

EXTERNAL INSURANCE ACT, 2009

(No. 15 of 2009)

**EXTERNAL INSURANCE (CLASSES OF INSURANCE BUSINESS)
REGULATIONS, 2010**

The Commission, in exercise of the powers conferred by section 46 of the External Insurance Act, 2009, makes the following regulations —

1. Citation.

These regulations may be cited as the External Insurance (Classes of Insurance Business) Regulations, 2010.

2. Interpretation.

In these regulations —

“**accidental death insurance**” means insurance where the external insurer undertakes to pay an amount of insurance money in the event of the death by accident of the insured person;

“**group insurance**” means insurance where the lives or health of a number of persons are insured severally under a single contract between an external insurer and an employer or other person;

“**life insurance**” means insurance in respect of which an external insurer undertakes to pay insurance money —

- (a) on death;
- (b) on the happening of an event or contingency dependent on human life;
- (c) at a fixed or determinable future time or times; or
- (d) for a term dependent on human life, and which, for greater certainty, includes —
 - (i) accidental death insurance, but not accident insurance;
 - (ii) health insurance;
 - (iii) disability insurance;
 - (iv) group insurance; and
 - (v) an undertaking entered into by an external insurer to provide a life or fixed term annuity or what would be an annuity except for the fact that the periodic payments may be unequal in amount, and provides for

the establishment, accumulation and payment of sinking, redemption, accumulation renewal or endowment funds.

3. General insurance business.

For the purposes of section 2 of the Act, the following classes comprise general insurance business —

- (a) accident insurance business;
- (b) liability insurance business;
- (c) marine, aviation and transport insurance business;
- (d) motor vehicle insurance business;
- (e) pecuniary loss insurance business;
- (f) property insurance business.

4. Long-term insurance business.

For the purposes of section 2 of the Act, the following classes comprise long-term insurance business —

- (a) industrial life insurance business;
- (b) ordinary life insurance business;
- (c) variable life insurance business;
- (d) sickness or health insurance business, including group health;
- (e) pension fund management;
- (f) annuities;
- (g) variable annuity business.

5. Classes of insurance business.

For the purposes of the Act, and pursuant to regulations 3 and 4, the classes of insurance business identified in Column A are as defined in Column B —

Column A	Column B
(1) accident insurance business	means — <ul style="list-style-type: none">(a) insurance against loss resulting from bodily injury to, or the death of, a person caused by an accident; or(b) insurance where an external insurer undertakes to pay a certain sum or

sums of insurance money in the event of bodily injury to, or the death of, a person caused by an accident.

- (2) industrial life insurance business means life insurance, the premiums for which are usually collected weekly or monthly by the external insurer's representative at the policyholder's home or place of work.
- (3) liability insurance business means the business of effecting and carrying out contracts of insurance against risks of the persons insured incurring liabilities to third parties, not being risks arising out of, or in connection with the use of, motor vehicles or out of, or in connection with the use of, vessels or aircraft or risks incidental to the construction, repair or docking of vessels or aircraft

subclasses of paragraph (3) include —

- (a) directors and officers liability insurance means insurance against liability incurred under law by directors or officers in connection with their duties as directors and officers of companies;
- (b) employer's liability insurance means —
- (i) insurance against legal liability arising out of bodily injury to, or the disability or death of, an employee of the insured occurring as a result of or in the course of the employee's employment, and
 - (ii) if included in a contract that provides insurance against liability arising out of bodily injury to, or the disability or death of, an employee of the insured, insurance coming within the class of personal accident insurance covering an employee of the insured where the insurance is limited to accidents occurring as a result of or in the

- course of the employee's employment whether or not liability exists;
- (c) legal expense insurance means insurance against the cost incurred by a person or persons for specified legal services, including fees or other costs incurred relative to the provision of such services;
- (d) libel and slander insurance means insurance against liability in law for damages and claimant's costs and expenses in respect of claims made against the insured for any libel, slander to title of goods, infringement of trademark, registered design, copyright or patent right, arising from information contained in specified publications;
- (e) personal liability insurance means insurance against the legal liability of the insured and any member of the family of the insured normally residing with him to compensate third parties for any injury, illness, loss of or damage to property arising out of their private activities away from home;
- (f) product liability insurance means insurance against liability incurred by manufacturers, repairers, or retailers arising out of —
- (i) bodily injury to, or the death of, a person, or
 - (ii) the loss of, or damage to, property, caused by products (including containers, packaging and labelling) made, sold or distributed by them;

- (g) public liability insurance includes —
- (i) insurance against legal liability arising out of—
 - (aa) bodily injury to, or the death of, a person, or
 - (bb) the loss of, or damage to, property,
 - (ii) insurance against expenses arising out of bodily injury to a person other than the insured or a member of the family of the insured, whether liability exists or not, if the insurance is included in a contract for the insurance described in paragraph (i), but does not include insurance coming within the class of aircraft insurance, automobile insurance, marine, engineering, product or employer's liability insurance;
- (h) third party liability insurance means insurance against legal liability of the insured to pay in respect of death or bodily injury to, or damage to the property of, third parties;
- (i) title insurance means insurance against loss or damage caused by —
- (i) a defect in the title to real property,
 - (ii) the existence of a lien, encumbrance or servitude on real property,
 - (iii) a defect in the execution of a mortgage, hypothec or deed of trust in respect of real property, or

