EXTERNAL INSURANCE (FORMS AND FEES) REGULATIONS

S.I. 42/2010
S.I.72/2015

(SECTION 46)

[Commencement 3rd May, 2010]

Citation.

1. These Regulations may be cited as the External Insurance (Forms and Fees) Regulations.

Application for licence.

First Schedule.

2. (1) Every application for a licence as an external insurer, insurance manager or external insurance broker shall be made to the Commission in writing in the appropriate manner in either Part A or Part B of the First Schedule and the applicant shall specify the capacity in which the applicant seeks to be licensed.

First Schedule.

(2) The application shall set out information in separately numbered paragraphs in accordance with the paragraphs of the appropriate Part of the First Schedule and shall be accompanied by the prescribed application and a non-refundable application fee.

(3) At the end of the application there shall be appended a certificate in the following manner —

"We certify that to the best of our knowledge and belief that all the information given in this application is true and correct".

(4) The certificate under paragraph (3) shall be signed by —

(a) a director and the secretary of the company which seeks a licence; or

(b) two other authorised officers of the company.

First Schedule.

(5) In the case of an application for renewal of an existing licence, the applicant shall submit the appropriate form set out in Part C of the First Schedule.

Amendment of application.

3. (1) Where a material change occurs in the circumstances which affect an application after it is submitted, but before the decision to grant or refuse a licence is communicated to the applicant and that change has the effect of falsifying any information contained in the application, the applicant shall inform the Commission immediately of such particulars of the change of circumstances.

(2) Where the applicant fails or neglects to inform the Commission of any material change with regard to the application under paragraph (1), the relevant particulars of the application shall be deemed to be false.

Licence.

4. (1) Where the Commission approves an application for a licence, the Superintendent of Insurance shall issue a licence to the applicant in the Form specified in the Second Schedule.

Second Schedule.

(2) Where the application for a licence is not approved by the Commission, the Commission shall inform the applicant in writing.

Auditor's confirmatory certificate.

5. The financial statement to be submitted for the purposes of section 24(3) of the Act shall be signed by the independent auditor responsible for confirming the preparation of the annual financial statement of the external insurer and shall be in the Form set out in the Third Schedule.

Third Schedule.

Additional financial statements.

6. Pursuant to section 24(3) of the Act, there shall be submitted on behalf of an external insurer —

(a) a statement updating the business plan of that external insurer and particulars of which have been previously submitted to the Commission; and

(b) a statement by two directors of the external insurer in the Form set out in the Fourth Schedule, containing representations as to the completeness of the records produced and information supplied to the auditors by the external insurer.

Fourth Schedule.

Statement by insurance manager confirming compliance by external insurer.

7. An insurance manager shall at the time of furnishing the list of external insurers in compliance with section 38(1)(a) of the Act, submit to the Commission in relation to the external insurers a written statement in the Form specified in the Fifth Schedule signed by the insurance manager and two directors of the external insurer.

Fifth Schedule.

Fees.

8. (1) The fees set out in the Sixth Schedule shall be payable in respect of the transactions under the Act.

Sixth Schedule.

First Schedule.

(2) The fee payable in relation to the First Schedule in respect of the annual licence as an external insurer shall be reduced by the amount of any fee paid by the same person in respect of the same year under paragraph (3) of the Third Schedule to the Companies Act.

Third Schedule. Ch. 308.

(3) Renewal fees payable under these regulations become due and payable on the last day of the twelfth month following the initial or previous licence.

(4) Any person who under these Regulations is required to pay any annual licence fee, and fails to pay such fee within a period of thirty days after the date on which such fee becomes due and payable, shall, in respect of his licence for that year, pay to the Commission in addition to the appropriate annual licence fee payable under these Regulations, a late fee, as set out in paragraph 9(a) of the Sixth Schedule. Sixth Schedule.

(5) Without prejudice to paragraph (4), a licence fee payable under these regulations which remains unpaid after thirty days from the date on which such fee becomes payable, may be recovered as a debt due in civil proceedings.

