



## INSURANCE REGULATIONS 2021

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Statutory Document No. 2021/0278

*Insurance Act 2008*

# INSURANCE REGULATIONS 2021

*Laid before Tynwald:* [TBA]*Coming into Operation:* 30 June 2022

The Isle of Man Financial Services Authority makes the following Regulations under sections 5, 6, 12, 12A, 14, 22, 23, 27A, 48, 50 and 54 of, and Schedule 7 to, the Insurance Act 2008, after carrying out the consultation required by section 50(3) of that Act.

## PART I

### GENERAL

#### 1 Title

These Regulations are the Insurance Regulations 2021.

#### 2 Commencement

These Regulations come into operation on 30 June 2022<sup>1</sup>.

#### 3 Interpretation

(1) In these Regulations—

“**the Act**” means the Insurance Act 2008;

“**approved supervisor**” means—

- (a) the insurance supervisory authorities of the United Kingdom;
- (b) an insurance supervisory authority of a country in the European Union;

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<sup>1</sup> Under section 50(4) of the Insurance Act 2008, regulations shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the regulations are laid, or at the next following sitting, resolves that they shall be annulled, the regulations shall cease to have effect from that time.

- (c) an insurance supervisory authority responsible for a solvency regime insofar as it is determined by the European Commission as equivalent (whether fully, provisionally or temporarily) to the requirements of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 relating to the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)<sup>2</sup>; or
- (d) any other insurance supervisory authority approved by the Authority,

and any approval of a supervisor under any of sub-paragraphs (a) to (d) may be restricted, as specified by the Authority, to apply only to certain categories of authorisation granted by the approved supervisor;

**“audited accounts”** means the audited annual accounts required to be prepared and produced to the Authority under sections 14(3) or 27A(3) of the Act (as applicable) and regulation 6;

**“CGC”** means the Corporate Governance Code of Practice for Insurers 2021<sup>3</sup>;

**“class 12 insurer”** means an insurer authorised in respect of class 12;

**“dormant authorised insurer”** has the meaning given in regulation 18(2);

**“FRS”** has the meaning given in regulation 6(4)(c)(i);

**“IC”** has the meaning given in paragraph 2 of Schedule 6;

**“ICC”** has the meaning given in paragraph 2 of Schedule 6;

**“ICC equivalent”** has the meaning given in paragraph 2 of Schedule 6;

**“IC equivalent”** has the meaning given in paragraph 2 of Schedule 6;

**“IFRS”** has the meaning given in regulation 6(4)(c)(ii);

**“linked long-term”**, in paragraphs (2) and (3), means contracts of insurance on human life, capital redemption contracts or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified);

**“long-term business”** has the meaning given in paragraph (2);

**“LP”** has the meaning given in paragraph 3 of Schedule 7;

**“LP equivalent”** has the meaning given in paragraph 3 of Schedule 7;

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<sup>2</sup> O.J. No. L335/1 17.12.09

<sup>3</sup> SD 2021/0276

“**MCR**” is an abbreviation of “minimum capital requirement”, as referred to in section 12(1)(a) of the Act, and has the meaning given in the—

- (a) Insurance (Long-Term Business Valuation and Solvency) Regulations 2021<sup>4</sup>;
- (b) Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021<sup>5</sup>; or
- (c) regulation 23(1),  
as applicable;

“**non long-term business**” means insurance business within any of classes 3 to 9, 11 and 12 (other than class 12 long-term business);

“**PCC**” has the meaning given in paragraph 2 of Schedule 5;

“**PCC equivalent**” has the meaning given in paragraph 2 of Schedule 5;

“**permit holder**” means a person that is the holder of a permit issued under section 22 of the Act;

“**registered insurance manager**” means a person registered as an insurance manager under Part 6 of the Act;

“**regulatory return**” means a return required to be submitted to the Authority under regulation 17;

“**SCR**” is an abbreviation of “solvency capital requirement”, as referred to in section 12(1)(b) of the Act, and has the meaning given in the—

- (a) Insurance (Long-Term Business Valuation and Solvency) Regulations 2021; or
- (b) Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021,  
as applicable;

“**technical provisions**”, in relation to an authorised insurer, mean the provisions established by the insurer representing the amount it requires to fulfil all of its insurance obligations under its insurance contracts over the lifetime of those contracts, including at least the minimum amounts required to be included within its technical provisions under the—

- (a) Insurance (Long-Term Business Valuation and Solvency) Regulations 2021; or
- (b) Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021,

as applicable; and

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<sup>4</sup> SD 2021/0273

<sup>5</sup> SD 2021/0274

“**written**”, in relation to a contract of insurance or the insurance business of an authorised insurer, means that the contract or business was effected by the insurer, or the contract or business was otherwise effected for or on behalf of the insurer, in any manner that constitutes the carrying on of an insurance business by the insurer.

- (2) In the Act and in these Regulations the following definition applies.
- (a) “**Long-term business**” means, subject to sub-paragraphs (b) to (d), the effecting or carrying out of contracts of insurance of the following descriptions, namely life, annuity, marriage, birth, linked long-term, permanent health, tontines, and capital redemption, all being contracts that are expressed to be in effect for a period of not less than 5 years or without limit of time, and either not expressed to be terminable by the insurer before the expiration of 5 years from the taking effect of the contract or are expressed to be so terminable before the expiration of that period only in special circumstances mentioned in the contract.
- (b) Where the principal object of a contract of insurance is long-term business, but that contract contains related or subsidiary insurance provisions which are not long-term business, the effecting and carrying out of that contract must be treated as long-term business.
- (c) All contracts of a description that would fall within the definition of long-term business but for the term being less than 5 years must be treated as falling within that definition if the insurer concerned gives written notice to the Authority that it intends to treat all contracts within that description as long-term business.
- (d) Sub-paragraph (c) does not apply to any contract of insurance which was effected before the date on which notice was received by the Authority.
- (3) In these Regulations, any reference to a category or a numbered class of insurance business is to be construed by reference to the following table—

Category	Class number	Description
Long-term business	1	Linked long-term
	2	Long-term, but excluding contracts within classes 1 and 9
General business	3	Marine, aviation and transport
	4	Property, but excluding contracts within classes 3 or 5
	5	Motor
	6	Pecuniary loss

	7	Liability, other than contracts within classes 3 or 5
	8	Credit and suretyship
	9	Personal miscellaneous, including accident, health and disability
Reinsurance	10	Reinsurance of contracts within classes 1 and 2
	11	Reinsurance of contracts within classes 3 to 9
Restricted	12	Contracts within classes 1 to 11 which comply with the requirements for contracts set out in Schedule 1.

- (4) In paragraph (3)—
- (a) insurance business which is within any of classes 1 to 9 includes reinsurance contracts within that class; and
  - (b) insurance business which is within any of classes 1 to 11 includes insurance contracts within that class that would also qualify as class 12.

#### 4 Application of these Regulations and certain Schedules

- (1) These Regulations apply to—
- (a) authorised insurers;
  - (b) permit holders; and
  - (c) registered insurance managers,
- as set out in these Regulations.
- (2) Schedule 1 applies to—
- (a) insurers authorised in respect of class 12; and
  - (b) permit holders that hold a permit in respect of class 12,
- and includes requirements in relation to such insurers and the contracts of insurance they may write.
- (3) Schedule 5 applies to—
- (a) authorised PCCs; and
  - (b) PCC equivalents that are permit holders,
- as set out in that Schedule.
- (4) Schedule 6 applies to—
- (a) authorised ICCs;
  - (b) authorised ICs;

- (c) ICC equivalents that are permit holders; and
  - (d) IC equivalents that are permit holders,  
as set out in that Schedule.
- (5) Schedule 7 applies to—
- (a) authorised LPs; and
  - (b) LP equivalents that are permit holders,  
as set out in that Schedule.

## 5 Dividends and distributions relating to MCR and section 12A of the Act

- (1) Where—
- (a) paragraph 6 of Schedule 3 to the Act does not apply to the winding up of an authorised insurer; and
  - (b) the insurer is in the process of its winding up,
- the insurer shall be exempt from section 12A(1) of the Act and paragraph (2).
- (2) Where the amount of an authorised insurer's MCR exceeds its SCR, the insurer must not declare or pay a dividend or make any distribution to any person other than a policyholder of the insurer where—
- (a) the eligible capital resources of the insurer have fallen below its MCR; or
  - (b) the amount of the dividend or distribution would be such as to cause the eligible capital resources of the insurer to fall below its MCR,

and, to avoid any doubt, this paragraph does not aggregate such MCR amount with such SCR amount but, where this paragraph is applicable and without affecting the operation of section 12(A)(1), this paragraph applies only to the amount by which the insurer's MCR exceeds its SCR.

- (3) Where a person is both a policyholder and a member of an authorised insurer, to avoid any doubt, section 12A(1) of the Act and paragraph (2) (as applicable)—
- (a) shall not restrict a dividend or distribution in respect of the person where the dividend or distribution as a bona fide entitlement of the person as a policyholder under a contract of insurance written by the insurer (for example, in the case of a profit bonus under a 'with-profits' long-term insurance policy); but
  - (b) shall restrict a dividend or distribution in respect of the person where the dividend or distribution is an entitlement of the person as a member of the insurer.

- (4) For the purposes of section 12A(2) of the Act and paragraph (2), the terms “dividend” and “distribution” together include any transaction or arrangement by or on behalf of an authorised insurer, in relation to any person’s entitlement to a dividend or distribution as a member of the insurer, which gives effect to—
- (a) the direct or indirect transfer of any assets of the insurer to or for the benefit of the person; or
  - (b) the incurring of debt to or for the benefit of the person, and includes—
    - (i) the purchase of any assets;
    - (ii) the purchase, redemption, acquisition or other reconstruction of shares;
    - (iii) the release, waiver, or write down of any indebtedness owed to the insurer;
    - (iv) any transfer or assignment of indebtedness; and
    - (v) the creation or purported creation of any mortgage, debenture, charge, lien or encumbrance (or any other mechanism of the same or similar effect by whatever name), or the modification or purported modification of any existing mortgage, debenture, charge, lien or encumbrance (or any other mechanism of the same or similar effect by whatever name), by the insurer which grants priority to the payment of, or otherwise gives effect to, any dividend or distribution ahead of the insurer meeting its obligations under the contracts of insurance it has written and complying with the higher of its MCR and SCR.

## 6 Audited accounts and accounting standards

- (1) In this regulation a “regulated entity” is an authorised insurer or a registered insurance manager (as the case requires).
- (2) Subject to paragraphs (3) and (4), each regulated entity at least once in every calendar year, must prepare audited accounts for the year ending on the date of the regulated entity’s financial year end.
- (3) For the purposes of paragraph (2), the Authority may, where it considers it appropriate to do so, agree a different audited reporting period of no longer than 18 months (including where a regulated entity is preparing its first audited accounts or wishes to change its financial year end).
- (4) For the purposes of—
  - (a) paragraph (2);
  - (b) section 14(2) of the Act; and

- (c) section 27A(2) of the Act,  
(as applicable) the audited accounts of a regulated entity must be prepared in accordance with—
- (i) Financial Reporting Standards (“FRS”) issued or adopted from time to time by the Financial Reporting Council in the United Kingdom (or any successor organisation);
  - (ii) International Financial Reporting Standards (“IFRS”) published from time to time by the International Accounting Standards Board (or any successor organisation); or
  - (iii) other standards as may be approved by the Authority.

