composite: PCR = MCR
Class B(ii)	General: US\$150,000  Long-term: US\$300,000  Composite: US\$450,000	General: <ul style="list-style-type: none"> <li>• 10% of Net Earned Premium ("NEP") to first US\$5,000,000</li> <li>• 5% of additional NEP up to US\$20,000,000</li> <li>• 2.5% of additional NEP in excess of US\$20,000,000</li> </ul> <p>Long term: PCR = MCR</p> <p>Composite: amount required to support the general business plus MCR</p>
Class B(iii)	General: US\$200,000  Long-term: US\$400,000  Composite: US\$600,000	General: <ul style="list-style-type: none"> <li>• 15% of NEP to first US\$5,000,000</li> <li>• 7.5% of additional NEP up to US\$20,000,000</li> <li>• 5% of additional NEP in excess of US\$20,000,000</li> </ul>



		<p>Long-term: PCR = MCR</p> <p>Composite: amount required to support the general business plus MCR</p>																
Class C	<p>General: US\$500</p> <p>Long-term: US\$500</p> <p>Composite: US\$500</p>	<p>General: PCR = MCR</p> <p>Long-term: PCR = MCR</p> <p>Composite: PCR = MCR</p>																
Class D	<p>General: US\$50,000,000</p> <p>Long-term: US\$50,000,000</p> <p>Composite: US\$50,000,000</p>	<p>Calculated as 100% of total of:</p> <p><math>C_{\text{premium}}</math> (except catastrophe risk):                      Non-life Premiums: 15.0% of Net Written Premiums                      Life Premiums: 15.0% of Net Written Premiums</p> <p><math>C_{\text{reserve}}</math>:                      Non-life Reserves: 10.0% of Gross Non-life Reserves                      Life Reserves: 5.0% of Gross Life Reserves</p> <p><math>C_{\text{asset}}</math>:</p> <table> <tr><td>Class 1 assets.</td><td>0.0%</td></tr> <tr><td>Class 2 assets.</td><td>0.5%</td></tr> <tr><td>Class 3 assets.</td><td>2.0%</td></tr> <tr><td>Class 4 assets.</td><td>4.0%</td></tr> <tr><td>Class 5 assets.</td><td>5.0%</td></tr> <tr><td>Class 6 assets.</td><td>10%</td></tr> <tr><td>Class 7 assets.</td><td>15%</td></tr> <tr><td>Class 8 assets.</td><td>35%</td></tr> </table> <p><math>C_{\text{reinsurance}}</math>:                      5.0% of Total Ceded Unearned Premium Reserve</p> <p><math>C_{\text{catastrophe}}</math>:                      20% of a 1 in 100 year event; and                      100% of a 1 in 10 year event;</p> <p><b><u>Important</u></b>                      In the event that a Company has</p>	Class 1 assets.	0.0%	Class 2 assets.	0.5%	Class 3 assets.	2.0%	Class 4 assets.	4.0%	Class 5 assets.	5.0%	Class 6 assets.	10%	Class 7 assets.	15%	Class 8 assets.	35%
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		<p>reinsurance recoveries related to assumed reserves, a reduction to the <math>C_{\text{reserve}}</math> will be allowed up to 100% of the any reinsurance recoveries if such recoveries are secured by letters of credit else a reduction of 95% for collateral approved by the Authority else a reduction of 90% if the recovery is from highly rated reinsurers else 50% for all other forms of reinsurance.</p> <p>In the event that a Company has ceded unearned premium reserves, a reduction to the <math>C_{\text{reinsurance}}</math> will be allowed up to 100% of the any ceded unearned premium reserves if such recoveries are secured by letters of credit else a reduction of 95% for collateral approved by the Authority else a reduction of 90% if the recovery is from highly rated reinsurers else 50% for all other forms of reinsurance.</p> <p>In the event that a Company has ceded catastrophe risk, a reduction to the <math>C_{\text{catastrophe}}</math> will be allowed up to 100% of the any reinsurance recoveries if such recoveries are secured by letters of credit else a reduction of 95% for collateral approved by the Authority else a reduction of 90% if the recovery is from highly rated reinsurers else 50% for all other forms of reinsurance.</p>
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SCHEDULE 2

(Regulation 7)

CAPITAL REQUIREMENT TEMPLATE

For CLASS B(i), B(ii), B(iii), C and D

Capital		(\$'000)
Capital Required for (where applicable to the Class of business):		
Total Prescribed Capital Requirement from Regulation or Total Prescribed Capital Requirement from an Internal Model (PCR)	A.	
Total Minimum Capital Requirement (MCR)	B.	
Total Capital Available	C.	
Capital in Excess of PCR (C. minus A.)		

Made in Cabinet the 12<sup>th</sup> day of December, 2012.

Kim Bullings

Clerk of the Cabinet.