(6) The Commission may suspend the licence of any person where the licence fee remains unpaid for more than ninety days from the date on which the licence fee becomes payable.

9. *Repealed.* *S.I. 42/2010.*

FIRST SCHEDULE

PART A

(Regulation 2)

APPLICATION FOR LICENCE AS EXTERNAL INSURER

1. Name of applicant.
2. Application for a □ RESTRICTED or □ UNRESTRICTED Licence.
3. Place established and number of years established under present name.
4. Any other name or names under which external insurance business may have been carried out, giving place and date of inception and expiration of such business.
5. Address of head or registered office.
6. If either the head or registered office is outside The Bahamas —
   (a) address of principal office in The Bahamas;
   (b) name of the manager who is to be the company's principal representative in The Bahamas;
   (c) name of the assistant or other manager who in the absence or inability of the manager named under (b) above to act, is to be the company's principal representative in The Bahamas;
   (d) the name of the bank or other financial institution which can supply a reference for the applicant;
   (e) where an external insurer has more than one insurance manager in The Bahamas, the chief or principal insurance manager representing it is to be named.
7. (a) The amount of the paid-up capital of the company at present or the proposed amount when the company has been licensed. If the paid-up capital will be increased before the company intends to start undertaking the business for which authorisation is being requested, give details of proposed increase.
   (b) The amount by which the assets of the company exceed the liabilities (including all contingent or prospective

liabilities, but not liabilities in respect of share capital) at the present time and what the amount is likely to be when the company intends to start its undertaking of external insurance business.

(c) For existing companies, attach copies of last revenue and profit and loss accounts and balance sheets prepared.

8. Name and address of local attorney or legal advisor for the company, if applicable.

9. Names, addresses and professional qualifications of auditor and actuary, if applicable.

10. Full names with addresses, date of birth and nationalities of all persons who are directors, partners, managers or officers, together with the name of a bank which can supply a banker's reference and the names of two persons of standing who can supply personal references for each person.

11. Names with addresses, date of birth, and nationalities of all persons who are beneficial shareholders and the number of shares held by each person for each shareholder holding more than 10% of the shares, together with the name of a bank which can supply bankers and a personal reference for each such person (except in the case of a Mutual Insurance Company). In those instances where the shares are held by a body corporate, the chain of connection to the ultimate owner must be shown.

12. Police certificates from the home jurisdiction of the individuals referred to in paragraph 11.

13. Names of all parent and subsidiary companies of the applicant with addresses of their registered offices, also details of the business which is being or is to be carried out by each subsidiary company. A detailed organisational chart showing any related entities should also be provided.

14. Particulars of business plan shall include, where applicable —

(a) a summary of the main objects or proposed main objects of the company;

(b) the class of insurance business which the company —

(i) carries on in or from within The Bahamas; or

(ii) proposes to carry on in or from within The Bahamas;

(c) a statement whether, at the time application for licence is made, authorisation is being sought for doing long-term insurance business;

(d) if the company intends to limit its activities to insuring only some of the risks of the class or classes of insurance business for which authorisation is being sought, particulars of the risk insured;

(e) for each and every class of external insurance underwriting business to be carried on by the company during the next year, the method or methods by which policies will be marketed;

(f) particulars of any business other than external insurance business which the company carries on at present or proposes to carry on in The Bahamas;

(g) particulars of the nature and extent of the existing or proposed reinsurance arrangements in respect of each class of insurance business indicating clearly the amount of retention in each case;

(h) a five year general financial projection with details in respect of each class of insurance business. Details concerning the company's plans for sales and distribution, setting forth acquisition costs and proposals for conforming with applicable laws in the place where it is proposed to sell the insurance product;

(i) confirmation by a lawyer that the product is not in violation of law in the country (countries) where the product is being sold; and

(j) a presentation that the plan is both actuarially sound and commercially plausible from a business perspective, and supported by appropriate professional opinions.