- (iv) any other matter affecting the title to real property or the right to the use and employment of real property.
- (4) marine, aviation and transport insurance business
- means the business of transit effecting and carrying out, otherwise than incidentally to some other class of insurance business, contracts of insurance —
- (a) upon vessels or aircraft, or upon the machinery, tackle, furniture or equipment of vessels or aircraft;
 - (b) upon goods, merchandise or property of any description whatever on board vessels or aircraft;
 - (c) upon the freight of, or any other interest in or relating to, vessels or aircraft;
 - (d) against damage arising out of or in connection with the use of vessels or aircraft, including third party risks;
 - (e) against risks incidental to the construction, repair or docking of vessels, including third party risks;
 - (f) against transit risks, whether the transit is by sea, inland water, land or air, or partly one and partly another, including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance, but not including risks the insurance of which is motor vehicle insurance business; or
 - (g) against any other risks the insurance of which is customarily undertaken in conjunction with or as incidental to any business referred to paragraphs (a) to (f).

- (5) motor vehicle insurance business means insurance against —
- (a) liability arising out of —
 - (i) bodily injury to, or the death of, a person, or
 - (ii) the loss of, or damage to property, caused by an automobile or the use or operation thereof; or
 - (b) the loss of, or damage to, an automobile and the loss of use thereof, and includes insurance coming within the definition of the class of accident insurance under paragraph (1), where the accident is caused by an automobile or the use or operation thereof, whether liability exists or not, if the contract also provides for the insurance described in subparagraph (a) (i).
- (6) ordinary life insurance business means life insurance other than industrial life insurance business.
- (7) pecuniary loss insurance business means the business of effecting and carrying out contracts of insurance against any of the following risks, namely —
- (i) risks of loss to the person insured arising from the insolvency of debtors of the person or from the failure (otherwise than through insolvency) of debtors of the person to pay their debts when due,
 - (ii) risks of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them,
 - (iii) risks of loss to the persons insured attributable to their incurring unforeseen expense, and
 - (iv) risks neither falling within paragraphs (i) to (iii), nor being of a kind such that carrying on of the business effecting and carrying

out contracts of insurance against them constitutes the carrying on of insurance business of some other class and excludes risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reductions of the scope of business so carried on

subclasses of paragraph (7) include ---

- (a) credit insurance means insurance against loss to a person who has granted credit where the loss is the result of the insolvency or default of the person to whom credit is given but does not include insurance coming within the class of mortgage insurance;
- (b) credit protection insurance means insurance whereby the external insurer agrees to pay off credit balances or debts of individuals in the event of an impairment or potential impairment in the individual's income or ability to earn an income, but does not include insurance coming within the class of accident insurance, sickness insurance, life insurance, or mortgage insurance;
- (c) mortgage insurance means insurance against loss caused by default on the part of a borrower under a loan secured by a mortgage on real property, a hypothec on immovable property or an interest in real or immovable property;
- (d) surety insurance means insurance whereby an external insurer undertakes to guarantee ---
 - (i) the due performance of a contract or undertaking, or
 - (ii) the payment of a penalty or

- indemnity for any default, but does not include insurance coming within the class of credit insurance, credit protection insurance, or mortgage insurance.
- (8) property insurance business means the issue of, or the undertaking of, liability pursuant to policies of insurance against loss or damage to real or personal property of every kind and interests therein, from any hazard or cause, or against loss consequential upon such loss or damage, not being risks the insurance of which is motor vehicle insurance business or marine, aviation and transport insurance business
- subclasses of paragraph (8) include --*
- (a) boiler and/ or machinery insurance means insurance against --
- (i) liability arising out of --
 - (aa) bodily injury to, or the death of, a person, or
 - (bb) the loss of, or damage to, property, or
 - (ii) the loss of, or damage to property, caused by the explosion, rupture, malfunction or breakdown of, or accident to, pressure vessels of any kind and pipes, engines and machinery;
- (b) contractor's all risk insurance means insurance against loss incurred as a result of fire and other specified perils in respect of both temporary and permanent works while in the course of construction and until handed over by the contractor to the employer;
- (c) crop insurance means insurance against loss of or damage to crops resulting from fire, windstorm, drought, flooding, disease and other perils;

- (d) fire insurance means insurance against the loss of, or damage to, property caused by fire, lighting, explosion due to ignition, smoke, and the breakage of or the leakage from a sprinkler or other fire protection equipment or system;
- (e) hurricane and windstorm insurance means insurance against the loss of, or damage to, property caused by windstorm, cyclone, hurricane or tornado, including rain accompanying, flood following, and tidal wave caused by, such perils;
- (f) livestock insurance means insurance against the loss, sickness or death of, or injury to, animals, birds or fish;
- (g) theft insurance means insurance against the loss of, or damage to, property caused by theft, wrongful conversion, burglary, housebreaking or robbery, and includes insurance against loss caused by forgery;
- (h) water damage insurance means insurance against the loss of, or damage to, property caused by the escape of water or oil —
- (i) from plumbing, heating or sprinkler or other fire protection equipment or system in a building, or
 - (ii) from any water main or water pipe outside of a building.
- (9) sickness or health insurance business means —
- (i) insurance against loss resulting from the illness or disability of a person other than loss resulting from death,
 - (ii) insurance where an external insurer undertakes to pay a certain sum or sums of money in the event of the illness or disability of a person, or
 - (iii) insurance against expenses incurred for vision or dental care, laboratory or x-ray services, hospitalization, other than for

illness or disability arising out of an
accident

a subclass of paragraph (9) includes —

permanent health
insurance

means insurance against risks of the
persons insured sustaining injury as the
result of an accident or of an accident of a
specified class or becoming incapacitated
in consequence of disease or of disease of
a specified class being contracts that —

- (aa) are expressed to be in effect for a
period of not less than five years
or without limit of time, and
- (bb) either are not expressed to be
terminable by the external insurer
before the expiration of five years
from the taking effect thereof or are
expressed to be so terminable
before the expiration of that period
only in special circumstances
therein mentioned.

