INSURANCE ACT

CHAPTER 84:01

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Amended by
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202/1996
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Note on Commencement

At the time of revision of this Act, sections 184 and 185 were awaiting Proclamation.

Note on Act No. 4 of 2017

The Amendments made to the Insurance Act, Chap. 84:01 by Act No. 4 of 2017 took effect on 6th July 2017 by LN 63/2017. However, these amendments ceased to have effect on 1st January 2021 upon the proclamation of Act No. 4 of 2018 which repealed and replaced the Insurance Act, Chap. 84:01.

Note on Act No. 4 of 2018

Act No. 4 of 2018 which repealed and replaced the Insurance Act, Chap. 84:01 took effect on 1st January 2021 by LN 369/2020.

Note on Act No. 19 of 2018

The Amendments made to this Act by Act No. 19 of 2018 took effect on 1st January 2019.

Note on Act No. 3 of 2020

The Amendments made to this Act by Act No. 3 of 2020 took effect on 1st January 2021 by LN 371/2020.

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4 of 2018.

CHAPTER 84:01

INSURANCE ACT

An Act to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes.

*[ASSENTED TO 4TH JUNE 2018]

Preamble.

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment.

ENACTED by the Parliament of Trinidad and Tobago as follows:

PART I

PRELIMINARY

Short Title and Commencement.

1. (1) This Act may be cited as the Insurance Act, 2018.

(2) This Act, with the exception of sections 184 and 185 came into operation on 1st January 2021.

Application.

2. This Act applies to—

(a) all persons, whether or not established or resident in Trinidad and Tobago, that carry on insurance business in Trinidad and Tobago;

**See* Section 1(2) for the date on which this Act came into force. (LN 369/2020).

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(b) all persons that carry on business in, or from Trinidad and Tobago as an intermediary or insurance consultant; and

(c) privately administered pension fund plans registered under Part IX, whether administered by individual trustees or by trust corporations.

Act inconsistent with sections 4 and 5 of the Constitution.

3. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation. [12 of 2019 3 of 2020].

4. (1) In this Act, unless the context otherwise requires—

"abridged financial statements" means a summary of financial statements, the format and contents of which are agreed to in writing between the Central Bank and the Institute of Chartered Accountants of Trinidad and Tobago;

"acquirer" means a financial entity or a significant or controlling shareholder of a financial entity that either alone or with an affiliate, relative or connected party, is entitled to exercise ten per cent or more of the voting power at any general meeting of an insurer or the financial holding company of an insurer;

"actuary" means a person who is a Fellow of an actuarial accreditation body that is a full member of the International Actuarial Association and who possesses such other qualifications as may from time to time be specified by the Inspector;

"adjuster" means any person registered under Part IV and who for compensation, a fee or a commission investigates and negotiates settlement of claims arising under contracts of insurance, on behalf of the insurer, the insured or any other third party affected under the policy, but does not include—

(a) a salaried employee of an insurer while acting on behalf of such insurer in the adjustment of losses*;* or

(b) an agent of an insurer;

"advertisement" includes every form of advertising whether in a publication, or by display or notices, or by means of circulars or other documents, or by an exhibition of photographs or cinematographic films, or by way of sound

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broadcasting, television, or telephonic, digital or electronic communication, but does not include a prospectus issued by a company;

"affiliate", in relation to a given company ("C"), means—

(a) a company which is or has at any relevant time been—

(i) a holding company of C;

(ii) a holding company of a holding company referred to in subparagraph (i);

(iii) a subsidiary of a holding company referred to in subparagraph (i) or (ii);

(iv) a subsidiary of C;

(v) a subsidiary of a subsidiary referred to in subparagraph (iv); and

(b) where C is an insurer, any entity over which the insurer and any connected party or connected party group of the insurer has control,

and the word "affiliation" shall be construed accordingly;

"agency" means any company appointed by an insurer and registered under Part IV to carry on the business of an insurance agency;

"agent" means an individual employed by an agency to solicit applications for insurance or negotiate insurance on behalf of the agency;

"amalgamation" means the amalgamation of two or more companies pursuant to the provisions of the Companies Act;

"annuity contract" means a contract whereby one party undertakes in return for a consideration from another party to provide an annuity, or what would be an annuity except that the periodic payments may be unequal in amount, for a term dependent solely or partly on the life of a person;

"appointed actuary" means an actuary appointed by an insurer pursuant to section 78;

