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 (General Insurance Business Solvency) Rules 2024.

2. Interpretation

In these Rules –

“Act” means the Insurance Act;

“allocation of reinsurance premiums” means the portion of reinsurance premiums paid for which coverage has not been received;

“asset for remaining coverage” has the same meaning as allocation of reinsurance premiums;

“asset recoverable from incurred claims” means the amount of money that an insurer expects to receive from its reinsurer(s) in relation to the claims incurred by the insurer subject to the contractual agreement between the insurer and its reinsurer(s);

“associate” means an entity over which the investor has significant influence;

“best estimate liability (undiscounted)” means an unbiased probability weighted estimate of future cash flows of a group of insurance contracts;

“capital factors” means the percentages applied to different categories of balance sheet assets and liabilities as set out in the First Schedule and Third Schedule to these Rules respectively;

"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 cash flows arising from insurance contracts to the valuation date;

"general insurance business" has the same meaning as in the Act;

“gross insurance premiums” means the total premiums that an insurer received before accounting for any deduction or expenses;

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

“investment income” means the returns earned by the assets held by an insurer;

“joint control” means the contractually agreed sharing of control of an arrangement which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control;

“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;

“loss component” means the losses attributable to each group of onerous insurance contracts and the liability for the expected loss is contained within the liability for remaining coverage;

“loss recovery component’’ means the amount that is held for a group of reinsurance contracts on initial recognition of an onerous group of underlying insurance contracts or when the addition of onerous insurance contracts to a group of insurance contracts makes that group onerous in subsequent periods;

"minimum capital requirement" means such capital that is required to be held by an insurer and is the sum of capital required in accordance with rule 7, rule 8, rule 9, rule 10 and rule 11 of these Rules;

“net written premiums” means the gross insurance premiums less the reinsurance premiums ceded;

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

"reinsurer" has the same meaning as under the Act;

"reinsurance premiums" means the premiums paid by the insurer to the reinsurer in consideration for the liability assumed by the Reinsurer;

"related company" has the same meaning as provided 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;

“significant influence” means the power to participate in the financial and operating policy decisions of the investee but is not control or joint control of those policies;

"solvency margin" has the same meaning assigned to it by rule (3)(2) of these Rules;

“structured notes” means debt obligations with an embedded derivative component.

3. 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 150%.

(4) 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.

(5) Notwithstanding paragraph (4), 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 a result of adopting International Financial Reporting Standard 17 Insurance Contracts.

(6) A notification under paragraph (5) shall include –

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

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

(c) a contingency plan outlining measures to restore compliance with the targeted level within a reasonable period.

(7) Upon notification to the Commission in accordance with paragraph (6), the insurer shall forthwith consult with the Commission to determine and agree upon appropriate remedial actions within an agreed timeline.

(8) Paragraphs (5), (6) and (7) shall remain in effect until 30 June 2025.

4. Valuation of assets

(1) The asset value for the purposes of calculating the minimum capital requirement of an insurer shall be taken 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; and

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

5. Valuation of insurance liabilities

(1) The liability for incurred claims shall consists of the insurer’s obligation to –

(a) investigate and 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; and

(b) pay amounts that are not included in paragraph (1)(a) and that relate to –

(i) insurance contract services that have already been provided; or

(ii) any investment components or other amounts that are not related to the provision of insurance contract services and that are not in the liability for remaining coverage.

(2) The liability for incurred claims arising from insurance contracts issued shall each consist of the following disclosures –

(a) best estimate liability (undiscounted);

(b) discounting; and

(c) risk adjustment;

for each class of insurance business.