(10) variable annuity
business

means insurance business under a policy
which provides that the annuity benefits
payable to the policyholder are to be
determined wholly or partly —

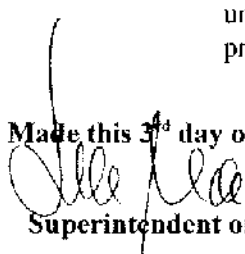
- (a) according to the investment
experience of a separate segregated
account maintained by the external
insurer in respect of that policy or
class of policy;
- (b) by reference to the value of, or
income from assets of any
description allocated in the general
accounts of the external insurer in
respect of that policy or class of
policy whether or not specified in
the policy; or
- (c) by reference to fluctuations in or in
an index of, the value of assets of
any description whether or not
specified in the policy.

- (11) variable life insurance business means life insurance business under a policy the duration of which may vary, and under which the benefits payable to the policyholder are to be determined wholly or partly —
- (i) according to the investment experience of a separate segregated account or accounts maintained by the external insurer in respect of that policy or class of policy,
 - (ii) by reference to the value of or income from assets of any description allocated in the general accounts of the external insurer in respect of that policy or class of policies whether or not it is specified in the policy, or
 - (iii) by reference to fluctuations in or in an index of the value of assets of any description whether or not it is specified in the policy

subclasses of paragraph (11) include ---

- (a) unit-linked insurance means insurance provided by life insurance contracts and includes benefits which are wholly or partly linked to the income from, or the value of, any group of the company's assets, or wholly or partly calculated by reference to the yield from or the value of any descriptions of investments, whether investments of those descriptions are held by the company or not;
- (b) universal life insurance means a flexible whole life insurance policy that provides lifetime protection under a contract that separates the protection and savings components.

Made this 3rd day of May, 2010.


Superintendent of Insurance

EXTERNAL INSURANCE ACT, 2009
(No. 15 of 2009)

EXTERNAL INSURANCE (CAPITAL REQUIREMENTS FOR EXTERNAL INSURERS, INSURANCE MANAGERS AND EXTERNAL INSURANCE BROKERS) REGULATIONS, 2010

1. Citation.

These regulations may be cited as the External Insurance (Capital Requirements for External Insurers, Insurance Managers and External Insurance Brokers) Regulations, 2010.

2. Capital requirements for external insurers.

- (1) An unrestricted external insurer may be licensed to carry on long-term insurance business if its fully paid-up capital, capital surplus and subordinated capital or contributed reserve fund is a minimum of \$200,000.
- (2) An unrestricted external insurer may be licensed to carry on general insurance business if its fully paid-up capital, capital surplus and subordinated capital or contributed reserve fund is a minimum of \$100,000.
- (3) An unrestricted external insurer may be licensed to carry on both long-term insurance business and general insurance business if its fully paid-up capital, capital surplus and subordinated capital or contributed reserve fund is a minimum of \$300,000.
- (4) A licence may be issued to a restricted external insurer where that company has a minimum paid-up capital or contributed reserve fund as may be approved by the Commission.

3. Capital requirements and net assets for Intermediaries.

- (1) A minimum paid-up share capital and minimum net assets value shall be maintained at all times by every insurance manager and those minimum amounts shall be the greater of the following —
 - (a) the maximum deductible amount of the insurance manager's professional indemnity insurance policy; or
 - (b) \$10,000.

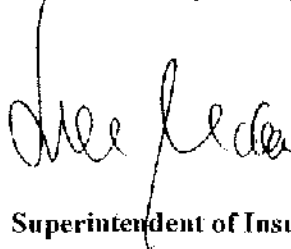
- (2) A minimum paid-up share capital and minimum net assets value shall be maintained at all times by every external insurance broker and those minimum amounts shall be the greater of the following ---
 - (a) the maximum deductible amount of the external insurance broker's professional indemnity insurance policy; or
 - (b) \$25,000.
- (3) The minimum net asset values mentioned in paragraphs (1) and (2) shall be determined in accordance with international financial reporting standards, such net asset values shall not however include intangible assets.
- (4) Where an insurance manager or external insurance broker carrying on external insurance business in The Bahamas at the commencement of these regulations is unable to meet the requirements of paragraphs (1) and (2), the Commission may, if satisfied that the insurance manager or external insurance broker is able to increase its capital to the amount so required by the expiry of three years from the commencement of these regulations, issue a licence pursuant to section 8 of the Act.