## 7 Modification of Companies Act 1982

In its application to an authorised insurer, Part I of Schedule 1 to the Companies Act 1982 has effect subject to the following—

- (a) an authorised insurer is exempt from the provisions of that Part to the extent that the insurer may, subject to paragraph (b), include reserves in its technical provisions without the disclosure of the amount of those reserves;
- (b) where reserves are included in technical provisions under paragraph (a), any heading stating an amount arrived at after taking into account those reserves must be so framed or marked as to indicate that fact; and
- (c) the accounts of an authorised insurer are not to be deemed, by reason only of the fact that they do not comply with the requirements of Part I of Schedule 1 to the Companies Act 1982 from which the insurer is exempt by virtue of paragraph (a), not to give the true and fair view by that Act.

## 8 Statutory reserve

- (1) Subject to paragraph (2), an authorised insurer which has any reserve which was set aside under regulation 12 of the Insurance Regulations 1986<sup>6</sup>, as it had effect immediately before 31 December 1996 in respect of any business carried on by the insurer, may make the reserve available for distribution.
- (2) To avoid any doubt, the payment of, or otherwise giving effect to, a dividend or distribution (which shall have the meaning as given in regulation 5(4)) of any amounts referred to in paragraph (1) is subject to the insurer maintaining compliance with its regulatory requirements, including—

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<sup>6</sup> G.C. 319/86

- (a) the higher of its MCR and SCR;
- (b) section 12A of the Act and regulation 5(2);
- (c) capital adequacy and liquidity adequacy requirements in accordance with the CGC; and
- (d) any relevant—
  - (i) condition of authorisation;
  - (ii) direction; or
  - (iii) other requirement,given or imposed by the Authority.

## 9 Discretionary trusts

- (1) An authorised insurer which has a discretionary trust within its direct or indirect holding structure must notify the Authority as soon as is reasonably practicable—
  - (a) of those circumstances (as applicable) upon becoming aware of them; and
  - (b) of the identities and entitlements of the potential beneficiaries of the trust and the nature and scope of the discretion available to the trustees (and, if applicable, any other party) by which the potential beneficiaries or their entitlements may be changed.
- (2) An authorised insurer must notify the Authority of any change to any details notified under paragraph (1) as soon as is reasonably practicable upon becoming aware of the change.
- (3) An authorised insurer must undertake monitoring in order to identify any situation in respect of the insurer requiring notification under this regulation. Such monitoring, at a minimum, must include carrying out enquiries as soon as is reasonably practicable upon becoming aware of any circumstances which suggest that a situation requiring such notification may have arisen, and at least annually.

## 10 Registers

- (1) The register of current authorised insurers required to be kept under section 48 of the Act must contain the particulars specified in Schedule 2.
- (2) The register of the current permit holders required to be kept under section 48 of the Act must contain the particulars specified in Schedule 3.
- (3) The register of current registered insurance managers required to be kept under section 48 of the Act must contain the particulars specified in Schedule 4.

- (4) Subject to paragraph (5), the registers of former authorised insurers, permit holders and registered insurance managers required to be kept under section 48 of the Act, respectively, must —
- (a) contain the same particulars as specified in—
    - (i) Schedule 2 for current authorised insurers;
    - (ii) Schedule 3 for current permit holders; and
    - (iii) Schedule 4 for current registered insurance managers,as at the date the authorisation or permit was surrendered or terminated, or as at the date the registration was cancelled (as the case may be);
  - (b) include, as applicable, the date the—
    - (i) authorisation or permit was surrendered or terminated (and state which applies); or
    - (ii) registration was cancelled (and state whether the cancellation was voluntary or imposed by the Authority); and
  - (c) exclude any information in relation to any authorisation or permit (as applicable) which, prior to its surrender or termination, had been withdrawn in respect of new business.
- (5) In respect of a former authorised insurer, permit holder or registered insurance manager at the date on which these Regulations came into operation, the content of the relevant register referred to in paragraph (4) shall—
- (a) be limited to such content as was required to be included in such a register in accordance with regulations made under the Act as were in operation immediately prior to the date on which these Regulations came into operation; and
  - (b) exclude any personal data within the meaning of article 4(1) of the Applied GDPR in the Annex to the Data Protection (Application of GDPR) Order 2018.

## 11 Exempted insurance business

For the purposes of section 5 of the Act, the following persons are exempt from the requirement to be an authorised insurer or permit holder to the extent specified—

- (a) a body registered as a friendly society (but not as a branch of a society) under a Parliamentary enactment having effect in the Island or any part of the United Kingdom in respect of any business which it carries on for or in connection with any of the services which a friendly society may provide under that or other enactments relating to friendly societies;

- (b) a Trade Union or Employers' Association if the insurance business carried on by it is limited to the provision for its members in the Island of provident benefits or strike benefits;
- (c) a person licensed under section 7 of the Financial Services Act 2008 to undertake Class 1(1) or 1(2) regulated activities under the Regulated Activities Order 2011<sup>7</sup> (deposit taking), in respect of insurance business within class 6 or 8 and carried on solely in the course of, or for the purposes of, carrying on Class 1(1) or 1(2) regulated activities;
- (d) an insurer that—
  - (i) is authorised to carry on an insurance business in a jurisdiction which has an approved supervisor; and
  - (ii) does not have a fixed place of business (other than an agency) in the Island; and
- (e) a person who is a member of the Society incorporated by the Lloyd's Act 1871 (an Act of Parliament) in respect of insurance business carried on as such a member.

## **12 Indemnity insurance for the auditors of authorised insurers**

No person may be appointed as auditor to an authorised insurer unless the person appointed is covered by an appropriate level of professional indemnity insurance which is suitable to the work carried on in relation to the insurer, and for an amount of not less than ten million pounds sterling.

## **13 Fitness and propriety requirements and notifications**

- (1) In this regulation a “regulated entity” is an authorised insurer or a registered insurance manager (as the case requires).
- (2) A regulated entity must take reasonable steps to ensure that all individuals (whether or not employed by the regulated entity), who perform activities for the purpose of or in connection with the activities for which the regulated entity is authorised or registered (as the case may be), are fit and proper for the tasks they perform in relation to the regulated entity.
- (3) A regulated entity must notify the Authority promptly if it becomes aware of any significant matters that may adversely affect an assessment of the fitness or propriety of any individual notified to the Authority under section 29 of the Act (or otherwise notified to the Authority for fitness and propriety purposes, as required by the Authority) in relation to the regulated entity.

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<sup>7</sup> SD 0884/11 (as amended)

## 14 Controlling interest requirements and notifications

- (1) In this regulation a “regulated entity” is an authorised insurer or a registered insurance manager (as the case requires).
- (2) Subject to paragraph (3), a regulated entity must notify the Authority of any changes to an existing controlling interest in the regulated entity which would take that controlling interest—
  - (a) from 50% or less to over 50%; or
  - (b) from 75% or less to over 75%.
- (3) Notification under paragraph (2) must be made within 7 days after the regulated entity becomes aware of the change, but is not required if the Authority has already been made aware of the change in accordance with section 29 of the Act.
- (4) A regulated entity must undertake monitoring in order to identify any situation in respect of the regulated entity requiring notification under paragraph (2). Such monitoring, at a minimum, must include carrying out enquiries as soon as is reasonably practicable upon becoming aware of circumstances which suggest that a situation requiring such notification may have arisen, and at least annually.
- (5) In this regulation, “**controlling interest**” is interpreted by reference to the definition of “controller” in the Act.

## PART II

### PERMIT HOLDERS

## 15 Application of these Regulations and other specified regulations to permit holders

- (1) For the purposes of section 22 of the Act and subject to paragraphs (2) to (4)—
  - (a) regulations 1 to 3, 5, 6, 9, 12 to 14, 17 and 23(2) to (5); and
  - (b) the following (as applicable)—
    - (i) Insurance (Long-Term Business Valuation and Solvency) Regulations 2021; or
    - (ii) Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021,apply, with any necessary modifications as may be specified in writing by the Authority, to a permit holder as they apply to an authorised insurer.
- (2) Regulation 17 and sub-paragraph (1)(b) do not apply to a permit holder if—

- (a) the permit holder is authorised to carry on insurance business in or from its home jurisdiction;
  - (b) section 12 of the Act does not apply to the permit holder in accordance with regulation 16(2);
  - (c) at the same time as any financial statements and reports of the permit holder are submitted to the insurance supervisory authority in its home jurisdiction, the permit holder submits a copy of those financial statements and reports to the Authority; and
  - (d) at the same time as any capital and solvency calculations of the permit holder are submitted to the insurance supervisory authority in its home jurisdiction, the permit holder submits a copy of those capital and solvency calculations to the Authority,
- and the financial statements and reports, and capital and solvency calculations, of the permit holder required to be reported to the insurance supervisory authority of its home jurisdiction are acceptable to the Authority instead of their equivalents under these Regulations.
- (3) In respect of a permit holder, if the requirements of paragraph (2) are met, this shall also be deemed as approval of accounting standards under subparagraph (iii) of regulation 6(4), but only for the case in question, if required.
  - (4) This regulation does not apply to a permit holder where—
    - (a) it is authorised to carry on an insurance business in its home jurisdiction; and
    - (b) its home jurisdiction has an approved supervisor.

## 16 Application of the Act to permit holders

- (1) For the purposes of section 22 of the Act and subject to paragraphs (2) to (5), sections 12, 12A to 12D, 13, 14(2) to 14(5), 15, 17A, 18, 21 and 29 of the Act apply, with any necessary modifications as may be specified in writing by the Authority, to a permit holder as they apply to an authorised insurer.
- (2) Section 12 of the Act does not apply to a permit holder where the capital and solvency requirements of the insurance supervisory authority in its home jurisdiction that are applicable to the permit holder are acceptable to the Authority instead of their equivalents under the—
  - (a) Insurance (Long-Term Business Valuation and Solvency) Regulations 2021; or
  - (b) Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021,(as applicable) and where the requirements of regulation 15(2)(a), (c) and (d) are met.
- (3) In relation to a permit holder—

- (a) for section 12C(1)(b) of the Act, substitute—
- (b) undertake, or continue to undertake, inter-regulatory communication with the insurer’s home insurance supervisory authority to request or confirm that appropriate regulatory action is taken.
- (b) omit section 12C(2) of the Act; and
- (c) for section 13(7)(a) of the Act, substitute—
- (a) in the case of a scheme submitted under this section by virtue of a requirement made under section 12C(1)(a), the Authority may undertake, or continue to undertake, inter-regulatory communication with the insurer’s home insurance supervisory authority to request or confirm that appropriate regulatory action is taken.
- (4) Section 29 of the Act applies to a permit holder only in respect of—
- (a) a controller of the permit holder;
- (b) the most senior executive in the Island responsible for the permit holder;
- (c) the Money Laundering Reporting Officer of the permit holder; and
- (d) any head office personnel who have direct responsibility for, or who will be overseeing the work of, the permit holder.
- (5) Except in relation to the application of section 21 of the Act to a permit holder, this regulation does not apply to a permit holder where—
- (a) it is authorised to carry on an insurance business in its home jurisdiction; and
- (b) its home jurisdiction has an approved supervisor.

