Government Notice No. 144 of 2024

THE INSURANCE ACT

FSC Rules made by the Financial Services Commission under sections 23 and 130 of the Insurance Act

1. Citation

These Rules may be cited as the Insurance (Long-Term Insurance Business Solvency) Rules 2024.

2. Interpretation

In these Rules –

"Act" means the Insurance Act;

"best-estimate assumptions" means realistic assumptions which depend upon the nature of the business and which should be guided by immediate past experience, as modified by any knowledge of, or expectations regarding, the future. When assumptions are interrelated, such as discount rates, bonus rates and expense inflation, the assumptions must be consistent;

"bonus stabilisation reserve" means in relation to a class of participating policies, the aggregate of the fair value of the underlying assets relating to that class of policies less the aggregate of policy accumulation fund within that class of policies;

"capital requirement ratio" means the ratio of capital available to minimum capital requirement;

"collective investment scheme" has the same meaning as in the Securities Act;

"Commission" has the same meaning as in the Financial Services Act;

"contractual service margin" means the component of the carrying amount of the asset or liability for a group of insurance contracts representing the unearned profit the insurer shall recognise as it provides insurance contract services under the insurance contracts in the group;

"corporation" has the same meaning as in the Financial Services Act;

"discounting" means the effect of applying interest rates to discount future cashflows arising from insurance contracts to the valuation date;

"fulfilment cash flows" means the explicit, unbiased and probability-weighted estimate (i.e. expected value) of the present value of the future cash outflows minus the present value of the future cash inflows that will arise as the insurer fulfils insurance contracts, including a risk adjustment for non-financial risk;

"insurer" for the purpose of these Rules means a person conducting long term insurance business;

"liability" means the sum of the liability for remaining coverage and liability for incurred claims;

"liability for incurred claims" means the insurer's obligations to pay valid claims for insured events that have already occurred, including events that have occurred but for which claims have not been reported, and other incurred insurance expenses;

"liability for remaining coverage" means the insurer's obligations to pay valid claims under existing insurance contracts for insured events that have not yet occurred, that is, the obligation that relates to the unexpired portion of the insurance coverage;

"linked long term policy" has the same meaning as in the Act;

"minimum capital requirement" has the same meaning assigned to it by rule 14 of these Rules;

"policy accumulation fund", in relation to a policy, means the accumulated sum of the premiums, net of risk and other charges, invested in the policy and, either –

(a) the bonuses, including non-vesting bonuses, net of funds and other charges, declared under the policy; or

(b) the investment returns, net of funds and other charges, earned on the underlying assets relating to the policy.

"property" means direct investment in investment properties, mortgages and land and building for an insurer's own use;

"related company" has the same meaning as in the Companies Act;

"risk adjustment" means the compensation an insurer requires for bearing the uncertainty about the amount and timing of the cash flows that arises from non-financial risk as the insurer fulfils its insurance contracts;

"smoothed bonus" means bonus that is declared at regular intervals out of the profits of the insurer by way of additions or as a percentage to the policy accumulation fund;

"solvency margin" has the same meaning assigned to it by rule 14(2) of these Rules;

"statutory solvency method" means the value of assets, liabilities and minimum capital requirement calculated in terms of the Act, the requirements prescribed in these rules and any guidelines issued by the Commission; and

"structured investment-linked insurance business" has the same meaning as in Part I of the First Schedule to the Act.

3. Principles for determination of value of liabilities according to the statutory solvency method

(1) An insurer shall, for the purposes of determining the value of liabilities, take into account the following –

(a) premiums to be received in the future;

(b) options regarding future investment returns, bonus declarations, expenses, mortality experience, morbidity experience, lapses, surrenders, and other relevant factors, which assumptions –

(i) shall be best-estimate assumptions;

(ii) shall take into account the reasonable expectations of policyholders and any established practices of an insurer for payment of benefits.

(c) a minimum level of financial resilience;

(d) the full value of non-vested bonuses, already accumulated or to be paid out on death shall always be valued. In addition, future additions to such bonuses shall be assumed;

(e) an adjustment to reflect the time value of money and the financial risks; and

(f) risk adjustment for non-financial risk.

(2) The method of calculation of the amount of liabilities and the assumptions for the valuation parameters used by the insurer shall not be subject to arbitrary discontinuities from one year to the next.

(3) The method used in determining the value of liabilities from year to year shall allow for the contractual service margin in an appropriate way over the duration of each policy and shall not be subject to discontinuities arising from arbitrary changes to the valuation basis.

