

GUERNSEY STATUTORY INSTRUMENT NO.

**THE INSURANCE BUSINESS (AMENDMENT) RULES,
2024**

Made: 13th February 2024

Coming into Operation: 13th February 2024

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 6, 29, 33, 37, 38A, 38B, and 85 of *The Insurance Business (Bailiwick of Guernsey), 2002*¹ (the “Law”) hereby makes the following Rules.

¹ Order in Council No. XXI of 2002.

Citation and Commencement

1. These Rules may be cited as The Insurance Business (Amendment) Rules, 2024 and amend the Insurance Business Rules, 2021² (“the Rules”).
2. These Rules shall come into force on 13th February 2024.

Amendments

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

Dated this 13th day of February, 2024



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J.P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

² No.137 of 2021.

Annex A

Amendments to The Insurance Business Rules, 2021

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

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PART 3 ANNUAL RETURNS AND AUDITS

3.1 Annual returns

(1) A licensed insurer's annual returns must include –

(a) an up-to-date business plan, including -

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(g) further financial information including –

(i) for a PCC; management accounts that include a breakdown by cell;

(ii) a summary of claims paid and outstanding, as at the end of the period covered by the annual insurance return, in the form agreed, with the Commission, as appropriate to the underwriting activity; and

(iii) a schedule of bank deposits and investments broken down by asset class.

- (2) Retail general insurers must also include in their annual return all information set out in the requirements at Schedule 3.

3.2 Consolidated accounts

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3.3 Annual returns in a non-standard format

- (1) The Commission may, on application, consider the acceptance of the annual returns in a format other than the standard format. Non-standard format annual returns will only be accepted following written confirmation from the Commission.

3.4 Audit

- (1) A licensee offering retail insurance services must maintain an internal audit function.
- (2) An internal audit function, in compliance with (1) –
 - (a) must be undertaken at a frequency to be determined by the board of the insurer but no less than once in every three year period;
 - (b) must address the relevant processes, governance and controls appropriate to the business of the licensee;

(c) must be undertaken by an auditor whom the board is satisfied has the relevant knowledge and experience;

(d) may be outsourced to a group internal audit function;

(e) may be outsourced to an independent third party; and

all decisions of the board must be clearly documented.

(3) All insurers must appoint an external auditor in accordance with the Law and, on appointment, the board must detail the reasons for the appointment of the chosen auditor, to include their consideration of the knowledge and experience of that auditor in respect of general retail insurance.

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PART 4 PUBLIC DISCLOSURE OF INFORMATION

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4.1 Application of Part 4

(1) This Part does not apply to –

(a) Category 5 licensed insurers as categorised under the Insurance Business (Solvency) Rules 2021 (“Solvency Rules”);

(b) Category 6 licensed insurers as categorised under the Solvency Rules;

(c) PCCs, unless that PCC provides general retail insurance; or

(d) licensed insurers not incorporated in the Bailiwick.

(2) In this Part, “relevant insurer” means a licensed insurer other than -

(a) a Category 1 licensed insurer, Category 2 licensed insurer, Category 3 licensed insurer, or Category 4 licensed insurer, as categorised under the Solvency Rules, which does not offer retail general insurance, and which has ~~with~~ either -

(i) annual gross written premium income not exceeding £500,000; or

(ii) gross assets not exceeding £2,500,000,

providing that, if the insurer is in run off (by which it is no longer taking on new business but still has outstanding liabilities to existing policyholders), it would have met these conditions in its last full year of underwriting;

(b) a licensed insurer, which does not offer retail general insurance, that has reinsured 75% or more of its insurance risk with a group insurer and where that insurance group makes public disclosures equivalent to those required in these Rules;

(c) a Category 2 licensed insurer, or a Category 4 licensed insurer, as categorised in the Solvency Rules and writing insurance for related group insurers only;

- (d) a Category 2 licensed insurer, or a Category 4 licensed insurer, as categorised under the Solvency Rules and writing a single class of reinsurance for one fronting insurer in relation to a specific product or arrangement; or
- (e) a licensed insurer, which does not offer retail general insurance, with a small number of commercial policyholders only.