### PART III

#### REPORTING REQUIREMENTS FOR AUTHORISED INSURERS

##### 17 Annual and other periodic regulatory returns for authorised insurers

- (1) Subject to paragraphs (2) to (6) (as applicable), an authorised insurer must submit to the Authority the following regulatory returns in accordance with this regulation—
- (a) an “annual return” each time and at the same time as the audited accounts of the insurer are submitted to the Authority; and
- (b) for an insurer authorised in respect of a class other than class 12, a “quarterly return” on a 3 monthly reporting period basis; or

- (c) for a class 12 insurer, a “bi-annual return” on a 6 monthly reporting period basis.
- (2) Quarterly returns and bi-annual returns, as referred to in paragraph (1)(b) and (1)(c), must be submitted within 3 months after each reporting period end date, with the first reporting period commencing on the day immediately following the financial year end date of the insurer’s last preceding audited accounts (where the insurer is newly authorised the commencement date shall be as stipulated or agreed by the Authority).
- (3) An authorised insurer’s regulatory return under paragraph (1)(b) (quarterly return) or (1)(c) (bi-annual return), where sharing the same period end date as the financial year end date of the insurer’s audited accounts, is not (unless the Authority specifies otherwise) required to be submitted if the insurer’s audited accounts and information required under paragraph (1)(a) (annual return) have been submitted within 3 months of that financial year end date.
- (4) The regulatory returns referred to in paragraph (1) must—
  - (a) contain such information as may be specified by the Authority from time to time (which includes modifying the information referred to in paragraphs (5) and (6));
  - (b) be in such form as is required by the Authority; and
  - (c) be submitted electronically unless the Authority requires otherwise.
- (5) Pursuant to paragraphs (1)(a) and (4), an annual return of an authorised insurer, in respect of the insurer and corresponding to the reporting period (ordinarily the financial year) of its accompanying audited accounts, must include the following—
  - (a) a completed return containing—
    - (i) information in respect of the insurer’s regulatory economic balance sheet and SCR and MCR results;
    - (ii) other supplementary information about the insurer’s business; and
    - (iii) general information and statistical data in relation to the insurer;
  - (b) a “Directors’ Certificate”, including confirmations and certifications in respect of the insurer and its regulatory returns as referred to in sub-paragraph (a), which must be signed by two of the insurer’s directors, at least one of whom must be resident in the Island;
  - (c) an “Auditor’s Report”, including the auditor’s opinion in respect of certain information submitted by the insurer as referred to in

- sub-paragraphs (a)(i) and (b), which must be signed by the insurer's auditor;
- (d) where the insurer is authorised in respect of long-term business, a copy of its actuarial report as required by regulation 7 of the Insurance (Long-Term Business Valuation and Solvency) Regulations 2021;
  - (e) where the insurer is authorised in respect of non long-term business, a copy of its board report as required by regulation 8 of the Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021;
  - (f) the Directors' Certificate on Corporate Governance as required by paragraph 8 of the CGC;
  - (g) the information in respect of governance communication as required by paragraph 58(1) of the CGC; and
  - (h) in respect of a class 12 insurer, the reports in relation to informed consent and de minimis as referred to in paragraphs 5(7)(a) and 6(6)(a) of Schedule 1 (as applicable).
- (6) Pursuant to paragraphs (1)(b) and (c) and paragraph (4), a quarterly or bi-annual return of an authorised insurer (as applicable) must include the following for the relevant reporting period –
- (a) where the insurer is authorised in respect of long-term business –
    - (i) the information required in paragraph (5)(a)(i); and
    - (ii) a subset of the information required in paragraph (5)(a)(ii), as specified by the Authority; and
  - (b) where the insurer is authorised in respect of non long-term business –
    - (i) the information required in paragraph (5)(a)(i); and
    - (ii) a copy of its management accounts and any other information that the Authority may require to supplement those accounts.

## 18 Exemption from reporting for dormant authorised insurers

- (1) An authorised insurer, in accordance with paragraph (2) (a “dormant authorised insurer”) is exempt from the requirements of this Part.
- (2) Subject to paragraphs (3) and (4), an authorised insurer is a dormant authorised insurer if it is not carrying on any activity in respect of which it is required to be authorised (including, to avoid any doubt, that the insurer does not have any exposure to any liability or potential liability by way of insurance business).

- (3) Subject to paragraph (4), a dormant authorised insurer that wishes to commence the carrying on of any insurance business, at a minimum, must submit a corresponding business plan to the Authority and obtain the Authority's prior written approval to commence that business.
- (4) A dormant authorised insurer may carry on work preparatory to its commencement of insurance business.

## PART IV

### SURRENDERS AND CANCELLATIONS

#### 19 Surrender of authorisation

- (1) An authorised insurer must—
  - (a) notify the Authority in writing if it proposes to surrender one or more of its classes of authorisation; and
  - (b) complete such additional surrender process (including providing any information and confirmations) as the Authority may require pursuant to section 10A of the Act.
- (2) Any notice under paragraph (1)(a) must—
  - (a) confirm that the insurer—
    - (i) is not carrying on any activity requiring it to be authorised in respect of any class of insurance business corresponding to the authorisation to be surrendered; and
    - (ii) has notified all relevant parties of its intention to surrender its authorisation;
  - (b) include details of the arrangements that the insurer considers necessary to secure that all insurance business, in respect of which its authorisation to be surrendered was required, is discontinued and wound up (a “winding-up plan”) and those details must address at least the matters in paragraph (3); and
  - (c) be given not less than 28 days before the surrender of authorisation is proposed to take effect.
- (3) The winding up plan referred to in paragraph (2)(b) must provide details of how the insurer has verified that it is not required to be authorised in respect of any class of insurance business corresponding to the authorisation to be surrendered (including verifying that all of its insurance obligations under the contracts of insurance it has written under such class have either been terminated permanently or have been fully and permanently transferred to another insurer).

- (4) The insurer, if required by the Authority to do so, must be able to demonstrate to the Authority, in a manner acceptable to the Authority, the verification process it has undertaken in accordance with paragraph (3).
- (5) A surrender of authorisation is not effective until the end of the notice period given in accordance with paragraph (2)(c), unless the Authority determines otherwise.
- (6) Where an authorisation is surrendered, the insurer surrendering it must preserve its records relating to the business in respect of which the authorisation was required for at least six years beginning with the date of surrender and must notify the Authority, within the notice at paragraph (1)(a), of the method of storage and location of those records.

## 20 Surrender of permit

- (1) A permit holder must—
  - (a) notify the Authority in writing if it proposes to surrender one or more classes of authorisation corresponding to its permit; and
  - (b) complete such additional surrender process (including providing any information and confirmations) as the Authority may require pursuant to section 10A of the Act.
- (2) Any notice under paragraph (1)(a) must—
  - (a) confirm that the permit holder—
    - (i) is not carrying on any activity requiring it to hold a permit under section 22 of the Act in respect of any class of insurance business corresponding to the permit to be surrendered; and
    - (ii) has notified all relevant parties of its intention to surrender its permit;
  - (b) include details of the arrangements that the permit holder considers necessary to secure that all insurance business, in respect of which its permit to be surrendered was required, is discontinued and wound up (a “winding-up plan”); and
  - (c) be given not less than 28 days before the surrender of permit is proposed to take effect.
- (3) A surrender of permit is not effective until the end of the notice period given in accordance with paragraph (2)(c), unless the Authority determines otherwise.
- (4) Where a permit is surrendered, the permit holder surrendering it must preserve its records relating to the business in respect of which the permit was required for at least six years beginning with the date of surrender and must notify the Authority, within the notice at paragraph (1)(a), of the method of storage and location of those records.

## 21 Cancellation of registration of insurance manager

- (1) A registered insurance manager must—
  - (a) notify the Authority in writing if it proposes to cancel its registration; and
  - (b) complete such additional surrender process (including providing any information and confirmations) as the Authority may require pursuant to section 26A of the Act.
- (2) Any notice under paragraph (1)(a) must—
  - (a) confirm that the insurance manager—
    - (i) is not carrying on any activity requiring it to be registered as an insurance manager under Part 6 of the Act; and
    - (ii) has notified all relevant parties of its intention to cancel its registration;
  - (b) include details of the arrangements that the insurance manager considers necessary to secure that all activities, in respect of which its registration was required, are discontinued and wound up (a “winding-up plan”); and
  - (c) be given not less than 28 days before the cancellation of registration is proposed to take effect.
- (3) A cancellation of a registration is not effective until the end of the notice period given in accordance with paragraph (2)(c), unless the Authority determines otherwise.
- (4) Where a registration is cancelled, the insurance manager cancelling it must preserve its records relating to the activities in respect of which the registration was required for at least six years beginning with the date of cancellation and must notify the Authority, within the notice at paragraph (1)(a), of the method of storage and location of those records.

## 22 Meaning of “records”

In this Part, “records” means books, accounts and documents appropriate to the activities of the—

- (a) authorised insurer in respect of its class of authorisation being surrendered;
  - (b) permit holder in respect of the class of permit being surrendered; or
  - (c) registered insurance manager in respect of the registration being cancelled,
- (as applicable) that provide legible accurate, verifiable, timely, complete and comprehensible information.

## PART V

### TRANSITIONAL ARRANGEMENTS

#### 23 Arrangements for transition to new framework

(1) In respect of any insurance business of an authorised insurer existing at the date on which these Regulations came into operation, the Authority may determine, if it considers it appropriate to do so for transitional purposes, where the insurer—

- (a) is authorised in respect of any of classes 3 to 9 or 11 effective at the date when these Regulations came into operation; and
- (b) has permanently ceased conducting new business and is administering its portfolio in order to terminate all of its insurance obligations and activities,

that the insurer is subject to a reduced MCR of an amount no lower than £100,000, as specified by the Authority, and this amount shall apply instead of the MCR otherwise applicable to the insurer in accordance with regulation 70(4)(b) of the Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021.

(2) In respect of class 12, subject to paragraphs (3) to (5), and subject to paragraphs 1(4) and 1(5) of Schedule 1, any insurance business of an authorised insurer existing at the date on which these Regulations came into operation which—

- (a) complies with the requirements for class 12 authorisation in accordance with Schedule 1;
- (b) was written under a class 12 authorisation in accordance with regulations made under the Act that were in operation on the date the relevant contracts of insurance were entered into; or
- (c) despite being written under a class of authorisation other than class 12 in accordance with regulations made under the Act that were in operation on the date the relevant contracts of insurance were entered into, also met the requirements for class 12 authorisation in accordance with those regulations,

shall qualify as class 12 under these Regulations.

(3) In relation to—

- (a) class 12 business as referred to in paragraph (2)(b); or
- (b) other business as referred to in paragraph (2)(c),

where the insurer wishes to be authorised in respect of class 12 under these Regulations and where any of its contracts of insurance existing at the date on which these Regulations came into operation—

- (i) are extended, amended, renewed or otherwise altered or changed on or after the date on which these Regulations came into operation, each such contract after its alteration or change, subject to sub-paragraph (ii) and if it does not already comply with Schedule 1, must be in accordance with the regulations referred to in paragraph (2)(b) or (2)(c) (as applicable); and
  - (ii) have a period of cover that for any reason goes beyond 30 June 2023 (or such later date as the Authority may agree in writing), each such contract must be in accordance with Schedule 1.
- (4) In sub-paragraph (ii) of paragraph (3), “period of cover”, in relation to a contract, means the period of time during which an insured event is protected by the contract (this is the period of time in respect of which a claim may arise under the contract, but does not include any additional time beyond that period as may be allowed after any insured event for notification of a corresponding claim).
- (5) To avoid any doubt, in respect of a class 12 insurer, any contracts of insurance it enters into after the date on which these Regulations came into operation must comply with Schedule 1.