(4) The premiums to be valued shall be those which are due to be paid under the term of each policy.

(5) The valuation method shall take into account the cost of any options that may be available to the policyholder under the terms of each policy.

4. Valuation of insurance liabilities

(1) An insurer shall when determining the value of liabilities take into account the nature, currency, term and method of valuation of the assets representing those liabilities.

(2) The value placed upon the assets under paragraph (1) shall include provisions against the effects of possible future changes and the ability of the insurer to meet its obligations under policies as they arise.

5. Expected allocation of profit

The value of liabilities of an insurer shall include provision for expected allocations of profit to shareholders, and the bonus rates declared for policyholders pursuant to section 18(5) of the Act.

6. Reserving method and valuing liabilities

The insurer shall disclose in the report of the actuary to the Commission, the reserving method and basis for valuing liabilities.

7 . Valuation parameters

(1) The valuation parameters for the valuation of liabilities of an insurer, shall constitute the bases on which the future policy cash flows shall be computed and discounted.

(2) Each parameter shall be appropriate to the class of insurance business to be valued.

(3) The actuary of an insurer shall, when estimating valuation parameters, take into consideration the following –

(a) (i) the value(s) of the parameters based on the insurer's experience study, where available;

(ii) where no reliable experience is available, the value(s) can be based on the industry study, if available and appropriate;

(iii) if no experience is available under paragraph (3)(a)(i) and paragraph (3)(a)(ii), the values may be based on the bases used for pricing the product;

(b) any likely deterioration in the experience in establishing the expected level of any parameter; and

(c) the expected level, as determined in paragraph (3)(a), shall be adjusted by the risk adjustment.

(4) (a) In order to achieve consistency between the value placed on the assets and the liabilities, the rates of interest to value the liabilities shall not be higher than the rates of interest determined from assessment of the yields from existing assets attributable to the liabilities and the yields which the long-term insurer

is expected to obtain from the amounts invested in the future;

(b) The rate of interest shall reflect the time value of money, the characteristics of the cash flows and the liquidity characteristics of the insurance contracts;

(c) The rate of interest shall be consistent with observable current market prices, if any, for financial instruments with cash flows whose characteristics are consistent with those of the insurance contracts, in terms of, for example, timing, currency and liquidity; and exclude the effect of factors that influence such observable market prices but do not affect the future cash flows of the insurance contracts; and

(d) The rate of interest shall also take into account the likely fluctuations in the currency in which the policy is denominated and the currency of the corresponding asset;

(e) The assessment of yield shall take into account –

(i) future investment conditions including the reinvestment and disinvestment strategy to be employed in respect of future net cash flows;

(ii) credit risk in respect of income and capital repayment;

(iii) investment expenses; and

(iv) risk of decline in the future interest rate.

(f) The insurer shall ensure that the allowance for future bonuses is consistent with the valuation of the rate of interest.

(g) In case of reversionary bonus policies, where an explicit allowance is not made for future bonuses, a rate of interest shall be used which is lower than the rate used in accordance with paragraphs (a) to (e).

8. Report of the actuary

(1) Where an investigation into the financial position is made, the insurer shall furnish to the Commission a copy of the report of the insurer's actuary accompanied by such returns required to be submitted to the Commission under the Act and Insurance (Returns) Rules 2024 and may be required to disclose additional information as may be determined by Commission.

(2) In addition to the requirements of the Act, the report of an insurer's actuary shall include the following –

(a) a summary of the data including sources of data and grouping as well as highlighting any shortcomings in the data;

(b) a statement of the solvency position at the valuation date, the previous valuation date and an estimate of the expected solvency position in 12 months' time;

(c) the assumptions and methodology used to calculate the value of liabilities for all classes of insurance business;

(d) a statement of comparison of the assumptions used for valuation and pricing along with any management actions that have been taken into account when valuing the liabilities;

(e) any uncertainty with respect to specific assumptions as well as the assumptions to which the final results are particularly sensitive;

(f) certification that the rules in determination of the valuation of liabilities has been complied with, and if any other alternative method is adopted other than the one prescribed in these Rules, the reasons for same and certify that the value of liabilities determined from the alternative method shall not be less than the value of the liabilities obtained as per the prescribed Rules;

(g) a detailed description of the method of valuation of the liabilities used, if different from these Rules;

(h) the level of the bonus smoothing reserves on any smoothed bonus business and, where this figure is negative, the actions that will be taken to return this to a non-negative figure, within three years;