"approved educational institution" means a statutory body or company incorporated under the Companies Act and appointed by the Minister under section 119;

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"approved financial institution" means a financial institution licensed under the Financial Institutions Act or other financial institution subject to supervision acceptable to the Central Bank;

"approved securities" means such securities as may be prescribed in Regulations made under this Act;

"assignment", in relation to a policy, does not include a surrender of the policy to the company liable under the policy;

"associate" has the meaning assigned to it in the Companies Act;

"association of underwriters" means—

(a) the association of underwriters known as "Lloyd's"; or

(b) an association of individual or corporate underwriters, in which every underwriting member of a syndicate becomes liable for a separate part of the sum insured by each policy subscribed to by that syndicate, limited or proportionate to the whole sum so insured;

"beneficiary" means a person, other than the insured person or his legal personal representative, except where the legal personal representative is also a beneficiary, to whom or for whose benefit insurance money is made payable in a contract or by a declaration;

"Board" means the Board of Directors of the Central Bank as defined in the Central Bank Act;

"Board of Inland Revenue" means the Board of Inland Revenue established by section 3 of the Income Tax Act; Ch. 75:01.

"borrower group" includes—

(a) a family group comprising an individual and his spouse, a cohabitant, parents, children, brothers or sisters where each member of the group is substantially dependent upon the same income sources;

(b) a company in which the family group indicated in paragraph *(a)* has a controlling interest;

(c) a company in which the family group indicated in paragraph *(a)* has a significant interest;

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(d) a group of companies which has a common significant shareholder;

(e) a group of companies which has a common controlling interest;

(f) a group of persons in which the credit worthiness, ability to generate funds or the future viability of each, depends on one or other members of the group;

(g) a group of persons in which one member has power directly or indirectly to control other members;

(h) two or more borrowers, whether individuals, companies or unincorporated bodies, in which an insurer and any of its subsidiaries hold credit exposures, whether on a joint or separate basis, who are inter-related through common ownership, control or management; and

(i) any other group of persons whose relationship with each other is such that it may, in the opinion of the Inspector, lead to a conflict of interest or other regulatory risk;

"broker" means an individual employed by a brokerage to solicit, negotiate or procure in any manner insurance or the renewal or continuance thereof or the settlement of any claims on behalf of existing or prospective policyholders, or reinsurance on behalf of insurers;

"brokerage" means any company registered under Part IV to carry on the business of an insurance brokerage;

"business day" means Monday to Friday, except a public holiday;

"business of an insurance agency" means the solicitation of applications for insurance or negotiation of insurance business on behalf of an insurer and, where authorised to do so by the insurer, the effectuation and countersigning of contracts of insurance;

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"business of an insurance brokerage" means the business as an independent contractor of soliciting, negotiating or procuring in any manner insurance or the renewal or continuance thereof or the settlement of any claims on behalf of existing or prospective policyholders, or reinsurance on behalf of insurers;

"capital base" means regulatory capital available as calculated in accordance with the Regulations;

"carrying on insurance business" has the meaning assigned to it in section 20;

"Central Bank" means the Central Bank of Trinidad and Tobago established under the Central Bank Act;

"chief executive officer" means a person who, either alone or jointly with one or more other persons is responsible under the immediate authority of the board of directors of a company for the conduct of the business of that company, whether or not the individual is formally designated as the chief executive officer;

"class of insurance business" or "class" means any class of insurance business specified in Schedule 1 and "subclass" shall be construed accordingly;

"cohabitant" has the meaning assigned to it under the Cohabitational Relationships Act;

"collective investment scheme" means any arrangement with respect to property of any description including money—

(a) the purpose or effect of which is to enable persons taking part in the arrangement, whether by becoming owners of the property or any part of it, or otherwise to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income; and

(b) that does not invest—

(i) for the purpose of exercising or seeking to exercise control of an issuer, other than an issuer that is itself a collective investment scheme; or

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(ii) for the purpose of being actively involved in the management of any issuer in which it invests, other than an issuer that is itself a collective investment scheme;

"commission" includes sales remuneration whether first year or deferred including volume-based payments, financing costs, overrides, bonuses and indirect incentives such as conference attendance;

"company" means an incorporated body wherever or however incorporated;

"connected party" or "connected party group", as the case may be, means a person or group of persons referred to in section 5;

"continuing professional development" or "CPD" means further education or training intended for the systematic maintenance, continuous improvement and updating of professional knowledge, expertise, competence and attitude necessary for the proper carrying out of the business of an agent, broker, sales representative and adjuster;

