



The Insurance (Group Supervision) Rules 2011 and the Insurance (Prudential Standards) (Insurance Group Solvency Requirement) Rules 2011

Following many months of consultation with Bermuda's insurance industry, the Bermuda Monetary Authority (the "Authority") has recently published the Insurance (Group Supervision) Rules 2011 (the "Group Supervision Rules") along with the Insurance (Prudential Standards) (Insurance Group Solvency Requirement) Rules 2011 (the "Group Solvency Rules").

The implementation of both the Group Supervision Rules and the Group Solvency Rules will be made in two stages. Rules 23 to 28 of the Group Supervision Rules will come into operation on 16 January, 2012 and the remaining provisions shall come into operation on 1 January, 2013. All of the Group Solvency Rules will come into operation on 16 January, 2012 except for the requirements relating to the calculation of an insurance group's enhanced capital requirement ("ECR").

The relevant provisions which come into effect on 16 January, 2012 are summarised below.

The Group Supervision Rules

Rules 23 to 28 of the Group Supervision Rules make provision for the assessment of the financial situation and solvency of the insurance group and the supervisory reporting and disclosures of the insurance group.

- **Group Financial Statements** The Group Supervision Rules require every insurance group to prepare in each financial year consolidated financial

statements (including notes to the financial statements) of the parent company of the group ("Group Financial Statements"). The Group Financial Statements must be prepared in accordance with (a) International Financial Reporting Standards ("IFRS"), (b) generally accepted accounting principles ("GAAP") that apply in Bermuda, Canada, the United Kingdom or the United States of America, or (c) such other GAAP or international standards as the Authority may recognise. The Group Financial Statements must be audited annually by the group's approved auditor who must prepare an auditor's report in accordance with generally accepted auditing standards.

A designated insurer must file with the Authority audited Group Financial Statements in respect of the business of the group of which it is a member within five months after the end of the financial year or such longer period, not exceeding eight months, as the Authority may allow after the end of each financial year. The Authority must publish a copy of every audited Group Financial Statement filed with it, together with the notes to those statements and the auditor's report, in such manner as it considers appropriate.

Group Financial Statements shall be accompanied by an unaudited statement for public disclosure of the amounts required to be held by the group to satisfy the minimum margin of solvency (MSM) and the ECR and the actual capital held in satisfaction of the MSM and ECR.

- **Statutory Financial Statements** Every insurance group must prepare in each year financial statements of the parent company of the group ("Group Statutory Financial Statements") which include, in statutory form, a group balance sheet, a group income statement, a group statement of capital and surplus, and notes thereto. A designated insurer must file with the Authority the Group Statutory Financial Statements in every financial year within five months after the end of the financial year or such longer period, not exceeding eight months, as the Authority may allow.
- **Group Statutory Financial Return** A designated insurer must submit a group statutory financial return ("Group Statutory Financial Return") in respect of the insurance group of which it is a member for each financial year within five months after the end of the financial year or such longer period, not exceeding eight months, that the Authority may allow.

The Group Statutory Financial Return shall include, among other matters (i) an insurance group business solvency certificate, (ii) an opinion of a group actuary

in respect of the group's loss and loss expense provisions, (iii) particulars of ceded reinsurance comprising of the top ten unaffiliated reinsurers for which the group has the highest recoverable balances and any reinsurer with recoverable balances exceeding 15% of the insurance group's statutory capital and surplus, (iv) any adjustments applied to the group financial statements by the group to produce the statutory financial statements in the form of a reconciliation of amounts reported as total assets, total liabilities, net income and total statutory capital and surplus, (v) a list of non-insurance financial regulated entities owned by the group, and (vi) certain particulars of any member of the group that is subject to solvency requirements in the jurisdiction in which it is registered.

The Group Solvency Rules

In addition to the requirements set out above relating to the preparation and filing of annual Group Financial Statements, Group Statutory Financial Statements and a Group Statutory Financial Return, the new Group Solvency Rules also require every insurance group to prepare and submit a group capital and solvency return ("Group Capital and Solvency Return") which comprises the insurance group's Group Bermuda Solvency Capital Requirement ("BSCR") model or an approved group internal capital model, along with the returns prescribed in the applicable schedules to the Group Solvency Rules.

The Group Capital and Solvency Return is submitted by the designated insurer on behalf of the group and must include a declaration signed by one director, chief executive and chief risk officer of the parent company of the group declaring that the return fairly represents the financial condition of the insurance group in all material respects.

The Group Solvency Rules also require that insurance groups prepare and file quarterly financial returns no later than end of the months of May for the first quarter, August for the second quarter and November for the third quarter. The quarterly financial returns consist of (i) quarterly unaudited (consolidated) group financial statements for each financial quarter (which must minimally include a balance sheet and income statement and must also be recent and not reflect a financial position that exceeds two months) and (ii) a list and details of material intra-group transactions and risk concentrations, which would also include, among other things, details surrounding reinsurance and retrocession arrangements and the proportion of the group's exposure covered by internal reinsurance and other risk transfer arrangements.

It is anticipated that rules governing Group Eligible Capital will come into effect in 2013.

Requirement to keep records in Bermuda

The Group Supervision Rules and the Group Solvency Rules require every designated insurer to keep a copy of the Group Financial Statements (together with the notes to those statements, the auditor's report thereon), the Group Statutory Financial Statements, the Group Statutory Financial Return and the Group Capital and Solvency Return at its principal office, for a period of five years.



This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

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For more information please contact:

Naomi Little
+1 (441) 298 7828
naomi.little@conyersdill.com
www.conyersdill.com