4.2 Public disclosure of information

- (1) ~~A relevant insurer with a website must publish its annual audited financial statements, together with the information set out in Schedule 1, on that website. This information must be available for a minimum period of three years from the filing date. All relevant insurers, which are retail general insurers, must publicly disclose their annual audited financial statements, the information set out at Schedule 1, and any further information which would be of use to the customer including that set out at rule 4.2A. The information must be available, online and on web pages identified for the relevant insurer, for a minimum period of three years from the filing date.~~
- (1A) All other relevant insurers with a website must publish their annual audited financial statements, together with the information set out at Schedule 1, on that website. The information must be available for a minimum period of three years from the filing date.
- (2) A relevant insurer, which is not a retail general insurer, may withhold, redact, or summarise, all or any part of the information required by this rule where –
 - (a) the disclosure of such information would enable their competitors to gain undue advantage or otherwise cause detriment;

- (b) there are obligations to policy holders, or other counterparty relationships, binding the relevant insurer to secrecy or confidentiality;
- (c) the disclosure of such information would prejudice their position by making confidential information public; or
- (d) where the disclosure of such information is prohibited by any jurisdiction's legislation; or it breaches a direction issued by the Commission or any other relevant overseas authority; and

where that insurer is a general retail insurer, such action may only be taken with the prior written consent of the Commission.

- (2) Where a relevant insurer withholds, redacts, or summarises any information, in accordance with this rule, they must provide the Commission with written notification, explicitly approved by their board of directors, of the information to be withheld, redacted, or summarised and the reason why this is necessary.

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- (5) A relevant insurer must publish the relevant information within fourteen days of the date of filing the relevant information with the Commission.

4.2A Further disclosure requirements for retail general insurers

- (1) All retail general insurers must ensure that the following information is prominently displayed on their website, on all marketing materials, and all communications with both customers and potential customers –

- (a) the postal address of the insurer's registered office or, where the insurer is a branch, the postal address of the branch;
- (b) the email address or telephone number for direct communication with the insurer;
- (c) the postal address and either email address or telephone number for lodging complaints against the insurer;
- (d) details for contacting the Channel Islands Financial Ombudsman;
- (e) whether the insurer and the producer share a common controller.

4.3 Disclosure of information to persons with a valid interest

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7.1 Application of Part 7

- (1) Part 7 applies to all Category 1 and Category 3 licensed insurers with respect to business with retail customers.

7.1A Governance

- (1) This rule only applies to licensees offering retail general insurance.

- (2) A licensee offering retail insurance services must ensure that all directors must physically attend at least one board meeting, in the Bailiwick, per annum.
- (2) Each board must include, at a minimum, two Independent Non-Executive Directors (“INEDs”).
- (3) Non-executive directors will not be considered to be independent directors of that entity, by the Commission, where –
- (a) they have been employed by the insurance manager of that entity at any time within the two years prior to the appointment; or
 - (b) they have been employed by any previous insurance managers of that entity –
 - (i) who have acted as insurance manager of that entity within the previous two years; and
 - (ii) no less than two years have elapsed, prior to the appointment, since that insurance manager ceased to be the insurance manager for that entity; and
 - (c) this sub-rule does not apply to INEDs appointed prior to this rule coming into force¹.

¹ This Rule came into force on 13th February 2024.

(4) The independent status of an INED -

- (a) must be reviewed, by the board, on the occasion that the INED has been a member of that board for a period of nine years;
- (b) must be reviewed, by the board, on an annual basis thereafter; and
- (c) such reviews must be clearly documented by the board; and

7.2 Due skill, care, and diligence when dealing with customers

- (1) A licensed insurer must act with due skill, care, and diligence when dealing with customers.

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7.6 Development and distribution of insurance products

- (1) A licensed insurer must take into account the interests of different types of consumers when developing and distributing insurance products.
- (1A) Where Guernsey retail general insurers provide insurance in jurisdictions other than the UK, the Board must agree an approach for each separate jurisdiction.

- (2) A licensed insurer must ensure that products and distribution strategies are developed in accordance with the following principles –

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7.12 Timely and fair manner complaints handling

- (1) A licensed insurer must handle complaints in a timely and fair manner.

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- (13) Licensed insurers must analyse the complaints that they receive against intermediaries, in respect of products that the intermediaries have distributed on their behalf, to enable them to assess the complete customer experience and identify any issues that need to be addressed.

- (14) The board of a retail general insurer must –

(a) consider all complaints, either individually or in aggregate, and the outcome of such complaints; and

(b) document all such considerations,

on a regular basis and not less than half-yearly.

- (15) Where the board of a retail general insurer appoints a sub-committee to deal with the detail of complaints, in accordance with (14), that sub-committee must report to the board on a regular basis and no less than half-yearly.

7.13 Cash management

- (1) Rule 7.13 applies to all retail general insurers.

- (2) Any funds held by third parties must be governed by a written agreement which -
 - (a) clearly identifies whether the funds are being held by a third party as claims fund, float, or other agreement; and

 - (b) sets out the basis on which funds will be paid or returned to the insurer.