"continuing professional development requirements" means the requirements in relation to CPD referred to in section 119 and the Regulations;

"consumer" means a person who—

(a) uses or has used any of the services provided by a registrant carrying on activities regulated under this Act;

(b) has rights that are derived from, or are otherwise attributable to, the use of any such services by other persons; or

(c) has rights that may be adversely affected by the use of any such services by persons acting on their behalf or in a fiduciary capacity in relation to them;

"contract of insurance" means a contract including a reinsurance agreement or an annuity contract, whereby one party agrees in return for a consideration from another party to undertake liabilities to—

(a) make good or indemnify the insured against any loss or damage including liability to pay

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damages or compensation contingent upon the happening of a specified event; or

(b) pay moneys on death or survival of an insured or annuitant, including extensions of cover for personal accident, injury, disease, sickness or disability;

"control" means the power of a person, either alone or with an affiliate or relative or connected party or other person, or by an agreement or otherwise, to—

(a) exercise more than fifty per cent of the voting rights at any meeting of shareholders of an entity;

(b) elect a majority of the directors of an entity;

(c) secure that the business and affairs of an entity are conducted in accordance with his wishes; or

(d) directly or indirectly exercise dominant influence over the conduct of the business and affairs of an entity;

"counterparty", for the purpose of measuring a credit exposure, means the borrower, the person guaranteed, the issuer of a security in the case of an investment in a security, or the party with whom the contract is made in the case of a derivative contract;

"CPD activities" means the activities in relation to CPD as defined in the Regulations;

"CPD Return" means a declaration of an intermediary that he has met continuing professional development requirements required to be filed with the Central Bank in accordance with the Regulations;

"credit exposure" means the exposure to risk to a counterparty arising through the making of investments, giving of guarantees, making of commitments, securitization or the extension of credit or funds and includes, without limitation—

(a) investments including equity, bonds and other debt instruments, participations, guarantees, acceptances including bankers acceptances and credit facilities excluding policy loans;

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(b) other claims on a counterparty including actual and potential claims excluding reinsurance;

(c) contingent liabilities arising in the normal course of business; and

(d) deposits,

and the provisions of Schedule 10 shall apply;

"credit facilities" includes loans, advances, lines of credit, commitment letters, standby facilities, letters of credit and any other facilities or arrangements whereby a party agrees to provide funds, financial guarantees or commitments to a counterparty or the party undertakes on behalf of a counterparty, a financial liability to another person;

"declared agreement" has the meaning assigned in section 4 of the Tax Information Exchange Agreements (United States of America) Act, 2017;

Act No. 4 of 2017.

"entity" means a company, or any trust, partnership, fund or other unincorporated enterprise or organisation, but does not include an individual;

"exempted incidental insurance" means insurance business provided for under a contract satisfying all of the following conditions:

(a) the insurance provided is not the primary purpose of the contract but is—

(i) complementary to the supply of goods and covers the risk of breakdown, theft, loss of, or damage to, those goods; or

(ii) in relation to the provision of travel and covers damage to, or loss of baggage and other risks linked to such travel, even if the insurance also covers life assurance or liability insurance, so long as the last-mentioned cover is ancillary to the main cover for the risks linked to the travel;

(b) none of the annual premiums payable in respect of an insured party exceeds one thousand dollars;

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(c) the policy period is no longer than one year; and

(d) there is no provision for guaranteed renewability or guaranteed extension of cover;

"financial entity" means an insurer, a person licensed under the Financial Institutions Act, and any other entity that carries on a business that includes the provision of any financial service and includes the holding company of any such financial entity;

"financial group" means a related group whose activities are limited to any one or more of the following:

(a) the business of banking;

(b) business of a financial nature;

(c) insurance business;

(d) the business of brokering and dealing in securities;

(e) the business of establishment, distribution or sale of collective investment schemes;

(f) the business of holding, managing or otherwise dealing in real estate;

(g) business of an insurance agency; and

(h) subject to the approval of the Central Bank, the provision of necessary services in support of the activities of the group,

and includes a financial holding company and a holding company of any of the businesses as set out in subparagraphs *(a)* to *(g)*;

"financial holding company" means a company required to obtain a permit in accordance with section 51;

"financial reporting standards" mean the International Financial Reporting Standards (IFRS) or such other accounting standards as may be prescribed in this Act and Regulations thereto or specified by the Central Bank;