(3) The liability for remaining coverage consists of the insurer’s obligation to –

(a) investigate and pay valid claims under existing insurance contracts for insured events that have not yet occurred, namely, the obligation that relates to the unexpired portion of coverage period; and

(b) pay amounts under existing insurance contracts that are not included in paragraph (3)(a) and that relate to –

(i) insurance contract services not yet provided, namely, the obligation that relates to future provision of insurance contract services; or

(ii) any investment component or other amounts that are not related to the provision of insurance contract services and that have not been transferred to the liability for incurred claims;

(c) The liability for remaining coverage arising from insurance contracts issued shall each consist of the following disclosures –

(i) best estimate liability (undiscounted);

(ii) discounting;

(iii) risk adjustment;

(iv) contractual service margin; and

(v) loss component;

for each class of insurance business.

6. 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.

(3) Notwithstanding paragraph (1) and subject to the prior approval of the Commission, the capital available to an insurer may include subordinated loans.

(4) The Commission may grant an approval under paragraph (3) where –

(a) the title deed setting out the terms of the subordinated loan explicitly mentions that the loan is legally subordinated to the claims of policyholders and other creditors of the insurer;

(b) the subordinated loan is unsecured;

(c) the subordinated loan has an original maturity period of over 5 years;

(d) the subordinated loan may be redeemed before maturity only at the option of the insurer and with the prior written approval of the Commission; and

(e) the subordinated loan shall not, in the event of the winding up of the insurer, be repaid until the claims of policyholders and other creditors have been fully satisfied.

7. Capital required for balance sheet assets

(1) An insurer shall, for the purposes of calculating the minimum capital requirement, apply such factors to each balance sheet asset as per the First Schedule.

(2) The total of these amounts represents the capital required to be held for balance sheet assets.

(3) An insurer shall be required to hold capital equivalent to the extent to which any asset has been encumbered.

8. Capital required for investment above concentration limit

(1) An insurer shall –

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

(b) also have in place management information and control systems necessary to give effect to their 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 Second 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 under paragraph (2), shall not exceed 5 per cent of the assets of the insurer.

(4) An insurer may invest up to 10 per cent 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 under paragraph (2), 10 per cent of the assets of the insurer; and

(b) in the case of shares described under 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 Second Schedule, shall not exceed 10 per cent of the assets of the insurer; or

(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 under 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 the Company's assets in any property.

(9) This rule shall not apply to an investment in a collective investment scheme.

(10) Any investment above the limits set above shall be fully supported by capital.

(11) For the purposes of this rule, "investment" means any kind of investment including investment in the form of receivables, deposits, loans, structured notes and collateralised securities.

9. Capital required for policy liabilities

(1) An insurer shall, for the purposes of calculating the minimum capital requirement, apply such capital factors as set out under the Third Schedule on its policy liabilities.

(2) The total of these capital factors represents the capital required to be held for policy liabilities.

10. Capital required for catastrophes

An insurer shall, when calculating its minimum capital requirement, record an additional provision of 5% of the preceding year's net written premiums on all classes of insurance business.

11. Capital required for reinsurance ceded

An insurer shall, when calculating its minimum capital requirement, impose a capital charge on premium ceded to reinsurance depending on the ceding ratio and the rating of the reinsurers as per the Fourth Schedule.

12. Revocation

The Insurance (General Insurance Business Solvency) Rules 2007 are hereby revoked.

13. Commencement

These Rules shall come into operation on 09 September 2024.

Made by the Financial Services Commission on 04 September 2024.

FIRST SCHEDULE

(Rule 7)

(1) Capital factors for balance sheet assets

(a) 0% - capital factors

(i) cash and deposits;

(ii) obligations (securities, loans and account receivable) of the Government of Mauritius.

(b) 2% - capital factors

(i) investment income due and accrued;

(ii) amounts recoverable from incurred claims less than 8 months;

(iii) asset for remaining coverage.

(c) 4% - capital factors

(i) term deposits, bonds and debentures expiring or redeemable in one year or less from corporations;

(ii) receivables from related company less than 12 months;

(iii) residential mortgage.

(d) 8% - capital factors

(i) listed structured notes and collateralised securities;

(ii) term deposits, bonds and debentures expiring or redeemable in one year or more from corporations;

(iii) commercial mortgage;

(iv) other secured loans;

(v) loans to corporations;

(vi) land and building for insurer's own use.