4. Professional indemnity policy.

- (1) Every insurance manager and external insurance broker shall ---
 - (a) maintain and continue to maintain in force, in respect of their insurance management and brokerage activities; and
 - (b) place with a carrier acceptable to the Commission, a professional indemnity policy with a minimum limit of indemnity for any one claim, in any one insurance period of twelve months.
- (2) The limit of indemnity, under paragraph (1), shall be ---
 - (a) a sum equal to ---
 - (i) the aggregate insurance brokerage, commission or fee income relating to the average for the three years immediately preceding the date of commencement of the professional indemnity insurance cover (applicable to an insurance manager or external insurance broker who has been in business for a period exceeding three years),
 - (ii) the projected insurance brokerage, commission or fee income for twelve months for the period of the professional indemnity insurance cover (applicable to an insurance manager or external insurance broker who has been in business for a period not exceeding three years); or
 - (b) a minimum sum of \$500,000.

- (3) The professional indemnity insurance coverage, which exceeds the amounts under paragraph (2), may be required by the Commission to meet the requirements of an individual insurance manager or external insurance broker.
- (4) If as a result of a claim the indemnity available falls below the amount determined under paragraph (2), the insurance manager or external insurance broker shall effect a reinstatement of cover up to a minimum amount of \$500,000.
- (5) In the event that the professional indemnity insurance is withdrawn or cancelled, or the insurance is not renewed, the insurance manager or external insurance broker shall immediately notify the Commission and shall immediately cease to solicit further insurance business until such professional indemnity insurance has been reinstated or replaced.
- (6) In these regulations ---
 - “insurance brokerage, commission or fee income”** means income derived from advising on or arranging any contract which contains an element of insurance, irrespective of the extent of such insurance element;
 - “professional indemnity insurance”** means insurance against legal liability towards third parties for injury, loss or damage, arising from a person’s own professional negligence, error or omission or that of his employees.

Made the 3rd day of May, 2010.



Superintendent of Insurance

EXTERNAL INSURANCE ACT, 2009

(No. 15 of 2009)

**EXTERNAL INSURANCE (VARIABLE INSURANCE BUSINESS)
REGULATIONS, 2010**

The Commission, in exercise of the powers conferred by section 46 of the External Insurance Act, 2009 makes the following regulations ----

1. Citation.

These regulations may be cited as the External Insurance (Variable Insurance Business) Regulations, 2010.

2. Grant of approval.

- (1) An external insurer shall not carry on from The Bahamas variable insurance business unless the Commission is satisfied that the general character, reputation and experience of the management of the external insurer and those persons or firms proposed to supply consulting, investment, administrative or custodial services to the external insurer are such as to reasonably assure competent operation of the variable insurance business.
- (2) An application for approval to carry on variable insurance business shall be made to the Commission in writing and in the manner set out in Part A of the First Schedule to the External Insurance (Forms and Fees) Regulations, 2010 and that application shall be accompanied by such other documents as the Commission considers necessary.
- (3) The external insurer, who has been granted an approval by the Commission, shall, where there is a change in the information contained in the application for approval under paragraph (2), notify the Commission in writing of that change within thirty days.
- (4) In granting approval of an application under paragraph (2), the Commission may attach such further conditions as are relevant to the nature and class of such business which the external insurer intends to carry on.

3. Revocation of approval.

- (1) The Commission may, at any time, revoke an approval to carry on variable insurance business if the external insurer fails to comply with any condition imposed in respect of that approval.
- (2) The Commission shall notify the external insurer of its breach of any condition imposed in respect of the approval granted under regulation 2, and failure to remedy the breach in thirty days may result in revocation.
- (3) The external insurer shall, within thirty days of receipt of notice under paragraph (2), remedy the breach of any condition imposed in respect of the approval.
- (4) Where the Commission revokes the approval under paragraph (1), the external insurer shall cease to issue any new policies in respect of its variable insurance business and the Commission may take any further action as may be authorised by the Act.

4. Submission of reports and annual statements.

An external insurer authorised to carry on variable insurance business in accordance with the Act, shall submit to the Commission, in addition to any other reports required by the Act, annual financial and actuarial statements of its variable insurance business including investment summaries in a form approved by the Commission, together with such additional information concerning its variable insurance operations or separate accounts as the Commission deems necessary.

5. Allocation of assets in respect of the separate account.

- (1) An external insurer shall allocate to the separate account maintained in respect of any variable insurance policy, all premium income, reinsurance proceeds and other income, interest, gains, expenses and losses incurred or earned, in accordance with the terms of that policy.
- (2) In respect of its variable life insurance business, the external insurer shall maintain in each separate account, assets with a minimum value equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for these policies.
- (3) Unless otherwise determined by the Commission, in respect of its variable insurance business other than variable life insurance business, the external insurer shall maintain in each separate account, assets with a minimum value equal to the reserves and other policy liabilities with respect to the separate account.

- (4) Subject to any provision of any enactment or administrative condition to the contrary, investments in the separate account shall be valued in the manner as prescribed by regulations.

6. Authority to grant financial assistance with assets concerning the separate account.

Subject to section 31 of the Act, a company licensed under the Act may grant advances, credit, financial guarantees or other forms of financial assistance with the assets allocated to or concerning the separate account without reference to the net value of the separate account.

7. Charges against the separate account.

The external insurer shall disclose in writing, prior to or at the time of the delivery of the policy, all charges that may be made against the separate account, including the following —

- (a) actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase or sale of separate account assets;
- (b) actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;
- (c) charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate accounts;
- (d) charges, at a rate specified in the policy, for mortality and expense guarantees;
- (e) any amounts in excess of those required to be held in the separate accounts; and
- (f) charges for incidental insurance benefits.