## PART VI

### REVOCATIONS

#### 24 Revocations

The following regulations are revoked—

- (a) Insurance (Amendment) Regulations 2018<sup>8</sup>;
- (b) Insurance Regulations 2018<sup>9</sup>;
- (c) Insurance (Incorporated Cell Companies) Regulations 2011<sup>10</sup>;
- (d) Insurance (Limited Partnerships) Regulations 2004<sup>11</sup>;
- (e) Insurance (Limited Partnerships) (Solvency) (Amendment) Regulations 2011<sup>12</sup>;
- (f) Regulations 3 to 7 and 9 of the Insurance (Miscellaneous Amendments) Regulations 2015<sup>13</sup>;

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<sup>8</sup> SD 2018/0003

<sup>9</sup> SD 2018/0192

<sup>10</sup> SD 374/11

<sup>11</sup> SD 552/04

<sup>12</sup> SD 0018/11

<sup>13</sup> SD 2015/0314

- (g) Insurance (Protected Cell Companies) (Amendment) Regulations 2005<sup>14</sup>;
- (h) Insurance (Protected Cell Companies and Limited Partnerships) Amendment Regulations 2020<sup>15</sup>;
- (i) Insurance (Protected Cell Companies) Regulations 2004<sup>16</sup>;
- (j) Insurance (Solvency) (Amendment) Regulations 2011<sup>17</sup>;
- (k) Insurance (Solvency) (Amendment) Regulations 2012<sup>18</sup>; and
- (l) Insurance (Transitional Provisions) (Amendment) Regulations 2015<sup>19</sup>.

**MADE 2 DECEMBER 2021**

**B. ROTH**

*Chief Executive of the Isle of Man Financial Services Authority*

**L. BOYLE**

*Member of the Isle of Man Financial Services Authority*

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<sup>14</sup> SD 267/05

<sup>15</sup> SD 2020/0144

<sup>16</sup> SD 149/04

<sup>17</sup> SD 0918/11

<sup>18</sup> SD 0294/12

<sup>19</sup> SD 2015/0315

**SCHEDULE 1**

[Regulation 4(2)]

**CLASS 12 REQUIREMENTS****1 Class 12 insurers and insurance business**

- (1) The following applies to a class 12 insurer—
  - (a) it cannot hold any class of insurance authorisation other than class 12;
  - (b) up to (and including) 1% of its total insurance business carried on may be non-class 12 insurance business, as determined in accordance with paragraph 6(2) (the “de minimis rule”); and
  - (c) the remainder of its business must all be in accordance with sub-paragraph (2).
- (2) Subject to sub-paragraphs (1)(b) and (c), (3) to (6) and regulation 23(2) to (5), in relation to an authorised insurer, class 12 insurance business includes only contracts of the insurer which in each case are—
  - (a) a direct contract of insurance within classes 1 to 9 insofar as the contract insures only persons that in each case, on the date that the person enters into the contract or otherwise becomes insured under the contract for the risk in question, are—
    - (i) a related party of the insurer;
    - (ii) a person where the insurance is in respect of work carried out by that person for or on behalf of a related party (other than an individual) of the insurer and where the related party is liable for that work; or
    - (iii) a sophisticated person where that person has given the insurer their informed consent in accordance with paragraph 5(1) to (4) (as applicable) to be insured under the contract; or
  - (b) a reinsurance contract within classes 1 to 11 insofar as the underlying direct contract of insurance being reinsured by the insurer (in this sub-paragraph, the “class 12 reinsurer”)—
    - (i) insures only persons that, in each case, are a person in accordance with sub-paragraph (a), except that for the purposes of this sub-paragraph—
      - (A) a related party as referred to in sub-paragraph (a)(i) or (a)(ii) (as applicable) must be a related party of the class 12 reinsurer; and

- (B) in relation to sub-paragraph (a)(iii), any informed consent must be for the class 12 reinsurer to provide reinsurance in relation to the underlying direct contract of insurance, and must be given to the class 12 reinsurer by the consenting underlying direct insured and cannot be given by an underlying ceding or retroceding insurer; or
  - (ii) is currently —
    - (A) written by a qualifying ceding insurer underlying the class 12 reinsurer's reinsurance; or
    - (B) reinsured by a qualifying retroceding insurer underlying the class 12 reinsurer's reinsurance, provided that the qualifying ceding insurer or qualifying retroceding insurer (as the case may be) remains liable for its corresponding insurance obligations irrespective of whether or not it can recover directly or indirectly from the class 12 reinsurer's reinsurance any amounts it pays.
- (3) The Authority may prohibit the use of sub-paragraph (2)(b)(ii) if the business in question appears to the Authority to be of a type that should be deemed as non-class 12 insurance business.
- (4) Where —
  - (a) a class 12 insurer has been, or will be, sold;
  - (b) some or all of the business of a class 12 insurer has been, or will be, transferred to another authorised insurer; or
  - (c) a class 12 insurer has been, or will be, merged or amalgamated with another authorised insurer,the Authority may require the —
  - (i) class 12 insurer (in relation to sub-paragraph (a)); or
  - (ii) recipient insurer or continuing insurer (in relation to sub-paragraph (b) or (c), as the case may be), if not already authorised for the appropriate non-class 12 class or classes, to be authorised under a class or classes other than class 12 if it appears to the Authority that a change in accordance with any of sub-paragraphs (a) to (c) (as the case may be) would significantly reduce the likelihood of an insurer in accordance with sub-paragraph (i) or (ii) (as the case may be) receiving, if needed, financial assistance in the future.
- (5) In any situation where it is unclear whether some or all of an authorised insurer's business or prospective business meets any of the requirements of this Schedule or regulation 23(2) to (5), the Authority may determine

the degree to which that business meets or does not meet those requirements.

(6) In this Schedule—

“**de minimis rule**” has the meaning given in sub-paragraph (1)(b);

“**direct contract of insurance**” means an insurance contract and not a reinsurance contract, and “direct insured” is to be construed accordingly;

“**informed consent**” has the meaning given in paragraphs 5(2)(b) (as applicable);

“**insures only persons**”, for the purposes of sub-paragraphs (2)(a) and (2)(b)(i) (as applicable) and in relation to a direct contract of insurance—

(a) “insures” includes being insured under the contract by name, category or any other description; and

(b) “persons” include policyholders and any other person that has a contractual right, or contingent contractual right, under the contract to make a claim under the policy directly against the insurer that has written the policy (to avoid any doubt this excludes a right to claim simply by way of The Third Parties (Rights against Insurers) Act 1932, or any relevant equivalent legislation outside the Island);

“**non-class 12 insurance business**” means any insurance business—

(a) corresponding to contracts of insurance falling outside of the criteria set out in sub-paragraph (2) (to avoid any doubt, this is to be determined without applying the de minimis rule); or

(b) deemed by the Authority to be non-class 12 insurance business in accordance with sub-paragraph (3) or (5);

“**qualifying ceding insurer**” and “**qualifying retroceding insurer**” mean an insurer that is licensed in a jurisdiction which requires the insurer to hold capital determined using a risk-based approach and calibrated to at least a ‘1 in 200’ year (or a 99.5% value at risk) confidence level over a one year time horizon (for the purposes of this definition, the “qualifying criteria”), and include only an insurer—

(a) authorised accordingly to carry on an insurance business in the United Kingdom, any Member State of the European Union or any other jurisdiction which is acceptable to the Authority based on the qualifying criteria; or

(b) that is part of an insurance group where—

(i) the group overall is subject to such capital requirement; and

(ii) the group supervisor of the group is located in such jurisdiction;

“**reinsured**”, in relation to a direct contract of insurance, includes—

- (a) reinsurance of the direct contract; and
  - (b) any further retrocession,
- as the case requires;

“**related party**” has the meaning given in paragraphs 2 to 4 (as applicable); and

“**sophisticated person**” has the meaning given in paragraph 5(2)(a) (as applicable).

## 2 Related parties (other than individuals)

(1) In relation to an authorised insurer, the following persons (other than individuals) may, in each case, be treated as a related party of the insurer—

- (a) where the insurer is a company (but is not a PCC, LP or a company in accordance with sub-paragraph (b))—
  - (i) a holding company or subsidiary of—
    - (A) the insurer; or
    - (B) a person in accordance with sub-paragraph (ii), and any subsidiary of that holding company;
  - (ii) a shareholder of—
    - (A) the insurer; or
    - (B) a holding company of the insurer, and, pursuant to an agreement with other such shareholders, controls a majority of the voting rights of the insurer or that holding company respectively; and
  - (iii) a person in respect of which 45% or more of its beneficial ownership is the same as 45% or more of the beneficial ownership of—
    - (A) the insurer; or
    - (B) a shareholder in accordance with sub-paragraph (ii); or
- (b) where the insurer is a mutual, or a mutual holds or controls a majority of the voting rights of the insurer or a majority of the voting rights of a holding company of the insurer (such mutual is the insurer’s “controlling mutual”)—
  - (i) a mutual member of—
    - (A) the insurer (where the insurer is a mutual); or
    - (B) a controlling mutual of the insurer, as applicable;
  - (ii) a holding company or subsidiary of—

- (A) the insurer;
- (B) a mutual member in accordance with sub-paragraph (i); or
- (C) a person in accordance with sub-paragraph (iii), and any subsidiary of that holding company;
- (iii) a shareholder of—
  - (A) a mutual member in accordance with sub-paragraph (i); or
  - (B) a holding company of a mutual member in accordance with sub-paragraph (i), and, pursuant to an agreement with other such shareholders, controls a majority of the voting rights of the that mutual member or that holding company respectively; and
- (iv) a person in respect of which 45% or more of its beneficial ownership is the same as 45% or more of the beneficial ownership of—
  - (A) the insurer;
  - (B) a mutual member in accordance with sub-paragraph (i); or
  - (C) a person in accordance with sub-paragraph (iii).

(2) In this paragraph (paragraph 2)—

“**beneficial ownership**” has the meaning given in section 4 of the Beneficial Ownership Act 2017 with the following addition: in respect of a person that is directly or indirectly owned or controlled by a discretionary trust, a beneficiary of the discretionary trust may also be treated as a “beneficial owner” of the person if the benefits in respect of the person accruing to the beneficiary by way of the discretionary trust are verified in a manner acceptable to the Authority as being, in practice, the equivalent of the beneficiary having a beneficial ownership interest in the profits of the person;

“**company**” includes a foreign company and any other body corporate;

“**controlling mutual**” has the meaning given in sub-paragraph (1)(b);

“**holding company**” has the meaning given in section 220 of the Companies Act 2006, as amended by the definition of “subsidiary” in this sub-paragraph;

“**mutual**” includes an equivalent of a mutual by any other name;

“**subsidiary**” has the meaning given in section 220 of the Companies Act 2006 with the following amendment: for section 220(1)(a) of that Act, substitute—

- (a) the second company—
      - (i) holds or controls—
        - (A) a majority of the voting rights in the first company; or
        - (B) 45% or more of the voting rights in the first company (this sub-paragraph is applicable only in cases where the second company is prevented from holding or controlling a majority of the voting rights in the first company by relevant legislation or the requirements of a relevant government body, statutory body or other competent authority); or
      - (ii) is a member of the first company and has the right to appoint or remove a majority of its board; or **22**,

and, to avoid any doubt, section 220(1)(a)(iii) as appearing in the Companies Act 2006 does not apply; and

“**voting rights**” means, in relation to a resolution of the members of a company, or a class of members of a company, all the rights to vote on such resolution conferred on the members of the company.

### 3 Related parties (individuals)

In relation to an authorised insurer, the following individuals may, in each case, be treated as a related party of the insurer—

- (a) an employee, director or other officer of—
  - (i) the insurer; or
  - (ii) a related party of the insurer in accordance with paragraph 2; and
- (b) a close family member of such an employee, director or officer where the insurance in question relates to the employee, director or officer’s role with the insurer or the related party respectively.

### 4 Former related parties that may be treated as related parties

A person that was previously (but is no longer) a related party of an authorised insurer may be treated as a related party of the insurer where the relevant insurance contract involved, which may insure the person under a direct contract of insurance—

- (a) written by the insurer (in accordance with paragraph 1(2)(a)); or
- (b) underlying a reinsurance contract written by the insurer (in accordance with paragraph 1(2)(b)(i)),

is such that claims may only arise in respect of an insured event which occurred at a time when the person was a related party of the insurer.

