



TURKS & CAICOS ISLANDS FINANCIAL SERVICES COMMISSION Guidelines on Responsibilities of Insurance Managers

1. Introduction

This Guideline applies specifically to a Company licensed in the Turks and Caicos Islands as an Insurance Manager. It is issued by the Financial Services Commission (“the Commission”) pursuant to Section 43 of the Financial Services Commission Ordinance, 2007 to provide guidance on the Minimum Responsibilities of Insurance Managers and the Best Practice Standards that they should adhere to when acting in this capacity. The role of the Insurance Manager is critical in ensuring the proper management of captive insurers licensed in the Turks & Caicos Islands, their compliance with the requirements of the Insurance Ordinance and the efficient response to communications from the Commission.

The Commission remains cognizant of the size, complexity and internal resources of the Companies for whom Insurance Managers act. The Commission accepts that some of the responsibilities may be retained by the insurance company but requires that at the minimum, in instances where the Insurance Managers function is limited, that the Insurance Manager act as liaison between the Insurance Company and the Commission.

2. Statutory Requirements

Section 6 (10) (a) of the Insurance Ordinance requires any insurer other than an approved external insurer or an insurer who, with the approval of the Commission, permanently maintains in the Turks & Caicos Islands a principal office and staff, to appoint an Insurance Manager.

An Insurance Manager is defined as *“a company operating in or from within the islands which provides insurance expertise to or for insurers and which has in its employment a person who-*

(1) Is qualified by examination as a fellow or associate of the Chartered Institute of London, or who is a member of either the Society of Chartered Property and Casualty Underwriters or the American Society of Chartered Life Underwriters both of the United States of America and who is either a current member of good standing of the applicable professional body or of some other professional insurance association recognised by the Commission for the purpose of this Ordinance; or

(2) Is a person of good standing and has been approved by the Commission;”

3. Responsibilities

The Insurance Manager should act as a consultant and advisor to the Insurance Company in respect of insurance matters and be responsible for ensuring that the following arrangements are in place and for the subsequent oversight and co-ordination of the same:

- i. Meeting the requirements of the Insurance Ordinance;
- ii. Policy administration;
- iii. Collecting of Insurer’s premiums;
- iv. Paying commissions and brokerage fees due;
- v. Recording claims and technical reserves;
- vi. Arranging reinsurance protection and ensuring its adequacy;
- vii. Paying reinsurance premiums due;
- viii. Making reinsurance recoveries;
- ix. Issuing debt and credit notes;
- x. Ensuring that risk assessments are done on the business and policies or strategies are created to deal with the risks;
- xi. Ensuring that there are corporate governance and internal controls and policies for the company; and
- xii. Paying from Insurance Company’s funds, all debts and other liabilities as they fall due.

4. Management & Control

Notwithstanding the aforementioned duties the Insurance Manager may make arrangements and take the necessary action to ensure compliance with legislation and the effective management of the insurer

by, but not limited to, doing the following:

- i. Appoint in writing and grant powers to third parties with the consent of the Commission, (copies of related contracts or service agreements should be submitted to the Commission);
- ii. Ensure that bank accounts of the Insurance Company are in order and properly managed and safeguarding the assets belonging to the insurer;
- iii. Ensure that records for every transaction entered into are properly captured and recorded on a timely basis and in an orderly fashion whether the transaction is on the Insurance Manager's own behalf or on that of the Insurance Company;
- iv. The Insurance Manager should ensure that adequate resources are available to allow the Insurer to perform its obligations and adequately service its operations;
- v. The Insurance Manager should be the principal liaison/contact between the Commission and the Insurance Company;
- vi. The Insurance Manager should ensure effective and efficient communication between the Insurance Company and the Commission;
- vii. Consequent to the above the Insurance Manager's responsibilities will include:
 - a. Furnishing applicable legislation, regulations, rules, statements of guidance and guidelines to the Insurer together with timely updates on any amendments or legislative changes;
 - b. Providing any other information that is reasonably necessary for the Insurer to comply with the above;
 - c. Preparing and providing a report of the Insurance Company's financial condition as required by agreement or assignment;