(i) with regards to participating policies, the non-maintenance of last declared bonus rates for all future years, if any, and the details of the expected reductions for all future years in the bonus rates assumptions;

(j) the assumptions and methodology used to calculate the value of assets for all classes of investment;

(k) certification that the rules in determination of the solvency margin and the minimum capital requirement have been complied with;

(l) certification that the rules and determination of the valuation of assets has been complied with and the reasons, if any, of the difference between the value of asset used to calculate solvency as per these rules and the value of assets as shown in published financial statements;

(m) comment on the changes in methodology and assumptions since the previous reports and its impact on the final results;

(n) a brief summary of the reinsurance arrangements of the insurer including the impact on liabilities and the appropriateness of these arrangements, given the nature of the risks;

(o) comments on any material changes in reinsurance arrangement since the previous report and discuss the credit risk and concentration risk with respect to the reinsurance arrangements and the ability of the insurer to meet its obligations taking into consideration these risks;

(p) a detailed analysis of surplus dealing with all the relevant parameters, emerging over the period since the previous report;

(q) a brief summary of new products launched during the period since the previous valuation or where existing products have been materially changed;

(r) a risk assessment of the insurer, including the measures in place to address these risks;

(s) any areas of non-compliance with any provisions of the Act, these rules or guidelines issued by the Commission;

(t) a list of assets backing the liabilities, together with the duration of the assets and liabilities for non-linked long term policies, linked long term policies, and shareholders' fund;

(u) a statement on the appropriateness of the assets relative to the liabilities and the degree of matching;

(v) the extent to which the actuary has relied on the Professional Conduct Standards and Guidance Notes issued by his profession;

(w) the extent to which the actuary has relied on the work of other professionals;

(x) information about the insurer's approach to determining various inputs into the fulfilment cash flows;

(y) the confidence level used to determine the risk adjustment;

(z) if a technique other than the confidence level technique is used, the technique used and the confidence level corresponding to the results of that technique need to be disclosed; and

(aa) information about yield curves used to discount cash flows that do not vary based on returns from underlying items.

9. Valuation of liabilities for policy benefits

(1) The insurer shall modify the best-estimate assumptions by the risk adjustment, provided that an assumption shall be increased or decreased depending on which alternative gives rise to an increase in the liability of the class of policies concerned.

(2) The risk adjustment shall apply throughout the lifetime of the policies and may change during each valuation period.

10. Valuation of liabilities for linked long term policy

(1) The actuary shall when determining the liability in respect of linked long term policy ensure that it shall not be less than the sum of the underwriting liability and the policy accumulation fund, including any bonus stabilisation reserve, where applicable, in respect of those contracts.

(2) The value of underwriting liabilities shall be determined by discounting the expected future experience in respect of –

(a) basic benefits such as mortality, morbidity, surrender and maturity including the risk adjustment;

(b) future commissions, expenses and expense inflation and the risk adjustment; and

(c) the future cost of any guarantees that have been given under the contract, less future expense deductions, risk benefit premiums and management fees to be levied.

11. Valuation of assets

(1) An insurer shall for the purposes of calculating the minimum capital requirement under these Rules, value its assets at fair value.

(2) For the purpose of paragraph (1), "fair value" means the value of assets for the purpose of determining the solvency margin and minimum capital requirement under these Rules –

(a) in the case of an asset which is listed on the Official List of a licensed stock exchange and for which a price was quoted on that stock exchange on the date as at which the value is calculated, the price last so quoted;

(b) in any other case, the price which could have been obtained upon a sale of the asset between a willing buyer and a willing seller dealing at arm's length, as estimated by the insurer;

(c) the estimate of the Commission, where the Commission suspects market abuses under paragraph (2)(a), or where the Commission is not satisfied with the estimate under paragraph (2)(b).

12. Investment concentration limit

(1) An insurer shall –

(a) set out in writing as part of its overall prudent portfolio investment policy, internal policies on investment concentration; and

(b) also have in place management information and control systems necessary to give effect to its written policies.

(2) The aggregate value of investments as reported on the balance sheet by an insurer in any corporation, commodity or group of related corporations, except property, whose

shares are listed on a licensed exchange in Mauritius or listed on such exchanges as are specified in the Schedule, shall not exceed 10 per cent of the assets of the insurer.

(3) The aggregate value of investments as reported on the balance sheet by an insurer in any corporation, commodity or group of related corporations, except property, whose shares are other than shares described in paragraph 12(2), shall not exceed 5 per cent of the assets of the insurer.