## 5 Sophisticated person and informed consent

- (1) Without limiting sub-paragraphs (2) to (4), informed consent may only be given to an authorised insurer by a person which (at the time the consent is given)—
  - (a) alone has 10% or more, but less than, a relevant—
    - (i) majority; or
    - (ii) 45% or more,relationship required to be a related party of the insurer in accordance with paragraph 2;
  - (b) has a business relationship (other than insurance) with a related party (other than an individual) of the insurer and the insurance involved is incidental to, including being only a minor part of, that relationship; or
  - (c) meets such other circumstances as the Authority may specify.
- (2) For the purposes of paragraph 1(2)(a)(iii), and paragraph 1(2)(b)(i) insofar as it relates to paragraph 1(2)(a)(iii), and subject to sub-paragraphs (3) to (5)—
  - (a) a “**sophisticated person**”, in relation to an authorised insurer, that is—
    - (i) an individual, includes only a person whose net worth exceeds ten million pounds sterling (or equivalent in another currency) at the date when the relevant informed consent is given, who has confirmed that fact in writing to the insurer and where that confirmation is consistent with all other information about the individual obtained by the insurer (having made reasonable enquiries) or of which the insurer is otherwise aware; or
    - (ii) not an individual, includes only a person with net assets available to it exceeding three million pounds sterling (or equivalent in another currency) as evidenced by—
      - (A) its latest available audited financial statements; or
      - (B) the latest available consolidated audited financial statements of the group to which it belongs,prepared in accordance with IFRS or FRS, or other equivalent accounting standards, and made up to a date no more than 18 months prior to the date when the relevant informed consent is given; or

- (C) confirmation of that fact in writing by or on behalf of its board of directors (or, if it has no board of directors, its equivalent governing body) to the insurer and where that confirmation is consistent with all other information about the person obtained by the insurer (having made reasonable enquiries) or of which the insurer is otherwise aware; and
- (b) **“informed consent”**, in relation to an authorised insurer, means written evidence showing that a sophisticated person, prior to (or concurrent with) that person becoming insured under a direct contract of insurance—
  - (i) written by the insurer to which the informed consent relates (in accordance with paragraph 1(2)(a)(iii)); or
  - (ii) underlying a reinsurance contract written by the insurer to which the informed consent relates (in accordance with paragraph 1(2)(b)(i) insofar as it relates to paragraph 1(2)(a)(iii)),  
  
(as the case requires) has consented to the insurer’s involvement under sub-paragraph (i) or (ii) (as the case may be) after being specifically alerted to the fact that the insurer is authorised by the Isle of Man Financial Services Authority and holds a class of authorisation meaning the insurer is subject to a reduced level of regulation which may result in increased risk to the sophisticated person.
- (3) The written evidence referred to in sub-paragraph (2)(b) must include a document—
  - (a) signed by the consenting person (or the person’s duly appointed representative); and
  - (b) which shows in clear and prominent wording that the consenting person has been informed, and has consented, in accordance with sub-paragraph (2)(b).
- (4) Informed consent (as applicable)—
  - (a) relating to a contract of insurance entered into prior to the date on which these Regulations came into operation may be obtained after the date the contract was entered into;
  - (b) obtained prior to the date on which these Regulations came into operation is valid for the purposes of these Regulations if it meets the requirements of this paragraph (paragraph 5); and
  - (c) relating to a contract of insurance entered into after the date on which these Regulations came into operation may be obtained after the date the corresponding contract was entered into, but only in

exceptional circumstances and with the prior written approval of the Authority.

- (5) Where a person that has provided informed consent withdraws that consent after the contract to which it relates has been entered into, the consent, for the purposes of these Regulations, shall be deemed to remain in force for the duration of the contract.
- (6) A class 12 insurer must establish and maintain a log of any potential claimants included in its contracts on the basis of informed consent in order to facilitate preparation of the information referred to in sub-paragraph (7)(a).
- (7) The Authority may—
  - (a) require a class 12 insurer to report to the Authority on the proportion of its business which has been written on the basis of informed consent; and
  - (b) impose requirements on the insurer where—
    - (i) the Authority considers that its business on the basis of informed consent represents a significant portion of its total business;
    - (ii) such reports are not provided to the Authority as required; or
    - (iii) a log is not kept in accordance with sub-paragraph (6).

## 6 De minimis

- (1) Without limiting sub-paragraphs (2) to (4), in order for any business of an authorised insurer to qualify as class 12 under the de minimis rule, that business must only include—
  - (a) a person insured under a direct contract of insurance—
    - (i) written by the insurer; or
    - (ii) underlying a reinsurance contract written by the insurer, (as applicable) where that person (at the time the contract is entered into)—
      - (A) alone has 10% or more, but less than, a relevant—
        - i. majority; or
        - ii. 45% or more, relationship required to be a related party of the insurer in accordance with paragraph 2;
      - (B) has a business relationship (other than insurance) with a related party (other than an individual) of the insurer and the insurance involved is incidental to,

- including being only a minor part of, that relationship; or
- (C) meets such other circumstances as the Authority may specify; and
- (b) direct contracts of insurance –
- (i) written by the insurer; or
- (ii) underlying a reinsurance contract written by the insurer, (as applicable) that are business-to-business (de minimis must not include, for example, any such contracts that insure retail customers).
- (2) In paragraph 1(1)(b), and subject to sub-paragraphs (3) and (4), more than 1% is reached by an authorised insurer if, working from the date on which it intends to enter into any contract of insurance, the insurer's total written premiums corresponding to all of the non-class 12 insurance business it has written in the last 12 months represent more than 1% of its total written premiums corresponding to all of the insurance business it has written in the last 12 months and, for the purposes of such calculation, written premiums must be measured gross of reinsurance and corresponding reinsurance commission and net of other commission.
- (3) The premiums referred to in sub-paragraph (2) must be calculated in accordance with the recognition and valuation of premiums in the –
- (a) Insurance (Long-Term Business Valuation and Solvency) Regulations 2021; or
- (b) Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021,
- as applicable.
- (4) A class 12 insurer must not enter into a contract of insurance which includes any non-class 12 insurance business if to do so would cause it to exceed, or continue to exceed, the 1% de minimis rule threshold, as referred to in sub-paragraph (2), as it would be if calculated immediately after entering into the contract and treating the contract's premium as written.
- (5) A class 12 insurer must –
- (a) keep a record of its de minimis calculations, as referred to in sub-paragraphs (2) and (4); and
- (b) unless the Authority agrees otherwise in writing for transitional purposes, establish and maintain a log of any potential claimants included in its contracts under the de minimis rule in order to facilitate preparation of the information referred to in sub-paragraph (6)(a).
- (6) The Authority may –

- (a) require a class 12 insurer to report to the Authority on the level of its reported but unsettled claims provisions which are in respect of claimants included in its contracts under the de minimis rule; and
- (b) impose requirements on the insurer where—
  - (i) the Authority considers that such provisions represent a significant portion of its total reported but unsettled claims provisions;
  - (ii) such reports are not provided to the Authority as required; or
  - (iii) a log or records are not kept in accordance with subparagraph (5).

**SCHEDULE 2**

[Regulation 10(1)]

**REGISTER OF AUTHORISED INSURERS**

The register of current authorised insurers required to be kept under section 48 of the Act must contain the following particulars of each authorised insurer —

- (a) the name of the authorised insurer and any business names it uses;
- (b) the address of its registered office;
- (c) its principal place of business in the Island (if different from the address of its registered office);
- (d) the categories and classes of insurance business carried on for which it is, or was, authorised;
- (e) in relation to each class of insurance business for which it is, or was, authorised—
  - (i) the date when the authorisation was granted; and
  - (ii) if it is no longer authorised in respect of any class of insurance business, for each such class, the date when it ceased to be so authorised;
- (f) any conditions to which its authorisation is subject;
- (g) the name of its registered insurance manager (if appointed);
- (h) if its authorisation has been withdrawn in respect of new business, that fact; and
- (i) its authorisation number.

**SCHEDULE 3**

[Regulation 10(2)]

**REGISTER OF PERMIT HOLDERS**

The register of current permit holders required to be kept under section 48 of the Act must contain the following particulars of each permit holder—

- (a) the name of the permit holder and any other business names it uses that are relevant to its permit;
- (b) the address of its registered office;
- (c) its principal place of business in the Island;
- (d) its country or territory of incorporation;
- (e) the classes of insurance business carried on for which its permit is, or was, granted;
- (f) in relation to each class of insurance business for which its permit is, or was, granted—
  - (i) the date when the permit was granted; and
  - (ii) if it no longer holds a permit in respect of any class of insurance business, for each such class, the date when it ceased to hold such permit;
- (g) any conditions to which its permit is subject;
- (h) the name of its registered insurance manager (if appointed);
- (i) if its permit has been withdrawn in respect of new business, that fact; and
- (j) its permit number.

**SCHEDULE 4**

[Regulation 10(3)]

**REGISTER OF INSURANCE MANAGERS**

The register of current registered insurance managers required to be kept under section 48 of the Act must contain the following particulars of each registered insurance manager—

- (a) the name of the registered insurance manager and any business names it uses;
- (b) the address of its registered office;
- (c) its principal place of business in the Island (if different from the address of its registered office);
- (d) the name of each authorised insurer it manages in or from the Island;
- (e) the name and country or territory of incorporation of each insurer not authorised in the Island but managed by the registered insurance manager in or from the Island;
- (f) the date of its registration;
- (g) any conditions to which its registration is subject; and
- (h) its registration number.

## SCHEDULE 5

[Regulation 4(3)]

## MATTERS RELATING TO INSURERS THAT ARE PROTECTED CELL COMPANIES

**1 Application of the Act, these Regulations, other specified regulations and this Schedule**

- (1) The Act, these Regulations and the regulations referred to in regulation 15(1)(b) apply to an authorised PCC in accordance with the modifications specified in this Schedule.
- (2) Where the Act, these Regulations and the regulations referred to in regulation 15(1)(b) (or any combination thereof) are applicable to a permit holder, they shall apply, in accordance with the modifications specified in this Schedule and with any other necessary modifications as may be specified in writing by the Authority, to a PCC equivalent that is a permit holder as they apply to an authorised PCC.

**2 Interpretation**

In this Schedule—

“**cell**”, in relation to a PCC, has the meaning given in the PCC legislation and, in relation to a PCC equivalent, means the equivalent of a cell of a PCC in accordance with these Regulations;

“**contract**”, in relation to a contract of insurance of a PCC, as the case requires, includes arrangements (and the same applies in relation to a contract of insurance of a PCC equivalent);

“**core**”, in relation to a PCC, is its non-cellular part in accordance with the PCC legislation and, in relation to a PCC equivalent, means the equivalent of the core of a PCC in accordance with these Regulations;

“**direct core holding company**” has the meaning given in sub-paragraph (c)(i) of the insertion under paragraph 4(2);

“**non-cellular**”, in relation to a PCC, has the meaning given in the PCC legislation and reference to non-cellular insurance business and non-cellular shares of the PCC means the insurance business or shares of the PCC (as the case may be) that are not attributable to (or, in the case of shares, not issued in respect of) any cell of the PCC (and, in relation to a PCC equivalent, means the equivalent of “non-cellular” in relation to a PCC in accordance with these Regulations);

“**PCC**” is an abbreviation of “protected cell company” and has the meaning given in the PCC legislation;

“**PCC equivalent**” means a person which—

- (a) is incorporated in a jurisdiction other than the Island; and
- (b) is the equivalent of a PCC in accordance with these Regulations;

“**PCC legislation**” means the—

- (a) Protected Cell Companies Act 2004, or
- (b) Companies Act 2006,

as applicable;

“**secondary liability**”, in relation to a PCC, refers to where the PCC’s core may become liable for the liabilities of one or more of the PCC’s cells in accordance with section—

- (a) 17 of the Protected Cell Companies Act 2004; or
- (b) 122 of the Companies Act 2006,

(as applicable) and, in relation to a PCC equivalent, means any equivalent of secondary liability as may have effect in respect of a PCC in accordance with these Regulations which has effect in respect of the PCC equivalent; and

“**supporting core**” has the meaning given in paragraphs 3(5) and (6).