"financial services" includes without limitation, the business of banking, any business of a financial nature, the business of

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a credit union, insurance business, the business of securities and the management and administration of pension fund plans;

"financial statements" means—

(a) a statement of financial position at the end of the period;

(b) a statement of comprehensive income for the period;

(c) a statement of changes in equity for the period;

(d) a statement of cash flows for the period;

(e) notes comprising a summary of significant accounting policies and other explanatory information; and

(f) a statement of financial position as at the beginning of the earliest comparative period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements;

"foreign company" means a company which is incorporated outside of Trinidad and Tobago;

"foreign insurance company" means a foreign company carrying on insurance business outside of Trinidad and Tobago;

"foreign policy" means a policy that is not a Trinidad and Tobago policy and includes—

(a) any policy issued or effected or ordinarily situated outside of Trinidad and Tobago at the time the policy is issued; and

(b) any policy issued and effected by overseas branches of insurers, for the life of an individual ordinarily resident in Trinidad and Tobago or property situated in Trinidad and Tobago or risks ordinarily situated in Trinidad and Tobago, at the time the policy was issued, and the term "foreign policyholder" shall be construed accordingly;

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"former Act" means the Insurance Act, repealed by this Act; Ch. 84:01.

"general insurance business" means insurance business of the classes as prescribed in Schedule 1;

"Governor" means the Governor of the Central Bank of Trinidad and Tobago;

"holding company" means a company that owns more than fifty per cent of the voting shares in another company;

"ICATT" means the Institute of Chartered Accountants of Trinidad and Tobago;

"IFRS" means International Financial Reporting Standards issued by the International Accounting Standards Board and as adopted by ICATT;

"industrial policy" means a policy in respect of which the premiums are contracted to be paid at intervals of less than forty business days and are contracted to be received by means of collectors and includes—

(a) a policy which at any time was an industrial policy; and

(b) a paid-up policy, not being a policy expressed to be an ordinary policy granted in lieu of an industrial policy or of a policy referred to in paragraph *(a)*;

"Inspector" means the Inspector of Financial Institutions appointed pursuant to section 7 of the Financial Institutions Act and includes any person appointed to act temporarily for him;

"insurance business" means the business in relation to the—

(a) issuing of a contract of insurance; or

(b) undertaking of liability under a contract of insurance,

but does not include self-insurance or exempted incidental insurance;

"insurance consultant" means an independent person who provides advice on some aspect of insurance for a fee, but does not include advice given by an Attorney-at-law, accountant or other professional who is subject to a relevant oversight body, in his professional capacity;

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"insurer" means a local insurer, and includes an association of underwriters;

"intermediary" means an agent, agency, broker, brokerage, sales representative and adjuster;

"large exposure" means the aggregate of all credit exposures to a person or a borrower group, the total of which amounts to twenty-five per cent or more of the capital base of an insurer;

"life insured" means an individual on whose life the insurer issues a contract of insurance;

Ch. 81:01. "liquidator" has the meaning assigned to it in the Companies Act;

"local company" means a company incorporated under the Companies Act or any other written laws of Trinidad and Tobago;

"local insurer" means a local company registered to carry on insurance business in Trinidad and Tobago;

"long-term insurance business" means insurance business of the classes as prescribed in Schedule 1;

"look through method" means a method of determining credit exposure in respect of asset backed securities or other investments where underlying securities or guarantees are treated as directly held or given;

"market share" means the proportion of the financial services market which is serviced or controlled by a financial entity or combination of financial entities and based on indicators such as balance sheet, total premiums, loan portfolio or subset of the loans portfolio such as credit card loans;

"Minister" means the Minister to whom responsibility for finance is assigned;

"officer" means—

(a) in relation to a company or unincorporated body—

(i) a chief executive officer, chief operating officer, president, vice-president, corporate secretary, treasurer, chief

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financial officer, chief accountant, chief actuary, appointed actuary, chief auditor, chief claims officer, chief compliance officer, chief underwriting officer, chief investment officer or chief risk officer and principal representative; or

(ii) any other individual designated as an officer by its articles of incorporation or continuance, by-laws or other constituent document or resolution of the directors or members and who also performs functions similar to those referred to in subparagraph (i);

(b) any other individual who performs functions for a company or unincorporated body similar to those performed by a person referred to in paragraph *(a)*, whether or not the individual is formally designated as an officer, and includes a principal representative;

