S.I. 41/2010

EXTERNAL INSURANCE (VARIABLE INSURANCE BUSINESS) REGULATIONS

(SECTION 46)

[Commencement 3rd May, 2010]

Citation.

1. These regulations may be cited as the External Insurance (Variable Insurance Business) Regulations.

Grant of approval.

2. (1) An external insurer shall not carry on from The Bahamas variable insurance business unless the Commission is satisfied that the general character, reputation and experience of the management of the external insurer and those persons or firms proposed to supply consulting, investment, administrative or custodial services to the external insurer are such as to reasonably assure competent operation of the variable insurance business.

(2) An application for approval to carry on variable insurance business shall be made to the Commission in writing and in the manner set out in Part A of the First Schedule to the External Insurance (Forms and Fees) Regulations and that application shall be accompanied by such other documents as the Commission considers necessary.

(3) The external insurer, who has been granted an approval by the Commission, shall, where there is a change in the information contained in the application for approval under paragraph (2), notify the Commission in writing of that change within thirty days.

(4) In granting approval of an application under paragraph (2), the Commission may attach such further conditions as are relevant to the nature and class of such business which the external insurer intends to carry on.

Revocation of approval.

3. (1) The Commission may, at any time, revoke an approval to carry on variable insurance business if the external insurer fails to comply with any condition imposed in respect of that approval.

(2) The Commission shall notify the external insurer of its breach of any condition imposed in respect of the approval granted under regulation 2, and failure to remedy the breach in thirty days may result in revocation.

(3) The external insurer shall, within thirty days of receipt of notice under paragraph (2), remedy the breach of any condition imposed in respect of the approval.

(4) Where the Commission revokes the approval under paragraph (1), the external insurer shall cease to issue any new policies in respect of its variable insurance business and the Commission may take any further action as may be authorised by the Act.

Submission of reports and annual statements.

4. An external insurer authorised to carry on variable insurance business in accordance with the Act, shall submit to the Commission, in addition to any other reports required by the Act, annual financial and actuarial statements of its variable insurance business including investment summaries in a form approved by the Commission, together with such additional information concerning its variable insurance operations or separate accounts as the Commission deems necessary.

Allocation of assets in respect of the separate account.

5. (1) An external insurer shall allocate to the separate account maintained in respect of any variable insurance policy, all premium income, reinsurance proceeds and other income, interest, gains, expenses or losses incurred or earned, in accordance with the terms of that policy.

(2) In respect of its variable life insurance business, the external insurer shall maintain in each separate account, assets with a minimum value equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for these policies.

(3) Unless otherwise determined by the Commission, in respect of its variable insurance business other than variable life insurance business, the external insurer shall maintain in each separate account, assets with a minimum value equal to the reserves and other policy liabilities with respect to the separate account.

(4) Subject to any provision of any enactment or administrative condition to the contrary, investments in the separate account shall be valued in the manner as prescribed by regulations.

Authority to grant financial assistance with assets concerning the separate account.

6. Subject to section 31 of the Act, a company licensed under the Act may grant advances, credit, financial guarantees or other forms of financial assistance with the assets allocated to or concerning the separate account without reference to the net value of the separate account.

Charges against the separate account.

7. The external insurer shall disclose in writing, prior to or at the time of the delivery of the policy, all charges that may be made against the separate account, including the following —

(a) actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase or sale of separate account assets;

(b) actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

(c) charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate accounts;

(d) charges, at a rate specified in the policy, for mortality and expense guarantees;

(e) any amounts in excess of those required to be held in the separate accounts; and

(f) charges for incidental insurance benefits.

Custody of assets of the separate account.

8. Where the external insurer is not the custodian of the assets of the separate account, no person, other than the persons listed below, may be appointed custodian of, or be authorised to manage, the assets of the separate account, without the prior written approval of the Commission —

(a) a bank or other financial institution licensed to operate in or from The Bahamas;

(b) a financial institution authorised or licensed under the laws of a jurisdiction approved by the Commission; or

(c) any subsidiary or affiliate of any person mentioned in paragraphs (a) and (b).