### 3 Authorisation

- (1) Subject to sub-paragraphs (2) to (7), the authorisation of a PCC is limited to allow the PCC to carry on—
  - (a) by way of its core: only non-cellular insurance business (including all activities in connection with or for the purpose of that business) of a class specified by the Authority as being applicable to the core; or
  - (b) by way of a particular cell of the PCC: only insurance business that is attributable to that cell (including all activities in connection with or for the purpose of that business) which is of a class specified by the Authority as being applicable to that cell.
- (2) In relation to an authorised PCC—
  - (a) its core must be authorised in accordance with sub-paragraph (1)(a); and
  - (b) each of its cells must be authorised in accordance with sub-paragraph (1)(b).
- (3) Sub-paragraphs (1) and (2) do not limit the operation of any secondary liability in respect of the PCC.
- (4) The core of a PCC authorised under sub-paragraph (1)(a) is not restricted (including by way of section 16 of the Act) from managing the insurance business of any of the PCC’s cells in accordance with their respective authorisations under sub-paragraph (1)(b).

- (5) Where the core of a PCC meets the requirements of sub-paragraph (6), the Authority may authorise the core under sub-paragraph (1)(a) as a class 12 “supporting core”.
- (6) A supporting core of an authorised PCC, as referred to in sub-paragraph (5), is limited to being a central management resource of the PCC and must not carry on any non-cellular insurance business.
- (7) Sub-paragraphs (1), (2) and (6) have effect as conditions of authorisation under section 8 or 9 of the Act (as the case requires).

#### 4 Class 12

- (1) Where a class 12 authorisation has been granted to the core or a cell of a PCC in accordance with paragraph 3 (as the case may be), paragraph 1(1) of Schedule 1—
  - (a) shall apply only to the business of the core or that cell (as the case may be); and
  - (b) shall not apply to the PCC overall (unless the PCC has no cells and its core is authorised as class 12).
- (2) Subject to sub-paragraph (3), after paragraph 2(1)(b) of Schedule 1 insert—
  - (c) where the insurer is the core of a PCC authorised in respect of class 12 in accordance with paragraph 3 of Schedule 5—
      - (i) a holding company of the PCC provided that, if qualifying as such by way of voting rights, the required majority or 45% (as applicable) of voting rights are all voting rights attributed to the issued non-cellular shares of the PCC (a “direct core holding company”);
      - (ii) a holding company or subsidiary of—
        - (A) a direct core holding company; or
        - (B) a person in accordance with sub-paragraph (iii), and any subsidiary of that holding company;
      - (iii) a shareholder of—
        - (A) the issued non-cellular shares of the PCC;
        - (B) a direct core holding company; or
        - (C) a holding company of a direct core holding company,

and, pursuant to an agreement with other such shareholders, controls a majority of the voting rights of the PCC attributed to the issued non-cellular shares of the PCC, that direct core holding company or that holding company respectively;

- (iv) a subsidiary of the PCC that is not attributable to any cell of the PCC; and
  - (v) a person in respect of which 45% or more of its beneficial ownership is the same as 45% or more of the beneficial ownership of—
    - (A) the issued non-cellular shares of the PCC; or
    - (B) a shareholder in accordance with sub-paragraph (iii); or
- (d) where the insurer is a cell of a PCC authorised in respect of class 12 in accordance with paragraph 3 of Schedule 5—
- (i) a person that—
    - (A) holds a majority of the shares of the PCC issued in respect of the cell; or
    - (B) by way of a contractual agreement with the PCC, has a beneficial interest in a majority of the profits of the cell;
  - (ii) a holding company or subsidiary of—
    - (A) a person in accordance with sub-paragraph (i); or
    - (B) a person in accordance with sub-paragraph (iii), and any subsidiary of that holding company;
  - (iii) is a shareholder of—
    - (A) a person in accordance with sub-paragraph (i); or
    - (B) a holding company of a person in accordance with sub-paragraph (i), and, pursuant to an agreement with other such shareholders, controls a majority of the voting rights of that person or that holding company respectively,
  - (iv) a subsidiary of the PCC that is attributable to the cell; and
  - (v) a person in respect of which 45% or more of its beneficial ownership is the same as 45% or more of the beneficial ownership of—
    - (A) the shares of the PCC issued in respect of the cell; or
    - (B) a shareholder in accordance with sub-paragraph (iii). **22**.
- (3) Where an authorised PCC does not have a direct core holding company, or where the Authority otherwise considers it appropriate to do so, the Authority may modify sub-paragraph (c) or (d) of the insertion under sub-

paragraph (2) as appropriate to the circumstances of the PCC (such as by modifying the approach used in respect of a cell and applying it to its core, or by modifying the approach used in respect of a mutual and applying it to the PCC).

## 5 Reporting requirements

- (1) In relation to an authorised PCC, for regulations 17(5) and 17(6) substitute the following:

**(5)** Pursuant to paragraphs (1)(a) and (4), an annual return of an authorised PCC, in respect of the PCC and corresponding to the reporting period (ordinarily the financial year) of its accompanying audited accounts, must include the following—

- (a) separately for its core and each of its cells in accordance with the core or cell's authorisation under paragraph 3 of Schedule 5—

- (i) a completed return containing for the core or cell (as applicable)—

- (A) information in respect of its regulatory economic balance sheet and SCR and MCR results;
- (B) other supplementary information about its business; and
- (C) general information and statistical data (as may be specified by the Authority in respect of a core or cell, as applicable);

- (ii) where the core or cell (as the case may be) is authorised in respect of long-term business, a copy of its actuarial report as required by regulation 7 of the Insurance (Long-Term Business Valuation and Solvency) Regulations 2021 in respect of the core or cell's business (as applicable);

- (iii) where the core or cell (as the case may be) is authorised in respect of non long-term business, a copy of its board report as required by regulation 8 of the Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021 in respect of the core or cell's business (as applicable); and

- (iv) in respect of a class 12 core (other than a supporting core) or a class 12 cell (as the case may be), the reports in relation to informed consent and de

minimis as referred to in paragraphs 5(7)(a) and 6(6)(a) of Schedule 1 (as applicable); and

(b) for the PCC as a whole—

- (i) a “Directors’ Certificate”, including confirmations and certifications in respect of the PCC (and, where separately required, in respect of its core, a cell or cells, as applicable) and its regulatory returns as referred to in sub-paragraph (a)(i), which must be signed by two of the PCC’s directors, at least one of whom must be resident in the Island;
- (ii) an “Auditor’s Report”, including the auditor’s opinion in respect of certain information submitted by the PCC as referred to in sub-paragraphs (a)(i)(A) and (b)(i), which must be signed by the PCC’s auditor;
- (iii) the Directors’ Certificate on Corporate Governance as required by paragraph 8 of the CGC (for any material matters required to be disclosed, if not already made clear in the certificate, the PCC must specify in each instance whether the matter relates to the PCC as a whole, or is restricted to its core or one or more of its cells (identifying each such cell) or, if a combination of these, that combination);
- (iv) the information in respect of governance communication as required by paragraph 58(1) of the CGC (for any material matters included in the communication, if not already made clear in the communication, the PCC must specify in each instance whether the matter relates to the PCC as a whole, or is restricted to its core or one or more of its cells (identifying each such cell) or, if a combination of these, that combination);
- (v) a PCC summary, including information in respect of secondary liability; and
- (vi) general information and statistical data (as may be specified by the Authority in respect of a PCC as a whole).

(6) Pursuant to paragraphs (1)(b) and (c) and paragraph (4), a quarterly or bi-annual return of an authorised PCC (as applicable) must include the following for the relevant reporting period—

- (a) where the core or a cell (as the case may be) of the PCC is authorised under paragraph 3 of Schedule 5 in respect

- of long-term business, separately for the core and each such cell (as applicable)—
- (i) the information required in paragraph (5)(a)(i)(A); and
  - (ii) a subset of the information required in paragraph (5)(a)(i)(B), as specified by the Authority; and
- (b) where the core or a cell (as the case may be) of the PCC is authorised under paragraph 3 of Schedule 5 in respect of non long-term business, separately for the core and each such cell (as applicable)—
- (i) the information required in paragraph (5)(a)(i)(A); and
  - (ii) subject to paragraph (7), a copy of its management accounts and any other information that the Authority may require to supplement those accounts.
- (7) In paragraph (6)(b)(ii), the quarterly or bi-annual returns of an authorised PCC (as applicable) may, unless the Authority requires otherwise, be provided in the form of—
- (a) separate management accounts for each of its cells and its core; or
  - (b) combined management accounts, provided that the financial information of—
    - (i) each cell included; and
    - (ii) the core, where included,
 are clearly identified and separately shown in columnar format and any accompanying information, such as analysis, notes and commentaries, clearly state the cell or core to which they relate and, where appropriate, analyse the information between each such cell and core (as applicable). ~~22~~.

## 6 Dormant authorised insurer

In relation to an authorised PCC—

- (1) the core of the PCC is eligible to be a dormant authorised insurer under regulation 18(2) if—
  - (a) the insurance business in respect of which it is authorised under paragraph 3 meets the requirements of regulation 18(2); and
  - (b) all of the cells of the PCC are dormant authorised insurers; and

- (2) a cell of the PCC is eligible to be a dormant authorised insurer under regulation 18(2) if the insurance business in respect of which it is authorised under paragraph 3 meets the requirements of regulation 18(2).

## 7 Discretionary trust holding structures

In relation to an authorised PCC, to avoid any doubt, regulation 9 applies to the direct and indirect holding structure in respect of its issued cellular and non-cellular shares respectively.

## 8 Permit holders

- (1) In respect of a PCC equivalent that is a permit holder—
- (a) paragraphs 1, 2, 9(2) and, insofar as it applies to a PCC equivalent that is a permit holder, 9(3) apply as set out in those paragraphs;
  - (b) subject to sub-paragraph (2), paragraphs 3 and 4 apply in the manner described in paragraph 1(2);
  - (c) paragraphs 5 and 7, if required by way of regulation 15, apply in the manner described in paragraph 1(2); and
  - (d) paragraphs 6, 9(1) and, insofar as it applies to an authorised PCC, 9(3) do not apply.
- (2) A PCC equivalent that is a permit holder is exempt from the requirements of paragraph 3(2) such that only its core and each of its cells that are required to hold a permit in accordance with section 22 of the Act and paragraph 3(1) must hold a permit.