(c) in the case of an agency, any person referred to in paragraphs *(a)* and *(b)* where applicable and an agent; and

(d) in the case of a brokerage, any person referred to in paragraphs *(a)* and *(b)* where applicable and a broker;

"paid-up policy" means a policy under which no future premiums are required;

"participating account" means an account maintained under section 43(1);

"participating policy" means a policy that is issued by an insurer that entitles its holder to participate in the profits derived from participating policies of the insurer;

"participating policyholder" means the holder of a participating policy;

"participating surplus account" means the undistributed accumulated profits derived from participating policies and maintained in accordance with section 43(2);

"permissible real estate entity" means a real estate entity that is a subsidiary or other entity controlled by an insurer or a real estate joint venture approved by the Central Bank;

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"policy" means any written contract of insurance;

"policy benefit liabilities" means all liabilities related to policy payments after the valuation date including those in respect of events which occurred before the valuation date, but excluding any appropriations of surplus;

"policyholder" means the person who, for the time being, has the legal title to the policy issued by an insurer including any person to whom a policy is assigned and may include, in the case of long-term insurance business, a life insured;

"principal representative" means a person appointed by a foreign insurance company pursuant to sections 26 and 230(5);

"privately administered pension fund plan" means a plan referred to in section 217;

"proliferation financing" means the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials, including both technologies and dual-use goods used for non-legitimate purposes, in contravention of any written law or, where applicable, international obligations;

"qualified valuer" means a person who—

(a) is a Fellow or Professional Associate of the Royal Institution of Chartered Surveyors or a Fellow or Associate of the Incorporated Society of Valuers and Auctioneers or the Rating and Valuation Association and has knowledge and experience in the valuation of land; or

(b) is approved by the Central Bank;

"real estate entity" means an entity that is solely engaged in the business of holding, managing or otherwise dealing with real estate;

"real estate joint venture" means a real estate entity—

(a) that was formed by an insurer and one or more other persons for the purpose of holding, managing or otherwise dealing in real estate;

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(b) in which the insurer is permitted to invest by virtue of the exception created by section 87(4)*(c)*; and

(c) in respect of which the persons who formed it have agreed on joint control, regardless of the distribution of their equity;

"receiver" shall be construed in accordance with the Companies Act;

"receiver-manager" shall be construed in accordance with the Companies Act;

"registrant" means any person who is registered as an insurer or intermediary under this Act;

"Regulations" means regulations made under this Act;

"reinsurance" means an arrangement under which one or more assuming insurance companies, for a consideration, agrees to indemnify the ceding insurer against all or a part of the loss that the ceding company may sustain under the policy or policies that it has issued;

"reinsurer" means an insurer which underwrites reinsurance business;

"related group" means—

(a) companies, entities or a combination thereof, with the same controlling shareholder or holding company;

(b) a company or entity in which any of the companies or entities referred to in paragraph *(a)* has a significant shareholding or ownership interest;

(c) the direct and indirect subsidiaries of the companies referred to in paragraph *(a)*;

(d) a company in which any of the companies or entities referred to in paragraph *(c)* has a significant shareholding; and

(e) the controlling shareholder or holding company referred to in paragraph *(a)*;

"relative" includes—

(a) a spouse or cohabitant;

(b) a parent;

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(c) a brother or sister, whether or not connected by—

(i) consanguinity;

(ii) affinity;

(iii) reason of a cohabitational relationship;

(iv) adoption; or

(v) reason of being declared a child of the family under the Matrimonial Proceedings and Property Act; or

(d) a son or daughter, whether or not connected by—

(i) consanguinity;

(ii) affinity;

(iii) reason of a cohabitational relationship;

(iv) adoption; or

(v) reason of being declared a child of the family under the Matrimonial Proceedings and Property Act;

"representative office" means—

(a) an office established in Trinidad and Tobago by a foreign insurance company through which no insurance business or other business activity is carried on other than—

(i) promoting the insurance services of the foreign insurance company or an affiliate of the foreign insurance company that carries on activities permitted to a member of a financial group, other than an affiliate incorporated in Trinidad and Tobago; or

(ii) acting as a liaison between consumers of the foreign insurance company and other offices of the foreign insurance company or its affiliates that carry on activities permitted to a member of a financial group, other than affiliates incorporated, or an office located in Trinidad and Tobago; or

(b) an office established outside Trinidad and Tobago by a local insurer through which no insurance business or other business activity is carried on other than—