(4) An insurer may invest up to 10% of its assets in any property.

(5) When an insurer and its related company, other than a long term insurer, makes an investment in any corporation or commodity, the aggregate value of that investment in that corporation or commodity shall not exceed –

(a) in the case of listed shares described in paragraph (2), 10 per cent of the assets of the insurer; and

(b) in the case of shares described in paragraph (3), 5 per cent of the assets of the insurer.

(6) The aggregate value of investments of an insurer in one or more of its related companies shall not exceed 10 per cent of the assets of the insurer.

(7) When an insurer is a branch of a foreign company –

(a) the aggregate value of investments reported in its balance sheet in any corporation, commodity or group of related corporations, except property, whose shares are listed on a licensed exchange in Mauritius or listed on such exchanges as are specified in the Schedule, shall not exceed 10 per cent of the assets of the insurer;

(b) the aggregate value of investments reported in its balance sheet in any corporation, commodity or group of related corporations, except property, whose shares are other than shares described in paragraph (7)(a), shall not exceed 5 per cent of the assets of the insurer.

(8) The branch of a foreign company shall not invest more than 10 per cent of its assets in any property.

(9) For the purpose of statutory solvency method, the value of assets representing the liabilities of non-linked policies will only be taken into account of up to the limits prescribed in these Rules.

(10) For the purpose of this rule, “assets of the insurer” shall not include assets backing linked long term insurance policies and structured investment-linked insurance business.

(11) This rule shall not apply to an investment in a collective investment scheme and investment held with a custodian in respect of structured investment-linked insurance policies.

(12) For the purposes of this rule, “investment” means any kind of investment including investment in the form of receivables, deposits, loans, structured notes and collaterised securities.

13. Capital Available

(1) The capital available to an insurer shall consist of shares issued and paid up, share premium, retained earnings and reserves.

(2) The capital available to an insurer may include the contractual service margin.

14. Solvency Margin and Capital Requirement

(1) An insurer shall at all times keep and maintain a solvency margin in accordance with these Rules.

(2) The solvency margin shall at all times be at least 100% of the minimum capital requirement.

(3) The capital requirement ratio shall at all times be at the target level of at least 100%.

(4) The minimum capital requirement for an insurer shall be determined by its actuary, when reporting in terms of the Act, as the higher of –

(a) a stress test requirement determined in accordance with guidelines issued by the Commission to ensure that the long-term insurer remains solvent; or

(b) the higher of –

(i) an amount of Mauritian rupees 25 million; or

(ii) an amount representing 13 weeks' operating expenses, with operating expenses as defined and reported in the annual statutory return submitted to the Commission.

(5) The minimum capital requirement of any overseas branch business shall be added to the insurer's minimum capital requirement calculation.

(6) The minimum capital requirement shall be the higher of –

(a) the requirement as calculated in accordance with these Rules; and

(b) the requirement as prescribed by the relevant supervisory authority in the country that the branch has been approved to operate in.

(7) (a) An insurer shall immediately inform the Commission, if it anticipates its capital requirement ratio to fall below the targeted level as defined in paragraph (3) and submit to the Commission, for approval, a contingency plan to meet the targeted level.

(b) Notwithstanding paragraph (7)(a), the insurer shall immediately notify the Commission in writing if either its capital requirement ratio falls below the targeted level or it anticipates that its capital requirement ratio will fall below the targeted level as required under paragraph 14(3), as a result of adopting International Financial Reporting Standard 17 Insurance Contracts.

(c) A notification under subparagraph (b) shall include

(i) a comprehensive explanation of the circumstances of the shortfall or the circumstances leading to the anticipated shortfall, as the case may be;

(ii) an assessment of the expected impact on compliance with regulatory requirements; and

(iii) a contingency plan outlining measures to restore compliance with the minimum capital requirement within a reasonable period.

(d) Upon notification to the Commission in accordance with subparagraph (b), the insurer shall forthwith consult with the Commission to determine and agree upon appropriate remedial actions within an agreed timeline.

(e) Subparagraphs (b) and (d) will remain in effect until 30 June 2025.

15. Revocation

The Insurance (Long-Term Insurance Business Solvency) Rules 2007 are hereby revoked.

16. Commencement

These Rules shall come into operation on 9 September 2024.

Made by the Financial Services Commission on 5 September 2024.

SCHEDULE

(Rule 12)

Exchanges which are members of the World Federation of Exchanges.