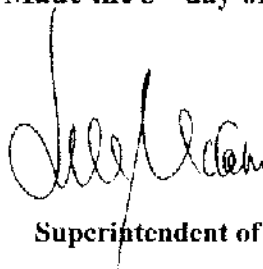
8. Custody of assets of the separate account.

Where the external insurer is not the custodian of the assets of the separate account, no person, other than the persons listed below, may be appointed custodian of, or be authorised to manage, the assets of the separate account, without the prior written approval of the Commission —

- (a) a bank or other financial institution licensed to operate in or from The Bahamas;

- (b) a financial institution authorised or licensed under the laws of a jurisdiction approved by the Commission; or
- (c) any subsidiary or affiliate of any person mentioned in paragraphs (a) and (b).

Made the 3rd day of May, 2010.

A handwritten signature in black ink, appearing to read 'J. P. ...', is written over the printed name 'Superintendent of Insurance'.

Superintendent of Insurance

EXTERNAL INSURANCE ACT, 2009
(No. 15 of 2009)

EXTERNAL INSURANCE (JUDICIAL MANAGEMENT)
REGULATIONS, 2009

The Insurance Commission, in exercise of the powers conferred by section 46 of the External Insurance Act, 2009, makes the following regulations —

1. Citation.

These regulations may be cited as the External Insurance (Judicial Management) Regulations, 2009.

2. Application for leave.

Where the Commission applies to the court for leave to present a petition for judicial management the application for leave shall be made ex parte to a Judge in chambers.

3. Application for Petition.

- (1) An application to the court for an order for judicial management of a company or part of a business of a company shall be by petition supported by affidavit.
- (2) Upon hearing the petition the court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order, or any other order that it deems just.

4. Court order.

The court may, after the hearing of the petition, make —

- (a) an order to appoint a judicial manager;
- (b) an order specifying the powers and duties of the judicial manager;
- (c) an order to provide for the remuneration, charges and expenses of the judicial manager;
- (d) an order for the judicial manager to be at liberty to apply for further directions; and
- (e) any additional order that the court deems necessary.

5. Management.

Where the court makes an order pursuant to regulation 4(a), the management of the company, or of such part of the business of the company as the order of the court directs, shall, on a date specified in the order, vest in the judicial manager appointed by the court to the exclusion of any person vested with any such management immediately before that date; but the judicial manager shall not issue any new policy or renew any existing policy or enter into any new contract except with the leave of the court.

6. Report to the Commission.

The judicial manager shall —

- (a) give the Commission such information as the Commission requires; and
- (b) report to the Commission whenever he intends to apply to the court for directions and provide the Commission with the particulars of the application for directions.

7. Application of the Commission to court.

The Commission may make an application to the court with reference to the conduct of the judicial management of a company or of part of the business of the company.

8. Application for further directions.

- (1) The court shall issue further directions to the judicial manager as to his powers and duties as it deems desirable in the circumstances of the case.
- (2) The judicial manager shall act under the control of the court and may apply to the court at any time for directions as to the manner in which he shall conduct the judicial management or in relation to any matter arising in the course of the judicial management.

9. Report by judicial manager to the Court.

- (1) The judicial manager shall conduct the management of the company with the greatest economy compatible with efficiency and shall, as soon as practicable, file with the court a report stating which of the following courses is in the circumstances, most advantageous to the general interest of the policyholders of the company and seeking an order accordingly for —
 - (a) the transfer of all or any part of the insurance business of the company to some other company in pursuance of a scheme prepared by the judicial manager and annexed to the report;

- (b) the carrying on of its business by the company either unconditionally or subject to such conditions as the judicial manager may suggest;
 - (c) the winding-up of the company; or
 - (d) any other course as he considers advisable.
- (2) The judicial manager shall, after filing the report, give a copy of the report to the Commission.
- (3) The report or a copy of the report shall be open for inspection by any person during standard working hours, at the registry of the court in which the report is filed.

10. Decision of court on report of judicial manager.

- (1) The court shall on the hearing of an application for further directions on judicial management made under regulation 8 —
- (a) after hearing the Commission, the judicial manager and any other person who in the opinion of the court is entitled to be heard; and
 - (b) after considering the report of the judicial manager,
- may make an order giving effect to the course whether similar or not to any of the courses that it considers in the circumstances to be most advantageous to the interests of the policyholders of the company.
- (2) The order of the court shall be binding on all persons and shall have effect notwithstanding anything in the instruments constituting the company or in the articles of association or other rules of the company or in any contract.

11. Cancellation of judicial management order.

Where at any time, on the application of the judicial manager or of any person appearing to the court to have an interest in the matter, if it appears to the court —

- (a) that the purpose of the order for the judicial management of the company or of part of the business of the company has been fulfilled; or
- (b) that for any reason it is undesirable that the order should remain in force,

the court may cancel the order and on cancellation, the judicial manager shall be divested of the management which shall again vest in the board of directors or other governing body of the company.

12. Immunity from suit.

The judicial manager shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the discharge of or in connection with the discharge of the functions conferred on the judicial manager by the Act.

Dated this of 2009.