## 9 Registers

- (1) In relation to an authorised PCC, for Schedule 2 substitute—

### REGISTER OF AUTHORISED INSURERS

The register of current authorised insurers required to be kept under section 48 of the Act must contain the following particulars of each authorised insurer that is a PCC—

- (a) the name of the PCC that is the authorised insurer and any business names it uses;
- (b) the name or designation (as applicable) of each of its cells respectively and any business names it uses in respect of each such cell respectively;
- (c) the address of its registered office;
- (d) its principal place of business in the Island (if different from the address of its registered office);

- (e) the categories and classes of insurance business carried on for which it is, or was, authorised in respect of its core and each of its cells respectively;
- (f) in relation to each class of insurance business for which it is, or was, authorised—
  - (i) the date when the authorisation was granted to its core and each of its cells respectively; and
  - (ii) if its core or any of its cells is no longer authorised in respect of any class of insurance business, for each such class, the date when its core or cell (in each such case) ceased to be so authorised respectively;
- (g) any conditions to which the authorisation of its core or any of its cells is subject respectively (except a condition as referred to in paragraph 3(7) of Schedule 5);
- (h) the name of its registered insurance manager (if appointed);
- (i) if the authorisation of its core or any of its cells has been withdrawn in respect of new business, that fact respectively in each such case; and
- (j) its authorisation number applicable to its core and each of its cells respectively. **22**.

- (2) In relation to a PCC equivalent, for Schedule 3 substitute—

**66 REGISTER OF PERMIT HOLDERS**

The register of current permit holders required to be kept under section 48 of the Act must contain the following particulars of each permit holder that is a PCC equivalent—

- (a) the name of the PCC equivalent that is the permit holder and any other business names it uses that are relevant to its permit;
- (b) the name or designation (as applicable) of each of its cells respectively, in respect of which its permit is, or was, granted and any other business names it uses in respect of each such cell respectively that are relevant to its permit;
- (c) the address of its registered office;
- (d) its principal place of business in the Island;
- (e) its country or territory of incorporation;

- (f) the classes of insurance business carried on for which its permit is, or was, granted in respect of its core and each of its cells respectively (as applicable);
  - (g) in relation to each class of insurance business for which its permit is, or was, granted —
    - (i) the date when the permit was granted to its core and each of its cells respectively (as applicable); and
    - (ii) if its core or any of its cells no longer holds a permit in respect of any class of insurance business, for each such class, the date when its core or cell (in each such case) ceased hold such permit respectively (as applicable);
  - (h) any conditions to which the permit in respect of its core or any of its cells is subject respectively (except a condition as referred to in paragraph 3(7) of Schedule 5);
  - (i) the name of its registered insurance manager (if appointed);
  - (j) if the permit of its core or any of its cells has been withdrawn in respect of new business, that fact respectively in each such case; and
  - (k) its permit number applicable to its core and each of its cells respectively (as applicable). **22**.
- (3) For regulation 10(4)(b), substitute —
- 23**(b) include (as applicable) the date the authorisation or permit of its core and each cell respectively was surrendered or terminated (and state which applies in each case). **22**.

## SCHEDULE 6

[Regulation 4(4)]

## MATTERS RELATING TO INSURERS THAT ARE INCORPORATED CELL COMPANIES OR INCORPORATED CELLS

**1 Application of the Act, these Regulations, other specified regulations and this Schedule**

- (1) The Act, these Regulations and the regulations referred to in regulation 15(1)(b) apply to an—
  - (a) authorised ICC; and
  - (b) authorised IC,(as the case may be) in accordance with the modifications specified in this Schedule.
- (2) Where the Act, these Regulations and the regulations referred to in regulation 15(1)(b) (or any combination thereof) are applicable to a permit holder, they shall apply, in accordance with the modifications specified in this Schedule and with any other necessary modifications as may be specified in writing by the Authority, to an—
  - (a) ICC equivalent; and
  - (b) IC equivalent,(as the case may be) that is a permit holder as they apply to an authorised ICC or authorised IC respectively.

**2 Interpretation**

In this Schedule—

“**authorised**”, as the case requires, includes provisionally authorised;

“**combine**”, in relation to an election to combine the accounts of an ICC with any of its ICs or an IC with any other IC of its ICC, means an election under paragraph 3(3) of Schedule 1 to the ICC Act or paragraph 2(2) of Schedule 3 to the Incorporated Cells Regulations 2011<sup>20</sup> (as applicable);

“**IC**” is an abbreviation of “incorporated cell” and has the meaning given in the ICC Act;

“**ICC**” is an abbreviation of “incorporated cell company” has the meaning given in the ICC Act;

“**ICC Act**” means the Incorporated Cell Companies Act 2010;

“**ICC equivalent**” means a person which—

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<sup>20</sup> SD 374/11

- (a) is incorporated in a jurisdiction other than the Island; and
- (b) is the equivalent of an ICC in accordance with these Regulations;

“**IC equivalent**” means a person which—

- (a) is incorporated in a jurisdiction other than the Island; and
- (b) is the equivalent of an IC in accordance with these Regulations; and

“**provisional authorisation**” has the meaning given in paragraph 3 and “provisionally authorised” is to be construed accordingly.

### 3 **Provisional authorisation**

- (1) Persons intending—
  - (a) to form an ICC or an IC; or
  - (b) to convert a company which is not an ICC or an IC, or convert a PCC, into an ICC or an IC,

may apply in accordance with section 6 of the Act to the Authority for provisional authorisation for the ICC or IC, as the case may be, to carry on insurance business of a category specified in the application.

- (2) The Authority shall not grant a provisional authorisation in respect of an ICC or an IC, as the case may be, if it appears to the Authority that, on its formation or conversion, the Authority would be required by section 7 of the Act to refuse to authorise it under section 8 of that Act.
- (3) A provisional authorisation in respect of an ICC or an IC, as applicable, shall not of itself authorise the ICC or IC, when formed or converted, to carry on insurance business, but shall indicate, for the purpose of section 7(2), 21(4) or 22(4) of the ICC Act, as applicable, that the ICC or IC will (as the case may be), when formed or converted, be so authorised.
- (4) In relation to every application for provisional authorisation, the Authority shall—
  - (a) provisionally authorise the applicant in writing; or
  - (b) refuse the application.
- (5) A provisional authorisation under sub-paragraph (4), subject to there being no material change in the information provided to the Authority in connection with the application, shall be valid for a period of 3 months from the date such authorisation is granted, or such other period as the Authority may specify.

### 4 **Exemption from requirement to register as an insurance manager**

- (1) An authorised ICC is exempted from the requirement under Part 6 of the Act to be registered in the register of insurance managers required to be

kept under section 48 of the Act insofar as it provides management services to one or more of its ICs.

## 5 Audited accounts

- (1) An authorised ICC must not combine its audited accounts with any of its ICs.
- (2) An authorised IC must not combine its accounts with—
  - (a) its ICC; or
  - (b) any other IC of its ICC.

## 6 Reporting

An authorised ICC, and every authorised IC, must provide the information required under regulation 17 as applicable to its class of authorisation.

## 7 Notification of possible striking off

- (1) If a person to whom this Schedule applies becomes aware of any act or omission, or the happening of any event, as a result of which an authorised ICC may be struck off the register of companies, that person must immediately notify the Authority of the act, omission or event; or immediately make the enquiries necessary to be satisfied that the Authority has been so notified.
- (2) This paragraph applies to any controller, director or chief executive of—
  - (a) the ICC; and
  - (b) any IC of the ICC.

## 8 Permit holders

- (1) In respect of an—
  - (a) ICC equivalent; and
  - (b) IC equivalent,(as the case may be) that is a permit holder—
  - (i) paragraphs 1, 2 and 9(2) apply as set out in those paragraphs;
  - (ii) paragraphs 3, 5, 7, 9(1) and 10 do not apply;
  - (iii) paragraph 4 applies in the manner described in paragraph 1(2); and
  - (iv) paragraph 6, if required by way of regulation 15, applies in the manner described in paragraph 1(2).
- (2) An—

- (a) ICC equivalent; and
- (b) IC equivalent,

(as the case may be) that is a permit holder, if required by way of regulation 16 to produce accounts for the purposes of section 14(3) of the Act, must produce unconsolidated audited accounts to the Authority.

## 9 Registers

(1) In Schedule 2—

(a) in respect of an authorised ICC, after paragraph (a) insert—

    | **33**(aa) the name of each of its ICs; **32**; and

(b) in respect of an authorised IC, after paragraph (a) insert—

    | **33**(aa) the name of its ICC; **32**.

(2) In Schedule 3—

(a) in respect of an ICC equivalent that is a permit holder, after paragraph (a) insert—

    | **33**(aa) the name of each of its IC equivalents that is a permit holder (as applicable); **32**; and

(b) in respect of an IC equivalent that is a permit holder, after paragraph (a) insert—

    | **33**(aa) the name of its ICC equivalent; **32**.

## 10 Dormant authorised insurer

(1) An authorised IC is eligible to be a dormant authorised insurer under regulation 18(2) if it meets the requirements of that regulation.

(2) An authorised ICC is eligible to be a dormant authorised insurer under regulation 18(2) if it meets the requirements of that regulation and—

- (i) it has no ICs; or
- (ii) all of its ICs are dormant authorised insurers.

## SCHEDULE 7

[Regulation 4(5)]

## MATTERS RELATING TO INSURERS THAT ARE LIMITED PARTNERSHIPS

**1 Application of the Act, these Regulations, other specified regulations and this Schedule**

- (1) The Act, these Regulations and the regulations referred to in regulation 15(1)(b) apply to an authorised LP in accordance with the modifications specified in this Schedule.
- (2) Where the Act, these Regulations and the regulations referred to in regulation 15(1)(b) (or any combination thereof) are applicable to a permit holder, they shall apply, in accordance with the modifications specified in this Schedule and with any other necessary modifications as may be specified in writing by the Authority, to an LP equivalent that is a permit holder as they apply to an authorised LP.

**2 Prescribed persons**

There is prescribed for the purposes of section 6 of the Act a limited partnership.

**3 Interpretation**

In this Schedule—

“**general partner**” has the meaning given in the insertion under paragraph 5(22)(a) and, in relation to an LP equivalent, means the equivalent of a general partner of an LP in accordance with these Regulations;

“**limited partner**” has the meaning given in the insertion under paragraph 5(22)(b) and, in relation to an LP equivalent, means the equivalent of a limited partner of an LP in accordance with these Regulations;

“**limited partnership**” has the meaning given in the insertion under paragraph 5(22)(b);

“**LP**” is an abbreviation of “limited partnership”;

“**LP equivalent**” means a person which—

- (a) is established in a jurisdiction other than the Island; and
- (b) is the equivalent of an LP in accordance with these Regulations; and

“**partner**” has the meaning given in the insertion under paragraph 5(22)(c) and, in relation to an LP equivalent, means the equivalent of a partner of an LP in accordance with these Regulations.

**4 Modifications to these Regulations and other regulations under the Act**

- (1) In regulation 5(3) and (4) for “member” substitute **“partner”**.

- (2) After paragraph 2(1)(b) of Schedule 1, insert—
- (c) where the insurer is an LP—
        - (i) a partner of the insurer;
        - (ii) a holding company or subsidiary of—
          - (A) a partner of the insurer; or
          - (B) a person in accordance with sub-paragraph (iii), and any subsidiary of that holding company;
        - (iii) a shareholder of—
          - (A) a partner of the insurer; or
          - (B) a holding company of a partner of the insurer, and, pursuant to an agreement with other such shareholders, controls a majority of the voting rights of that partner or that holding company respectively;
        - (iv) a subsidiary of the insurer (where the insurer is a body corporate);
        - (v) a company in respect of which a majority of its share capital is held by the insurer (where the insurer not a body corporate), and any subsidiary of that company; and
        - (vi) a person in respect of which 45% or more of its beneficial ownership is the same as 45% or more of the beneficial ownership of—
          - (A) a partner of the insurer; or
          - (B) a person in accordance with sub-paragraph (iii).<sup>22</sup>
- (3) In Schedules 2 and 3—
- (a) omit paragraph (b) and renumber the remaining paragraphs accordingly; and
  - (b) in paragraph (c) omit the words “(if different from the address of its registered office)”.
- (4) In the Insurance (Long-Term Business Valuation and Solvency) Regulations 2021 and Insurance (Non Long-Term Business Valuation and Solvency) Regulations 2021, for “board of directors” substitute <sup>23</sup>general partners<sup>24</sup>, and “board” is to be construed accordingly unless stated otherwise in those regulations.
- (5) In respect of an LP equivalent that is a permit holder—
- (a) paragraphs 1 and 3 and, insofar as it applies to Schedule 3, sub-paragraph (3) apply as set out in those paragraphs;

- (b) paragraph 2 and, insofar as it applies to Schedule 2, sub-paragraph (3) do not apply;
- (c) sub-paragraph (2) applies in the manner described in paragraph 1(2); and
- (d) sub-paragraphs (1) and (4), if required by way of regulation 15 or 16, apply in the manner described in paragraph 1(2).