15. If incorporated or doing insurance business in another country, a copy of the letter or Certificate of Good Standing by the authority governing insurance in that country, with the seal of that department properly affixed.

16. Whether application has been made, and if so, whether granted or refused by any other insurance supervisory authority outside The Bahamas, together with a list of all countries where application has been so granted.

17. Proof of compliance, where applicable, with Bahamas Immigration and Exchange Control Regulations.

18. Names of any insurance managers providing or that will provide management services in The Bahamas to the company.

Dated this ……day of …….. 20……

……

Signature of Director or authorised officer

……

Signature of Secretary or authorised officer

PART B

(Regulation 2)

APPLICATION FOR LICENCE AS AN INSURANCE MANAGER OR EXTERNAL INSURANCE BROKER

Please complete all sections as fully as possible, giving reasons for non-compliance if any, and attaching appendices where appropriate.

1. Name of applicant …….
2. Date on which applicant commenced or proposes to commence carrying on external insurance business in or from within The Bahamas and (for Insurance Manager) which external insurers the applicant proposes to manage.
3. Address of main or registered office in The Bahamas …….
4. (a) Attach evidence of proper incorporation pursuant to the Companies Act and a copy of the memorandum of association and articles of association or other instrument of constitution of the applicant as may be appropriate; or if not yet incorporated, the proposed documentation.

   (b) List of all names (including any previous names), addresses and nationalities of all shareholders. In those instances where shares are held by a corporate body or bodies, the chain of connection to the ultimate owner must be shown.

   (c) Attach curricula vitae of all directors, managers and officers.
5. Attach four references (character, professional and financial) including two from insurers and one from a bank pertaining to the principal officers of the applicant including a banker's reference in respect of the application.
6. Attach a list of all insurers for whom the applicant is, or will be engaged to act as manager or consultant.
7. Attach a business plan containing like particulars to those required of an external insurer by Part A of this Schedule.
8. Have any of the parties connected with this application ever applied either individually or in conjunction with others, for

authority to transact insurance business in any other jurisdiction?

Dated this …… day of ……..……, 20.....

……

(Name of applicant)

……

Signature of Director/Secretary or authorised officer

WITNESS: Name:……

Occupation:…….

Address:……...

PART C

(Regulation 2(5))

APPLICATION FOR RENEWAL OF LICENCE AS EXTERNAL INSURER OR INSURANCE MANAGER OR EXTERNAL INSURANCE BROKER

Name of applicant:……..

Address of applicant:……..

Date of first application for licence:……

Date of last application for renewal of licence:*……..

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The above-named applicant is licensed under the External Insurance Act as ……..…… and application is hereby made for a renewal of that licence for the period ending ……. day of ……., 20…...

The particulars set out in our first application for a licence*as amended by our last application for renewal* need no amendments* to be amended as set out in the attached sheet initialed by the undersigned (attach sheet showing by reference to numbered paragraphs necessary amendments)*.

Dated at …… this …… day of ……., 20…..

……

Secretary/Director

……

Director

*Delete where not applicable

SECOND SCHEDULE

(Regulation 4(1))

LICENCE

No**……**

……

is hereby licensed under the External Insurance Act ("the Act") to carry on external insurance business in or from within The Bahamas as Ch. 348.

……

under section ……. of the Act, subject to the provisions of the Act and in particular, to the condition that the licensee shall forthwith notify the Commission of any change in the information supplied in the application for its licence.

Given this …….. day of ……., 20……..

at Nassau, The Bahamas

…….

Superintendent of Insurance

THIRD SCHEDULE

(Regulation 5)

AUDITOR'S STATEMENT OF CONFIRMATION

I/We……

(Name)

Of……

(Full business address)

DO HEREBY confirm as follows —

1. That I/We am/are the duly appointed independent auditor(s) of ……

(Name of external insurer)

Ch. 348. which is currently licensed under the External Insurance Act.