- d. Ensuring the timely submission of Prescribed Reports, Financial Statements and Returns on behalf of the Insurance Company;
- e. Timely payment of the Insurance Company's annual fees to the Commission;
- f. Submission of applications for approval of changes in the business plan or business model of the Insurance Company to the Commission;
- g. Submission of applications for corporate changes in the Insurance Company to the Commission;
- h. Notification of difficulties in obtaining appropriate information from Insurer to the Commission;
- i. Notification of known adverse financial conditions of the Insurer or shareholder that will likely impact the Insurance Company's viability;
- j. Providing assistance where necessary at meetings concerning the Insurer with the Commission;
- k. Maintaining complete and proper records for the Insurer, including minutes of meetings; and
- l. Ensuring compliance with applicable Anti-Money Laundering Legislation and Regulations.

5. Contractual Arrangements – Insurance Manager/Insurance Company

There should be a formal contract/agreement between the Insurance Manager and the Insurance Company. The document should clearly outline the respective functions, duties and responsibilities of the Insurance Manager and govern the relationship between the two parties. The Management Agreement should include:

- l. The power of the Insurance Manager to act on behalf of and in the name of the principal

if agreed;

- II. Whether the Insurance Manager is empowered to make decisions regarding investment of the Insurer's assets and if he is, the agreement should stipulate that the Insurance Manager should be guided by the Investment Policy prepared by the Insurer or an Investment Policy that was prepared by the Insurance Manager and approved by the Insurer;
- III. A stipulation for the submission of management information reports by the Insurance Manager to management of the Insurance Company as required and/or agreed upon;
- IV. A requirement that records of the Insurance Company are maintained in accordance with the applicable Insurance and Company Legislation;
- V. A requirement that the Insurance Manager will ensure that appropriate action is taken by the Insurance Company where additional requirements are imposed on the Insurer by the Commission;
- VI. The termination arrangements that should comply with the applicable Insurance and Company Legislation; and
- VII. A specification of appropriate confidentiality for both parties.

6. Disclosure Requirements

Pursuant to Section 11 (4) of the Insurance Ordinance, an Insurance Manager should submit the following information to the Commission by 31st March each year:

- I. A list of all licensed insurers for which he has acted during the year, indicating any additions or deletions;
- II. Auditor's Report that the statutory books and records of the insurers have been kept, properly, up to date and in accordance with applicable laws; and

- III. Certificate signed by the Insurance Manager's certifying that insurers, for which he has acted during the year, have to the best of his knowledge and belief:
 - a. complied with all the requirements of the Ordinance and any regulations made thereunder:
 - b. complied with any terms and conditions attached to the insurer's license by virtue of powers granted under the Insurance Ordinance; and
 - c. continue to be of sound reputation and probity.

As stipulated by the Insurance Ordinance Section 9 (6), (7) and (8), Insurance Mangers are also required to:

- I. Carry on insurance and reinsurance business only with insurers of sound reputation.
- II. Disclose any doubts he may have as to the honesty or solvency of an Insurer with whom he is carrying on business.
- III. Submit "sixty-days" written notice to the Commission of the proposed termination of the agreement relating to representation between the Insurance Manager and an Insurer.
- IV. Maintain Professional Indemnity insurance of not less than \$100,000 for any one loss or such figure as maybe specified by the Commission. The Insurance Manager should notify the Commission immediately if its Professional Indemnity insurance is withdrawn, cancelled or not renewed and cease to solicit further insurance business until its Professional Indemnity insurance has been reinstated or replaced.

Insurance Managers and Insurance Companies are encouraged to have in place compliance and internal control processes and manuals to ensure effective management and compliance with applicable legislations and to contact the Commission should any clarification or guidance be required on setting out policies and procedures pursuant to the above guidelines.