## 5 Modifications to the Act.

- (1) For section 7(a)(ii) of the Act, substitute—
  - ▯ (ii) the partners and, where partners are bodies corporate, the controllers (if any), directors, chief executive (if any) of each of the partners of the applicant and any chief executive of the applicant; and ▯.
- (2) For section 12C(2) of the Act, substitute—
  - ▯ (2) For the purposes of subsection (1)(b) where the eligible capital resources of an authorised insurer fall below the MCR the insurer is deemed for the purposes of section 37(e) of the Partnership Act 1909 to be capable of only being carried on at a loss. ▯.
- (3) For section 13(7)(a) of the Act, substitute—
  - ▯ (a) in the case of a scheme submitted under this section by virtue of a requirement made under section 12C(1)(a), the insurer is deemed for the purposes of section 37(e) of the Partnership Act 1909 to be capable of only being carried on at a loss and the Authority may apply to wind up the insurer under paragraph 4 of Schedule 3; and ▯.
- (4) In section 14(3) of the Act, for “board of directors” substitute ▯ general partners ▯.
- (5) For section 16 of the Act, substitute—
  - ▯ (16) An authorised insurer, or any general partner of an authorised insurer that is a limited partnership in connection with that role, shall not carry on any activities, in the Island or elsewhere, otherwise than in connection with or for the purpose of its insurance business. ▯.
- (6) To avoid any doubt, in relation to section 17A of the Act, the general partners of an authorised insurer that is a limited partnership together represent the governing body that is equivalent to a board of directors.
- (7) For section 21B(1)(a)(i) of the Act, substitute—
  - ▯ (i) which is the holding company or a subsidiary of a partner of the insurer, or a subsidiary of the insurer; ▯.
- (8) For sections 29(1) to (3) of the Act, substitute—
  - ▯ (1) No person to whom this Part applies may appoint a person as a general partner (or director or chief executive of a general partner),

limited partner (or director of a limited partner), chief executive, auditor, principal control officer or manager of that person, nor may a person become controller of, or insurance manager of, a person to whom this Part applies, nor may a person become the controller of a general partner of a person to whom this Part applies, unless a written notice containing such particulars as may be determined by the Authority is served on the Authority by—

(a) in the case of a general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), chief executive, auditor, principal control officer or manager, the person to whom this Part applies; or

(b) in the case of a controller or insurance manager, the proposed controller or manager,

not less than 28 days before the event or such other period as the Authority may agree in writing.

(2) If it appears to the Authority that any person is not a fit and proper person—

(a) to be appointed as a general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), chief executive, auditor, principal control officer or manager;

(b) to become a controller or insurance manager; or

(c) to become a controller of a general partner,

of a person to whom this Part applies, the Authority may direct that such person must not, without the written consent of the Authority, be appointed as such a general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), chief executive, auditor, principal control officer or manager or become such a controller or insurance manager.

(3) If it appears to the Authority that any—

(a) general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), chief executive, auditor, principal control officer or manager;

(b) controller or insurance manager; or

(c) controller of a general partner,

of a person to whom this Part applies, is not a fit and proper person to continue as such, the Authority may direct that such person shall not, without the written consent of the Authority,

continue as such a general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), chief executive, auditor, principal control officer, manager, controller or insurance manager. **22**.

- (9) For the paragraph appearing before section 29(9)(a) of the Act, substitute—

**23**(9) In this section and section 29E—

“manager” means (except in relation to references to an insurance manager) a person working for or on behalf of the insurer concerned who, under the immediate authority of a general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner) or its chief executive— **22**.

- (10) For section 29(10) of the Act, substitute—

**23**(10) This section is additional to and not in derogation of any other enactment relating to the qualification, appointment or removal of directors, partners or auditors. **22**.

- (11) For the text appearing after section 29E(1)(c) of the Act, substitute—

**23** give a written warning notice under this section to a person who is or has been an actuary to an insurer, or a general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), company secretary, chief executive, controller, manager or principal control officer (“the relevant person”) of a person to whom this Part applies. **22**.

- (12) For section 29E(7)(b) of the Act, substitute—

**23**(b) a person who has received an employment application from a relevant person and who, if successful in the application, would be required to be an actuary to an insurer or a general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), company secretary, chief executive, controller, manager or principal control officer of a person to whom this Part applies; or **22**.

- (13) For the text appearing before section 30(a) of the Act, substitute—

**23**(a) Where a person ceases to be a director, general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), company secretary, chief executive, auditor, principal control officer, manager, controller or insurance manager of a person to whom this Part applies, a written notice containing such particulars as may be determined by the Authority shall be served on the Authority within 14 days of such cessation by— **22**.

(14) For section 37(2) of the Act, substitute—

**37**(2) If a penalty is imposed under subsection (1) and the Authority considers that the relevant contravention was caused or permitted by a partner, controller, director, chief executive (if any), chief executive of any of the partners or senior manager of the person on whom the penalty is imposed, the Authority may in addition impose a penalty of such amount as the Authority considers appropriate on the partner, controller, director or chief executive or senior manager. **22**.

(15) In section 37(9) of the Act for subsections (a) to (c), substitute—

**37**(a) an individual working for or on behalf of the person on whom the penalty was imposed who, jointly with the chief executive, is responsible under the immediate authority of the general partners (or the directors of the general partners) for the conduct of the whole of the insurance business of the person on whom the penalty was imposed;

(b) an individual working for or on behalf of the person on whom the penalty was imposed who, either alone or jointly with others, is responsible under the immediate authority of the general partners (or the directors of the general partners) for the conduct of any other aspect of the business of the person on whom the penalty was imposed (for example finance, marketing or compliance);

(c) an individual working for or on behalf of the person on whom the penalty was imposed, the controller of that person, a controller of a partner of that person or an associate of that person, who is under the immediate authority of such controller or the directors of an associate, and, either alone or jointly with others, is responsible for the conduct of any such aspect of the business of the person on whom the penalty was imposed. **22**.

(16) For section 39A(5), substitute—

**39A**(5) Without prejudice to the generality of subsection (4), an interim order under that subsection may be made ex parte and may restrict (whether by reference to the consent of the Court or otherwise) the exercise of any powers of—

(a) the person;

(b) if the person is a body corporate, its directors; or

(c) if the person is a limited partnership, its general partners, in respect of the affairs, business and property of that person. **22**.

(17) For section 53(5) of the Act, substitute—

**53**(5) In proceedings against a person for a contravention of section 30, it shall be a defence for that person to show that such person did

not know of the cessation of director, general partner (or director or chief executive of a general partner), limited partner (or director of a limited partner), company secretary, chief executive, auditor, principal control officer, manager, controller or insurance manager (as the case may be) **22**.

(18) After section 53(6A) of the Act, insert—

**22**(6B) Where an offence under this Act committed by a limited partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of a general partner of the partnership or a director, chief executive, manager, secretary, principal control officer or other similar officer of the general partner or any person who was purporting to act in such a capacity, that person, as well as the limited partnership, shall be guilty of that offence and liable to be proceeded against and punished accordingly. **22**.

(19) In section 54 of the Act after part (d) of the definition of “associate”, insert after “if that person”—

**22**, or (in the case of a limited partnership) one or more of that person’s partners, **22**.

(20) In section 54 of the Act, for sub-paragraph (a) of the definition of “chief executive”, substitute—

**22**(a) in relation to an authorised insurer that is a limited partnership, an employee of such insurer, who, either alone or jointly with others, is responsible under the immediate authority of its general partners (or the directors of its general partners) for the conduct of the whole of the insurance business of that insurer; **22**.

(21) In the definition of “controller” in section 54 of the Act, after sub-paragraph (f), insert—

**22**(g) in the case of an authorised insurer that is a limited partnership, paragraphs (a) to (f) shall have effect as if the words “a person which is a body corporate” included a reference to a partner of the insurer. **22**.

(22) In section 54 of the Act—

(a) after the definition of “Financial Services Tribunal”, insert—

**22**“**general partner**” has the meaning given in the Partnership Act 1909; **22**;

(b) after the definition of “insurer”, insert—

**22**“**limited partner**” has the meaning given in the Partnership Act 1909;

“**limited partnership**” means a limited partnership formed under the Partnership Act 1909; **22**; and

- (c) after the definition of “long-term insurance contracts”, insert—
- “**partner**”, in relation to an insurer that is a limited partnership, includes a general partner or a limited partner of the insurer, or both, as the context requires;”.
- (23) For paragraph 1(2) of Schedule 3 to the Act, substitute—
- “(2) In this Schedule, “insurance company” means a company which is an insurer and includes an insurer that is a limited partnership and “company” shall be construed accordingly.”.
- (24) After paragraph 1(6) of Schedule 5 to the Act, insert—
- “(7) For the purpose of this Schedule “insurer” includes, where the insurer is a limited partnership, its partners);”.
- (25) After paragraph 18 of Schedule 7 to the Act, insert—
- “18A In relation to authorised insurers that are limited partnerships, the respective functions of the partners and chief executive (if any) of the insurers and the directors and chief executive (if any) of the partners and committees of partners of the insurers in respect of the administration and management of their businesses.”.
- (26) After paragraph 19 of Schedule 7 to the Act, insert—
- “19A In relation to authorised insurers that are limited partnerships, provisions requiring the establishment and maintenance of strategic objectives by their general partners.”.

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations set out requirements applicable to insurers and insurance managers, including (as applicable) in respect of:

- Classes of insurance authorisation
- Regulatory reporting and notifications
- Content of statutory registers
- Restrictions on dividends and distributions
- Licence surrender and cancellation requirements
- The application of regulatory requirements for insurers that are protected cell companies, incorporated cell companies or limited partnerships

These Regulations revoke and (together with the Insurance (Non Long-Term Valuation and Solvency) Regulations 2021 and Insurance (Long-Term Valuation and Solvency) Regulations 2021) replace the following:

- Insurance (Amendment) Regulations 2018
- Insurance Regulations 2018
- Insurance (Incorporated Cell Companies) Regulations 2011
- Insurance (Limited Partnerships) Regulations 2004
- Insurance (Limited Partnerships) (Solvency) (Amendment) Regulations 2011
- Regulations 3 to 7 and 9 of the Insurance (Miscellaneous Amendments) Regulations 2015
- Insurance (Protected Cell Companies) (Amendment) Regulations 2005
- Insurance (Protected Cell Companies and Limited Partnerships) Amendment Regulations 2020
- Insurance (Protected Cell Companies) Regulations 2004
- Insurance (Solvency) (Amendment) Regulations 2011
- Insurance (Solvency) (Amendment) Regulations 2012
- Insurance (Transitional Provisions) (Amendment) Regulations 2015