- (3) The board must, at least annually -
 - (a) review the purpose of the fund;

 - (b) verify the amounts held; and

 - (c) review and verify the mitigants, including consideration of the solvency position of the transferee.

- (4) Where an amount transferred is in excess to requirements for the purpose, or the mitigants are considered insufficient, the insurer must take appropriate action.

- (5) Payments to facilitate transfers to third parties require the approval of at least one signatory, or electronic approver who is either –

(a) a Guernsey resident director or manager of the licensee; or

(b) a Guernsey resident employee of the general representative.

PART 8 GENERAL PROVISION

8.1 Interpretation

(1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.

(2) In these Rules the following definitions should be followed –

“acceptable rating agency” means a rating agency prescribed in Schedule 5 of the Insurance Business (Solvency) Rules 2021;

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“retail customer” means a customer who is –

(a) an individual who, in relation to a licensed insurer, is acting for purposes other than that individual’s trade, business, or profession;

(b) a microenterprise; or

(c) a charity other than a Non-Governmental Organisation (NGO); and

in cases where it is not clear whether an individual qualifies as a retail customer, in accordance with this definition, they must be treated as a retail customer;

“**significant complaint**” means a complaint alleging a breach of Law, *mala fides*, malpractice, or impropriety, or repetition or recurrence of a matter previously complained of (whether significant or otherwise);

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PART 9 SAVINGS, REVOCATIONS, TRANSITIONALS, CITATION AND COMMENCEMENT

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9.2.8 Revocation of the Insurance Business (Duties of General Representatives) Regulations, 2008

- (1) The Insurance Business (Duties of General Representatives) Regulations, 2008 are revoked.

9.2A Transitionals

- (1) Amendments made to rule 4.2, by the Insurance Business (Amendment) Rules, 2024, must be implemented as follows –

- (a) basic information must be provided from the next applicable reporting date;

- (b) financial information must be provided from the next applicable reporting date following the completion of the firms accounts, and must be submitted, to the Commission, prior to the general publication of those accounts.

SCHEDULE 1

INFORMATION TO BE DISCLOSED

This Schedule applies, in full, to PCCs providing retail general insurance. In addition, paragraphs 4 to 8 apply to each cell, within the PCC, offering retail general insurance.

1. PROFILE OF THE INSURER

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SCHEDULE 2

THE PRINCIPLES OF CONDUCT OF FINANCE BUSINESS

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10. Relations with Guernsey Financial Services Commission

A licensee should deal with the Commission in an open and co-operative manner and keep the regulator promptly informed of anything concerning the firm which might reasonably be expected to be disclosed to it.

SCHEDULE 3

ANNUAL RETURNS FOR GENERAL RETAIL INSURERS

The information that general retail insurers must provide may include, but will not be limited to –

1. Underwriting

- a. number of clients by class of insurance;
- b. gross and net written premium income by class;
- c. expense ratio by class;
- d. brokerage, commission, or related charges paid to associated companies; and
- e. reinsurance premiums paid to associated companies.

2. Persistency

- a. percentage of policyholders lapsing/not renewing by class of insurance.

3. Claims

- a. net claims ratios by class; and
- b. percentage of claims rejected by class.

4. Location of policyholders

- a. list of all jurisdictions in which policyholders are resident by class of insurance; and
- b. confirmation that regulatory approval has been given to carry on business in all jurisdictions, or appropriate legal advice has been received which confirms that the insurer can write business in each jurisdiction for that class of insurance.

5. Intermediaries

- a. list of intermediaries with total amount of gross of premium;
- b. list of intermediaries which are an associated party of the insurer; and
- c. location and licensed status of all intermediaries contracted by the firm.

6. Outsourcing

- a. details of all functions that are outsourced (including to associated entities) including the name, jurisdiction, regulatory status, and relationship with the insurer.

7. Reinsurance

- a. Details of each reinsurer with balances at year end, including –
 - i. credit rating;
 - ii. amounts that are outstanding at year end;
 - iii. amount that are outstanding for more than three months by reinsurer; and
 - iv. any right of offset and whether the insurer has legal advice which confirms that it is enforceable.

8. Complaints

- a. total number of complaints received during the year broken down by type;
- b. total number of complaints that took more than 90 days to resolve to the satisfaction of the complainant;
- c. number of all complaints referred to the Channel Islands Financial Ombudsman or any other ombudsman;
- d. details of all complaints where an ombudsman has found in favour of the complainant; and

- e. for each complaint where the ombudsman has found in favour of the complainant, an explanation of what actions have been taken by the firm to prevent a repeat of the failings which led to the finding.