Superintendent of Insurance

EXTERNAL INSURANCE ACT, 2009

(No. 15 of 2009)

EXTERNAL INSURANCE (FORMS AND FEES) REGULATIONS, 2010

The Commission, in exercise of the powers conferred by section 46 of the External Insurance Act, makes the following regulations —

1. Citation.

These regulations may be cited as the External Insurance (Forms and Fees) Regulations, 2010.

2. Application for licence.

- (1) Every application for a licence as an external insurer, insurance manager or external insurance broker shall be made to the Commission in writing in the appropriate manner in either Part A or Part B of the First Schedule and the applicant shall specify the capacity in which the applicant seeks to be licensed.
- (2) The application shall set out information in separately numbered paragraphs in accordance with the paragraphs of the appropriate Part of the First Schedule and shall be accompanied by the prescribed application and a non-refundable application fee.
- (3) At the end of the application there shall be appended a certificate in the following manner —

"We certify that to the best of our knowledge and belief that all the information given in this application is true and correct."
- (4) The certificate under paragraph (3) shall be signed by —
 - (a) a director and the secretary of the company which seeks a licence; or
 - (b) two other authorized officers of the company.
- (5) In the case of an application for renewal of an existing licence, the applicant shall submit the appropriate form set out in Part C of the First Schedule.

3. Amendment of application.

- (1) Where a material change occurs in the circumstances which affect an application after it is submitted, but before the decision to grant or refuse a licence is communicated to the applicant, and that change has the effect of falsifying any information contained in the application, the applicant shall inform the Commission immediately of such particulars of the change of circumstances.
- (2) Where the applicant fails or neglects to inform the Commission of any material change with regard to the application under paragraph (1), the relevant particulars of the application shall be deemed to be false.

4. Licence.

- (1) Where the Commission approves an application for a licence, the Superintendent of Insurance shall issue a licence to the applicant in the Form specified in the Second Schedule.
- (2) Where the application for a licence is not approved by the Commission, the Commission shall inform the applicant in writing.

5. Auditor's confirmatory certificate.

The financial statement to be submitted for the purposes of section 24(3) of the Act shall be signed by the independent auditor responsible for confirming the preparation of the annual financial statement of the external insurer and shall be in the Form set out in the Third Schedule.

6. Additional financial statements.

Pursuant to section 24(3) of the Act, there shall be submitted on behalf of an external insurer --

- (a) a statement updating the business plan of that external insurer and particulars of which have been previously submitted to the Commission; and
- (b) a statement by two directors of the external insurer in the Form set out in the Fourth Schedule, containing representations as to the completeness of the records produced and information supplied to the auditors by the external insurer.

7. Statement by insurance manager confirming compliance by external insurer.

An insurance manager shall at the time of furnishing the list of external insurers in compliance with section 38(1)(a) of the Act, submit to the Commission in relation to the external insurers a written statement in the Form specified in the

Fifth Schedule signed by the insurance manager and two directors of the external insurer.

8. Fees.

- (1) The fees set out in the Sixth Schedule shall be payable in respect of the transactions under the Act.
- (2) The fee payable in relation to the First Schedule in respect of the annual licence as an external insurer shall be reduced by the amount of any fee paid by the same person in respect of the same year under paragraph (3) of the Third Schedule to the Companies Act (*Ch. 308*).
- (3) Renewal fees payable under these regulations become due and payable on the last day of the twelfth month following the initial or previous licence.
- (4) Any person who under these regulations is required to pay any annual licence fee, and fails to pay such fee within a period of thirty days after the date on which such fee becomes due and payable, shall, in respect of his licence for that year, pay to the Commission in addition to the appropriate annual licence fee payable under these regulations, a late fee, as set out in paragraph 9(a) of the Sixth Schedule.
- (5) Without prejudice to paragraph (4), a licence fee payable under these regulations which remains unpaid after thirty days from the date on which such fee becomes payable, may be recovered as a debt due in civil proceedings.
- (6) The Commission may suspend the licence of any person where the licence fee remains unpaid for more than ninety days from the date on which the licence fee becomes payable.

9. Revokes External Insurance Regulations and External (Fees) Regulations.

The following regulations are revoked —

- (a) the External Insurance Regulations¹;
- (b) the External Insurance (Fees) Regulations².

¹Sub. Leg., Vol. V, Ch. 348-3

²Sub. Leg., Vol. V, Ch. 348-12

FIRST SCHEDULE

PART A

(Regulation 2)

APPLICATION FOR LICENCE AS EXTERNAL INSURER

1. Name of applicant.
2. Application for a RESTRICTED or UNRESTRICTED Licence.
3. Place established and number of years established under present name.
4. Any other name or names under which external insurance business may have been carried out, giving place and date of inception and expiration of such business.
5. Address of head or registered office.
6. If either the head or registered office is outside The Bahamas —
 - (a) address of principal office in The Bahamas;
 - (b) name of the manager who is to be the company's principal representative in The Bahamas;
 - (c) name of the assistant or other manager who in the absence or inability of the manager named under (b) above to act, is to be the company's principal representative in The Bahamas;
 - (d) the name of the bank or other financial institution which can supply a reference for the applicant;
 - (e) where an external insurer has more than one insurance manager in The Bahamas, the chief or principal insurance manager representing it is to be named.
7.
 - (a) The amount of the paid-up capital of the company at present or the proposed amount when the company has been licensed. If the paid-up capital will be increased before the company intends to start undertaking the business for which authorization is being requested, give details of proposed increase.
 - (b) The amount by which the assets of the company exceed the liabilities (including all contingent or prospective liabilities, but not liabilities in respect of share capital) at the present time and what the amount is likely to be when the company intends to start its undertaking of external insurance business.