2. That, to the best of our knowledge and belief and subject to the exceptions or qualifications, if any, mentioned below, the said external insurer has during the period …….. to …… carried on its insurance business in accordance with the information provided in its licence application/renewal licence application subject to exemptions approved by the Commission as are mentioned hereunder. This certificate relates only to the following of such information —

   (a) the classes of insurance business conducted by the external insurer;

   (b) the business plan;

   (c) the particulars in paragraphs 5 to 11 of Part A of the First Schedule headed "Application for Licence as External Insurer".

……..

(EXCEPTIONS IF ANY)

3. I/We confirm that financial statements of the said external insurer for the year ended …….. have been prepared as required under section 24(1) and our report dated on such financial statements is unqualified/qualified.

(In this Schedule the expression "auditors unqualified report" shall be taken to be the form of auditors unqualified report recommended in international standards of auditing promulgated by the International Auditing and Assurance Standards Board.

…….

(Exceptions if any)

Dated at …… this ..… day of ……..……..., 20..…

…….....

(Signature of person furnishing this certificate)

…….

(Name and position of individual signing above confirmation)

FOURTH SCHEDULE

(Regulation 6(b))

DIRECTORS STATEMENT OF CONFIRMATION

Name of external insurer:…….

We hereby confirm the following for the year ended …….

1. Proper financial records have been maintained throughout the year recording all transactions in accordance with generally accepted accounting principles. All such records have been made available to the auditors.
2. There have been no irregularities involving any member of management or employees which could have a significant effect on the financial statements.
3. Adequate provision has been made for all losses including incurred but not reported (IBNR).
4. We further confirm for the purposes of compliance with section 23 of the External Insurance Act that net premium income for the year ended ……. amounted to $ .....

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……..

(Exceptions if any)

Dated at …….. this …… day of ……..…., 20…..

..…….

Director

.....……

Director

FIFTH SCHEDULE

(Regulation 7)

CONFIRMATORY STATEMENT OF INSURANCE MANAGER

We do hereby confirm that, to the best of our knowledge and belief and subject to the exceptions or qualifications, if any, mentioned below, the said external insurer has, during the period ..... to …… carried on its insurance business in accordance with the information provided in its licence application/renewal licence application, and has complied with the requirements of the External Insurance Act and with all the terms and conditions of its licence, subject to exceptions approved by the Commission as are mentioned hereunder. This certificate relates only to the following of such information — Ch. 348.

(a) the classes of insurance business conducted by the external insurer;

(b) the business plan;

(c) the particulars in paragraphs 5 to 11 of Part A of the First Schedule headed "Application for licence as External Insurer",

……

(Exceptions if any)

Dated at …….. this ……. day of …….……., 20…..…

……..

Director

……..

Director

……..

INSURANCE MANAGER

SIXTH SCHEDULE

(Regulation 8)

FEES

		Fees $
S.I. 72/2015	1. Application for a licence as:	
	(a) An external insurer	250
	(b) A segregated account of an external insurer	250
	(c) An insurance manager	100
	(d) An external insurance broker	100
	2. For annual licence as an external insurer:	
	(a) Restricted	2,500
	(b) Unrestricted	3,500
	3. For annual licence as an insurance manager	1,000
	4. For annual licence as an external insurance broker	1,000
	5. For the processing of applications or requests by a registered entity to:	
	(a) Amalgamate/Merge	1,000
	(b) Acquire/Increase significant interest	600
	(c) Transfer Business/Assets	600
	(d) Acquire/Increase substantial Investments	600
Ch. 348.	6. For taking a record of any fact required by the External Insurance Act, or authorised to be recorded by the Commission	10
	7. For obtaining a duplicate of a licence or identification card	20
	8. For the inspection of a document held by the Commission	5
	9. For Late Payments:	
	(a) External insurers, insurance managers and external insurance brokers delinquent in the timely payment of licence fees will be subject to an additional charge of 10%, 15%, 20% or 25% on the amount due according to the quarterly ageing of the overdue amount.	

(b) The Commission may not charge a late payment fee when prior approval for the late payment has been obtained from the Commission.