



TURKS AND CAICOS ISLANDS FINANCIAL SERVICES COMMISSION

Regulating with Honesty, Integrity and Transparency

15th August 2022

EXPLANATORY MEMORANDUM REGULATORY ADVISORY NO. 4 OF 2022

DIRECT WRITERS

This Explanatory Memorandum is with reference to Regulatory Advisory No. 4 of 2022, as it relates specifically to Producer Affiliated Reinsurance Companies (PARCs) that are part of a ‘pass-through structure’. A pass-through structure exists where a direct writer cedes risk to one or more insurers, which are not direct writers, who then reinsures that risk with one or more PARCs.

It has become apparent from the circulation of correspondence within the PARC industry that there is a misunderstanding of the scope and objective of Regulatory Advisory No. 4 of 2022. ***Please note that Regulatory Advisory No. 4 of 2022 ONLY applies to pass-through structures as defined above.***

As cited in the referenced Regulatory Advisory, section 9(1)(c) of the Insurance Ordinance indicates that a “producer affiliated reinsurance company is a company whose affairs are under the control of a direct writer.” Accordingly, the Commission is required to ensure that PARCs comply with the Ordinance by confirming that they are ‘under the control of a direct writer’. This is not a new provision; this provision also existed under the PORC regime. Accordingly, for the sake of certainty, consistency and transparency, the Commission sought, by way of Regulatory Advisory No. 4 of 2022, to provide guidance on what constitutes ‘under the control of a direct writer’ in compliance with section 9(1)(c) of the Ordinance.

PARCs are required, as was previously the case with PORCs, to have a contractual arrangement with an approved direct writer, which includes details on how the PARC is ‘controlled’ by the direct writer. This information is usually, but not exclusively, contained in the reinsurance agreements, custodial and/or trust agreements. Regulatory Advisory No. 4 of 2022 requires that where a pass-through structure exists, that there be a clearly enforceable contractual agreement between the PARC in the structure and the direct writer for the ‘control’ of the PARC by the direct writer. Control in this case can be evidenced by the direct writer, among other things, collecting premiums and paying claims, controlling the flow of funds in and out of the custodial or trust account, calculating premium and claim reserves, and determining the surplus to be released to the PARC. The Commission will consider other evidence of enforceable control of the PARC by the direct writer.

Effective 1 January 2023, all PARC applicants which are part of a pass-through structure will be required to provide evidence of how the direct writer controls the PARC(s) in the structure.

The Commission hopes that the above explanation clarifies its position on the approval of pass-through structures but stands ready to engage further with the industry on this matter.

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