- (c) For existing companies, attach copies of last revenue and profit and loss accounts and balance sheets prepared.
- 8. Name and address of local attorney or legal advisor for the company, if applicable.
- 9. Names, addresses and professional qualifications of auditor and actuary, if applicable.
- 10. Full names with addresses, date of birth and nationalities of all persons who are directors, partners, managers or officers, together with the name of a bank which can supply a banker's reference and the names of two persons of standing who can supply personal references for each person.
- 11. Names with addresses, date of birth, and nationalities of all persons who are beneficial shareholders and the number of shares held by each person for each shareholder holding more than 10% of the shares, together with the name of a bank which can supply bankers and a personal reference for each such person (except in the case of a Mutual Insurance Company). In those instances where the shares are held by a body corporate, the chain of connection to the ultimate owner must be shown.
- 12. Police certificates from the home jurisdiction of the individuals referred to in paragraph 11.
- 13. Names of all parent and subsidiary companies of the applicant with addresses of their registered offices, also details of the business which is being or is to be carried out by each subsidiary company. A detailed organizational chart showing any related entities should also be provided.
- 14. Particulars of business plan shall include, where applicable —
 - (a) a summary of the main objects or proposed main objects of the company;
 - (b) the class of insurance business which the company ---
 - (i) carries on in or from within The Bahamas; or
 - (ii) proposes to carry on in or from within The Bahamas;
 - (c) a statement whether, at the time application for licence is made, authorization is being sought for doing long-term insurance business;
 - (d) if the company intends to limit its activities to insuring only some of the risks of the class or classes of insurance business for which authorization is being sought, particulars of the risk insured;
 - (e) for each and every class of external insurance underwriting business to be carried on by the company during the next year, the method or methods by which policies will be marketed;

- (f) particulars of any business other than external insurance business which the company carries on at present or proposes to carry on in The Bahamas;
 - (g) particulars of the nature and extent of the existing or proposed re-insurance arrangements in respect of each class of insurance business indicating clearly the amount of retention in each case;
 - (h) a five year general financial projection with details in respect of each class of insurance business. Details concerning the company's plans for sales and distribution, setting forth acquisition costs and proposals for conforming with applicable laws in the place where it is proposed to sell the insurance product;
 - (i) confirmation by a lawyer that the product is not in violation of law in the country (countries) where the product is being sold; and
 - (j) a presentation that the plan is both actuarially sound and commercially plausible from a business perspective, and supported by appropriate professional opinions.
15. If incorporated or doing insurance business in another country, a copy of the letter or Certificate of Good Standing by the authority governing insurance in that country, with the seal of that department properly affixed.
16. Whether application has been made, and if so, whether granted or refused by any other insurance supervisory authority outside The Bahamas, together with a list of all countries where application has been so granted.
17. Proof of compliance, where applicable, with Bahamas Immigration and Exchange Control Regulations.
18. Names of any insurance managers providing or that will provide management services in The Bahamas to the company.

Dated this day of 20.....

.....
Signature of Director or authorized officer

.....
Signature of Secretary or authorized officer

PART B
(Regulation 2)

**APPLICATION FOR LICENCE AS AN INSURANCE MANAGER OR
EXTERNAL INSURANCE BROKER**

Please complete all sections as fully as possible, giving reasons for non-compliance if any, and attaching appendices where appropriate.

1. Name of applicant.....
2. Date on which applicant commenced or proposes to commence carrying on external insurance business in or from within The Bahamas and (for Insurance Manager) which external insurers the applicant proposes to manage.
3. Address of main or registered office in The Bahamas.....
4. (a) Attach evidence of proper incorporation pursuant to the Companies Act and a copy of the memorandum of association and articles of association or other instrument of constitution of the applicant as may be appropriate; or if not yet incorporated, the proposed documentation.
(b) List of all names (including any previous names), addresses and nationalities of all shareholders. In those instances where shares are held by a corporate body or bodies, the chain of connection to the ultimate owner must be shown.
(c) Attach curricula vitae of all directors, managers and officers.
5. Attach four references (character, professional and financial) including two from insurers and one from a bank pertaining to the principal officers of the applicant including a banker's reference in respect of the application.
6. Attach a list of all insurers for whom the applicant is, or will be engaged to act as manager or consultant.
7. Attach a business plan containing like particulars to those required of an external insurer by Part A of this Schedule.

8. Have any of the parties connected with this application ever applied, either individually or in conjunction with others, for authority to transact insurance business in any other jurisdiction?

Dated this day of, 20.....

.....
(Name of applicant)

.....
Signature of Director/Secretary or authorized officer

WITNESS: Name:.....
Occupation:.....
Address:.....

PART C

(Regulation 2(5))

**APPLICATION FOR RENEWAL OF LICENCE AS EXTERNAL INSURER OR
INSURANCE MANAGER OR EXTERNAL INSURANCE BROKER**

Name of applicant:.....

Address of applicant:.....

Date of first application for licence:.....

Date of last application for renewal of licence: *.....

The above-named applicant is licensed under the External Insurance Act, 2009 as.....and application is hereby made for a renewal of that licence for the period ending day of, 20.....

