

GUERNSEY STATUTORY INSTRUMENT NO.

**THE INSURANCE BUSINESS (SOLVENCY)
(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 38A of *The Insurance Business (Bailiwick of Guernsey) Law, 2002*¹ (the “Law”) 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 (Solvency) (Amendment) Rules, 2024 and amend The Insurance Business (Solvency) Rules, 2021² (“the Rules”).
2. The amendments to these rules shall come into force as follows –
 - (a) all amendments to rule 2.1 with immediate effect, in line with the transitional provisions set out at Schedule 12;
 - (b) all amendments to rule 2.3 with immediate effect, in line with the transitional provisions set out at Schedule 12;
 - (c) all amendments to rule 4.3 on 1st January 2025;
 - (d) all amendments to rule 8.2 on 1st January 2025;
 - (e) Schedule 11 with immediate effect; and
 - (f) Schedule 12 with immediate effect.

Amendments

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

²No.136 of 2021.

Dated this 13th day of February, 2024

A handwritten signature in black ink, consisting of several loops and a long, sweeping tail that extends to the right.

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J. P. WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

Annex A

Amendments to The Insurance Business (Solvency) 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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2.1 General Rules

- (1) A licensed insurer must, at all times, hold regulatory capital resources greater than or equal to its Minimum Capital Requirement (“MCR”).

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- (4) The Capital Floor of a licensed insurer is –
 - (a) £100,000 for a licensed insurer carrying on general business other than retail general business;
 - (aa) £250,000 for a licensed insurer carrying on retail general business;
 - (b) £250,000 for a licensed insurer carrying on long term business;

- (c) £250,000 for a licensed insurer carrying on both long term business and general business; or
 - (d) an amount specified in writing by the Commission.
- (5) For PCCs, which do not provide retail general insurance, the Capital Floor only applies to the overall PCC. There is no Capital Floor for each cell or the core.
- (5A) For PCCs providing retail general insurance, the Capital Floor applies to each cell providing retail general insurance.
- (6) The MCR of a licensed insurer must be no less than the Capital Floor.

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2.3 Regulatory Capital Resources of a PCC

- (1) The total regulatory capital resources of a PCC is the sum of notional regulatory capital resources of each cell and the core, pursuant to these Rules.
 - (2) For a cell, the notional regulatory capital resources to meet the notional PCR must be calculated as if it were a stand-alone insurer, subject to a maximum of the PCR for that cell, and in accordance with these Rules.
- (2A) For a cell which carries on retail general insurance business, the notional regulatory capital resources must be, at least, £250,000 or currency equivalent.

- (3) For a cell, the notional regulatory capital resources to meet the notional PCR must be calculated as if it were a stand-alone insurer, subject to a maximum of the PCR for that cell, and in accordance with these Rules.

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4.2 General Business – PCR standard formula

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4.2.9 Counterparty default risk capital – other

- (1) The capital requirement for other default risk must be determined for each counterparty and each exposure type as the value of the gross exposure, less any amount offset in case of default, multiplied by (1-Recovery Rate) and the Other Default Risk Capital Factor. The Recovery Rate and the Other Default Risk Capital Factors are as determined in accordance with Schedule 7.

4.2.9A Counterparty default risk capital – reinsurance

- (1) Retail general insurers must only place reinsurance with reinsurers that meet at least one of the following requirements –
- (a) they are licensed by the Commission;
 - (b) they are licensed by a member state of the G-10;
 - (c) they are licensed in Bermuda;
 - (d) they are licensed in the Republic of Ireland;
 - (e) they maintain an acceptable credit rating, where such rating is the same or higher than –
 - (i) an AM Best rating of bbb-;
 - (ii) a Fitch rating of BBB-;
 - (iii) a Moody’s rating of Baa3; or
 - (iv) a Standard & Poor’s rating of BBB-;
 - (f) if not rated, they are a 100% wholly owned subsidiary of a reinsurer, or insurer, which is rated, in which case the reinsurer can be treated as having the same rating as its ultimate parent;
or

~~(g) the potential exposure is protected by collateral representing the full exposure under the contract and the collateral is held –~~

~~(i) in cash, by a bank with a credit rating equal or above the ratings listed at (e); or~~

~~(ii) in investment-rated bonds, by an investment rated custodian, and~~

~~the insurer must have legal advice confirming that the collateral agreement will be effective in the event of default by the reinsurer; and~~

~~these requirements also apply to reinsurers within the same group as the insurer seeking reinsurance.~~

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8.2 Own Risk Assessment

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(3) A licensed insurer, who is not a retail general insurer, meeting at least one of the following criteria is not required to perform an ORSA –

(a) a licensed insurer classified as a Category 6 licensee;

(b) a licensed insurer which is dormant with no outstanding insurance liabilities;

(c) a licensed insurer that would otherwise be required to perform an OSCA only and whose board of directors considers the PCR to be sufficient. In such cases this should be clearly stated, either in the documentation submitted with the annual return, or in separate correspondence. Any such statement should be accompanied by the supporting rationale for this decision; and

(d) a licensed insurer notified, in writing, by the Commission.

- (4) Unless otherwise notified in writing by the Commission, a licensed insurer meeting at least one of the following conditions may limit their assessment to an OCSA only –
- (a) a category 1 licensed insurer writing life business with an MCR below £350,000;
 - (b) a Category 2 licensed insurer with an MCR below £7,500,000;
 - (c) a Category 3 licensed insurer with an MCR below £1,500,000;
 - (d) a Category 4 licensed insurer with an MCR below £7,000,000;
 - (e) a Category 5 licensed insurer; and
 - (f) a Protected Cell Company,
- unless the licensed insurer provides retail general insurance.

(5) An ORSA must be performed at least once a year.

(5A) All insurers performing an ORSA must also submit a half-yearly return, containing such information as set out in further guidance published by the Commission, and covering a reporting period of the first six months of the insurer's financial year. The half-yearly return must be submitted within 60 days of the end of the reporting period.

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Schedule 11

Green Criteria

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Criteria	Date Added
The Common Principles for Climate Mitigation Finance Tracking	24 February <u>2022</u>

Schedule 12

Transitional Arrangements

1. Licensees will have three years, from the date on which The Insurance Business (Solvency)(Amendment) Rules, 2024 come into force, to implement the additional MCR set out at rule 2.1.
2. Licensees will have three years, from the date on which The Insurance Business (Solvency)(Amendment) Rules, 2024 come into force, to implement the additional regulatory capital resources requirements set out at rule 2.3(2A).