(e) 10% - capital factors

(i) preference shares in listed companies;

(ii) receivables from related company 12 months or more;

(iii) receivables from corporations.

(f) 12% - capital factors

(i) unlisted structured notes and collateralised securities.

(g) 15% - capital factors

(i) common shares in listed companies;

(ii) preference shares in unlisted companies;

(iii) investment in listed collective investment scheme;

(iv) investment in listed commodities;

(v) investment properties;

(vi) investment in listed derivatives assets.

(h) 17% - capital factors

(i) common shares in unlisted companies;

(ii) investment in related company;

(iii) investment in unlisted collective investment scheme;

(iv) investment in unlisted commodities;

(v) investment in unlisted derivative assets

(2) Where information is not available to determine the redemption or maturity of an asset, and the asset falls in more than one category in First Schedule Section 1, insurers must use the category with the highest capital factors for that asset.

(3) New assets, not currently listed, shall be categorized according to their inherent risk and this categorization shall be agreed with the Commission.

(4) (a) Capital required for "other assets" is equal to 35% of the lesser of –

(i) other assets; or

(ii) 1% of total assets.

(b) other assets - refer to the assets not listed in First Schedule Section 1.

(5) Assets with a capital requirement of 100%.

The following assets shall need a 100% capital requirement –

(i) unsecured loans;

(ii) loans to related company;

(iii) loans to directors, agents and their associates (including those from related company);

(iv) amounts recoverable from incurred claims 8 months or more;

(v) goodwill;

(vi) other intangible assets; and

(vii) any excess of "other assets" over 1% of total assets.

SECOND SCHEDULE

(Rule 8)

Exchanges which are members of the World Federation of Exchanges.

THIRD SCHEDULE

(Rule 9)

(1) Capital factors are to be separately applied to the:

(a) Liability for incurred claims arising from insurance contracts issued, as defined in rule 5(1), less asset recoverable from incurred claims arising from reinsurance contracts held. the liability for incurred claims and asset recoverable from incurred claims shall be disclosed separately and shall each consist of the following disclosures for each class of insurance business:

(i) best estimate liability (undiscounted),
(ii) discounting
(iii) risk adjustment

and;

(b) Liability for remaining coverage arising from insurance contracts, as defined in rule 5(3) less asset for remaining coverage arising from reinsurance contracts held.

the liability for remaining coverage and asset for remaining coverage shall be disclosed separately and shall each consist of the following disclosures for each class of insurance business:

(i) best estimate liability (undiscounted),
(ii) discounting
(iii) risk adjustment
(iv) loss component (insurance contracts issued)/loss recovery component (reinsurance contracts held)

The capital required calculated in accordance with third schedule section 1 (b) shall however exclude the contractual service margin.

The capital required calculated in accordance with Third Schedule Section 1 (a) and (b) shall at no times be negative.

(2) The capital factors are as follows:

Class of insurance business	Capital Factors on Liability for Remaining Coverage, excluding Contractual Service Margin	Capital Factors on Liability for Incurred Claims
Property	14%	10%
Motor	14%	10%
Transport	15%	11%
Engineering	15%	11%
Guarantee	15%	11%
Accident and Health	19%	15%
Liability	19%	15%
Miscellaneous	19%	15%

FOURTH SCHEDULE

(Rule 11)

(1) The following capital charges shall be applied in determining the minimum capital requirement for reinsurance:

	Ratings		
	1	**2**	**3**
Standard & Poor's	Above BBB	BBB	Below BBB
Moody's	Above Baa	Baa	Below Baa
AM Best	Above B	B,B-	Below B-
Fitch Corporation	Above BBB	BBB	Below BBB
Ceding Ratio	**Charge on Premium**		
For 1st 50%	0%	15%	100%
Above 50%	10%	25%	100%

(2) The capital charge shall be calculated and imposed for each class of insurance business.

(3) The Commission may, on application by an insurer, consider other rating agencies and determine the charge on premium.