The particulars set out in our first application for a licence*as amended by our last application for renewal* need no amendments* to be amended as set out in the attached sheet initialed by the undersigned (attach sheet showing by reference to numbered paragraphs necessary amendments)*.

Dated at.....thisday of.....20.....

.....

Secretary/Director

.....

Director

*Delete where not applicable

SECOND SCHEDULE

(Regulation 4 (1))

LICENCE

No.....

.....
is hereby licensed under the External Insurance Act, 2009 (“the Act”) to carry on external insurance business in or from within The Bahamas as

.....
under section of the Act, subject to the provisions of the Act and in particular, to the condition that the licensee shall forthwith notify the Commission of any change in the information supplied in the application for its licence.

Given this.....day of.....20.....

at Nassau, The Bahamas

.....
Superintendent of Insurance

THIRD SCHEDULE

(Regulation 5)

AUDITOR'S STATEMENT OF CONFIRMATION

I/We
(Name)

of.....
(Full business address)

DO HEREBY confirm as follows —

1. That I/We am/are the duly appointed independent auditor(s) of

.....
(Name of external insurer)

which is currently licensed under the External Insurance Act, 2009.

2. That, to the best of our knowledge and belief and subject to the exceptions or qualifications, if any, mentioned below, the said external insurer has during the period.....to.....carried on its insurance business in accordance with the information provided in its licence application/renewal licence application subject to exemptions approved by the Commission as are mentioned hereunder. This certificate relates only to the following of such information —

- (a) the classes of insurance business conducted by the external insurer;
- (b) the business plan;
- (c) the particulars in paragraphs 5 to 11 of Part A of the First Schedule headed “Application for Licence as External Insurer”.

.....
(Exceptions if any)

3. I/We confirm that financial statements of the said external insurer for the year ended.....have been prepared as required under section 24(1) and our report dated on such financial statements is unqualified/qualified. (In this Schedule the expression “auditors unqualified report” shall be taken to be the form of auditors unqualified

report recommended in international standards of auditing promulgated by the International Auditing and Assurance Standards Board.

.....
(Exceptions if any)

Dated at.....this.....day of.....20.....

.....
(Signature of person furnishing this certificate)

.....
(Name and position of individual signing above confirmation)

FOURTH SCHEDULE

(Regulation 6 (b))

DIRECTORS STATEMENT OF CONFIRMATION

Name of external insurer:.....

We hereby confirm the following for the year ended.....

1. Proper financial records have been maintained throughout the year recording all transactions in accordance with generally accepted accounting principles. All such records have been made available to the auditors.
2. There have been no irregularities involving any member of management or employees which could have a significant effect on the financial statements.
3. Adequate provision has been made for all losses including incurred but not reported (IBNR).
4. We further confirm for the purposes of compliance with section 23 of the External Insurance Act, 2009 that net premium income for the year ended amounted to \$.....

.....
(Exceptions if any)

Dated at.....thisday of.....20.....

.....
Director

.....
Director

FIFTH SCHEDULE

(Regulation 7)

CONFIRMATORY STATEMENT OF INSURANCE MANAGER

We do hereby confirm that, to the best of our knowledge and belief and subject to the exceptions or qualifications, if any, mentioned below, the said external insurer has, during the periodtocarried on its insurance business in accordance with the information provided in its licence application/renewal licence application, and has complied with the requirements of the External Insurance Act, 2009 and with all the terms and conditions of its licence, subject to exceptions approved by the Commission as are mentioned hereunder. This certificate relates only to the following of such information —

- (a) the classes of insurance business conducted by the external insurer;
- (b) the business plan;
- (c) the particulars in paragraphs 5 to 11 of Part A of the First Schedule headed “Application for Licence as External Insurer”.

.....
(Exceptions if any)

Dated at.....thisday of.....20.....

.....
Director

.....
Director

.....
Insurance Manager

SIXTH SCHEDULE

(Regulation 8)

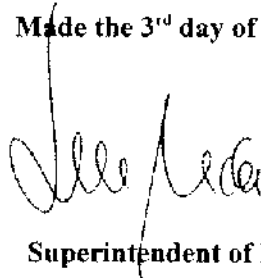
FEES

	Fees
	\$
1. Application for a licence as an external insurer or insurance manager or external insurance broker	100
2. For annual licence as an external insurer:	
(a) Restricted	2,500
(b) Unrestricted	3,500
3. For annual licence as an insurance manager	1,000
4. For annual licence as an external insurance broker	1,000
5. For the processing of applications or requests by a registered entity to:	
(a) Amalgamate/Merge	1,000
(b) Acquire/Increase significant interest	600
(c) Transfer Business/Assets	600
(d) Acquire/Increase substantial Investments	600
6. For taking a record of any fact required by the External Insurance Act, 2009 or authorized to be recorded by the Commission	10
7. For obtaining a duplicate of a licence or identification card	20
8. For the inspection of a document held by the Commission	5

9. For Late Payments:

- (a) External insurers, insurance managers and external insurance brokers delinquent in the timely payment of licence fees will be subject to an additional charge of 10%, 15%, 20% or 25% on the amount due according to the quarterly ageing of the overdue amount.
- (b) The Commission may not charge a late payment fee when prior approval for the late payment has been obtained from the Commission.

Made the 3rd day of May, 2010.



Superintendent of Insurance