



TURKS & CAICOS ISLANDS FINANCIAL SERVICES COMMISSION

GUIDELINE

VOLUNTARY LIQUIDATION/ DISSOLUTION PROCEDURES FOR SOLVENT INSURANCE COMPANIES

1.0 Voluntary Liquidation

This guideline is issued by the Financial Services Commission (“Commission”) to all insurers licenced to conduct insurance business in and/or from the Turks and Caicos Islands (“TCI”). The objective of the guideline is to guide the voluntary liquidation of solvent insurers.

A voluntary liquidation may commence in several ways:

- (a) Automatically, if the company's Articles of Incorporation or its constituting document (hereinafter referred to as “Articles”) provide that on the termination of any period or the happening of any event, the company shall be wound-up and dissolved.
- (b) When the period, if any, fixed for the duration of the company by the Articles expires or whenever an event occurs upon the occurrence of which the Articles provide that the company is to be wound up and dissolved.
- (c) If the shareholders of the company pass a resolution, in accordance with its Articles, requiring the company to be wound up voluntarily. The shareholders’ resolution is normally preceded by a report from the company's directors recommending voluntary liquidation to the shareholders and explaining the reason(s) for this recommendation.

2.0 Procedure for Voluntary Liquidation

A licensed insurer which **is solvent, has no liabilities, or which has, to the satisfaction of the Commission, made adequate provision for the discharge of all its liabilities**, is required to apply to the Commission for approval to enter into voluntary liquidation.

A. Prior to the submission of an application to place an insurance company into voluntary liquidation, an insurer that underwrites unrelated risk, excluding Producer Owned Reinsurance Companies, is required to:

1. Secure the Commission's approval of its Notice advising the public and policyholders of its intention to make an application to the Commission to liquidate the Company. The Notice should *i)* include the proposed date that the application will be submitted to the Commission, *ii)* invite affected persons to contact the Commission with any objections, *iii)* set out the process and contact details for contacting the Commission, and *iv)* include the deadline for objections or concerns to be communicated to the Commission.
2. Gazette the approved Notice.
3. Publish the approved Notice in two newspapers of general circulation for three consecutive weeks and broadcast over any electronic media in the TCI or in the location where most of the business is generated.
4. Serve on or send to each shareholder and policyholder of the insurer a copy of the approved Notice, at least forty clear days prior to the date stated in the Notice as being the date on or after which the application is to be made.

The Commission may dispense with such publication or service or alter the time periods specified where it is satisfied that the circumstances so warrant.

B. The application for approval, to enter voluntarily liquidation, which is required to be submitted by all insurers, including PORCs and insurers underwriting related risk, should include:

1. A cover letter requesting that the insurance company be liquidated. The letter should include *i)* the reason for the liquidation and *ii)* the proposed timeline for the liquidation.

2. A copy of the shareholder's resolution approving the voluntary liquidation of the company.
3. The plan to adequately discharge all the liabilities of the company and transfer all assets.
4. A declaration of solvency, signed by the Directors of the Company, stating that in the directors' opinion the company is and will be able to discharge, pay or provide for its debts as they fall due. The declaration should also include the commitment of the Directors to notify the Commission immediately, if the insurer becomes insolvent at any point during the liquidation. This notification should include a plan to return the insurer to a position of solvency and a revised plan on how its debts will be discharged. The declaration of solvency is to be dated no earlier than sixty days prior to the scheduled date of the liquidation.
5. Directors' confirmation that there are no known litigations against the Company or that all litigations are adequately provided for in the insolvency plan.
6. Draft copies of the insurance/reinsurance assumption agreement and any other agreements/documents to transfer all assets and liabilities, if applicable.
7. Evidence that the approved Notice, advising of the insurer's intention to apply to the Commission for voluntary liquidation, was published and aired, as applicable.
8. A certified balance sheet as at a period no more than ninety days prior to the scheduled date for the voluntary liquidation.
9. Name, address and details of the licensed insolvency practitioner appointed as the liquidator. PORCs are exempted from this requirement to use a licensed insolvency practitioner¹.

¹ The Commission is seeking the necessary approval to extend this exemption for insurance companies that are wholly owned and controlled by its insureds

Insurers exempted from the requirement to use a licensed insolvency practitioner are required to submit the name, address and details of a person to be appointed as a voluntary liquidator for the Commission's approval. The following persons will not be approved as voluntary liquidator:

- i) An individual who is, or at any time in the previous two years;
 - a. has been a director or shareholder of the insurer or of an affiliated company, or
 - b. has acted in a senior management position in relation to the insurer or an affiliated company.
 - ii) An individual who is a close family member of a shareholder of the insurer or of an affiliated company, or a close family member of an individual specified in paragraph (i) above.
 - iii) An undischarged bankrupt.
 - iv) An individual who is under eighteen years of age.
10. Information on all policies issued within 12 months of the insurer's application to liquidate the company, at a minimum, this should include:
- i) Date of issue and type of policy.
 - ii) Expiration date of policy.
 - iii) The maximum period after a policy expires that a claim can be made.
- C.** The full or a portion of the restricted deposit may be released during the liquidation to the appointed liquidator to settle remaining liabilities.

- D.** On receipt of confirmation from the appointed liquidator, supported by an audit certified balance sheet that all the liabilities have been liquidated, and the return of the insurance licence:
1. the insurance licence will be cancelled; and
 2. the restricted deposit, if any, will be released.
- E.** In the event the company wishes to retain its corporate structure after the insurance licence has been cancelled, a change of name request must be submitted to the Companies Registry to remove the words assurance, casualty, guarantee, indemnity, insurance, reinsurance, surety, underwriting or any other similar word, derived thereof, which in the opinion of the Commission connotes insurance business.

The Financial Services Commission

1st September 2020