(i) promoting the services of the insurer or an affiliate of the insurer that carries on

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activities permitted to a member of a financial group; or

(ii) acting as a liaison between consumers of the insurer and other offices of the insurer or its affiliates that carry on activities permitted to a member of a financial group;

"sales representative" means an individual who is contracted by an insurer, an agency or a brokerage to solicit applications for insurance or to negotiate insurance on behalf of that insurer, agency or brokerage;

"security interest" means an interest in, or charge on property by way of mortgage, lien, pledge or otherwise taken by a creditor or taken by a guarantor;

"self-insurance" means the practice of—

(a) a company to provide benefits, other than for profit, for its employees or their dependants; or

(b) a society registered under the Friendly Societies Act or a trade union registered under the Trade Unions Act to provide benefits to its members or their dependants, other than for profit, Ch. 32:50. Ch. 88:02.

and to assume responsibility for certain of its own losses including losses arising from the provision of such benefits;

"separate account" means an account maintained under section 42;

"significant shareholder" means a person who either alone or with one or more affiliates or relatives or connected parties is entitled, whether by agreement or otherwise, to directly or indirectly exercise twenty per cent or more of the voting power at any general meeting of an entity and the term "significant interest" shall be construed accordingly;

"solicitation" means an act of issuing any advertisement or making any offer or invitation to the public with regard to entering into a contract of insurance excluding a referral;

"stated capital" means the aggregate of all stated capital accounts as defined in the Companies Act;

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"standards of accepted actuarial practice" means the actuarial standards as may be specified by the Inspector in respect of actuarial work required under this Act;

"subsidiary" means a company of which more than fifty per cent of the shares are held, directly or indirectly, by another company;

"superannuation allowances" includes payment of a lump sum on retirement;

"supervisory information" means a record created or obtained by the Central Bank in connection with the performance of its responsibilities under this Act, such as a record concerning supervision, registration or examination of a registrant or enforcement actions with respect to a registrant, and includes any communication or correspondence between the registrant and the Central Bank arising from its performance of such responsibilities;

"Trinidad and Tobago policy" means any policy issued or effected in Trinidad and Tobago, and the term "Trinidad and Tobago policyholder" shall be construed accordingly;

"Trinidad and Tobago policy account" means the separate account maintained pursuant to section 42(1)*(a)*(i) in respect of Trinidad and Tobago policies;

"type of insurance business" means long-term insurance business or general insurance business;

"underwriter" includes any person named in a policy as liable to pay or contribute towards the payment of the sum secured by the policy.

(2) For the purposes of this Act, an entity is insolvent where it resides, carries on business or has assets in Trinidad and Tobago, and its liabilities to creditors provable as claims under the Bankruptcy and Insolvency Act amount to not less than four thousand dollars or such other amount as may be prescribed pursuant to section 279(4) and—

(a) it is for any reason unable to meet its obligations as they generally become due;

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(b) it has ceased paying its current obligations in the ordinary course of business as they generally become due; or

(c) the aggregate of its assets is not, at a fair valuation, sufficient or if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all its obligations, due and accruing,

whether or not the entity has been adjudged bankrupt, and "insolvency" shall be construed accordingly.

Meaning of "connected party" and "connected party group". [3 of 2020].

5. (1) For the purposes of this Act, a person or entity ("A") is a connected party of another person or entity ("B") where A is—

(a) a financial holding company, holding company, controlling shareholder or significant shareholder of B;

(b) a person or entity who holds ten per cent or more of any class of shares of B or of a person or entity referred to in paragraph *(a)*;

(c) an affiliate of B;

(d) an affiliate of a person or entity referred to in paragraph *(a)*;

(e) a director or officer of B or of a person or entity referred to in paragraph *(a)*;

(f) a relative of a director or officer of—

(i) B;

(ii) a financial holding company of B;

(iii) a holding company of B;

(iv) a controlling shareholder of B; or

(v) a significant shareholder of B;

(g) a relative of a controlling shareholder or significant shareholder of B where such controlling shareholder or significant shareholder is an individual; or

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(h) an entity that is controlled by a person referred to in paragraphs *(e)*, *(f)* and *(g)*.

(2) For the purposes of this Act, "connected party group" of a person or entity ("B") means—

(a) in the case where B is connected to a person referred to in subsection (1)*(a)*, a group consisting of any combination of—

(i) B;

(ii) the persons referred to in subsection (1)*(a)*, *(f)* and *(g)*;

(iii) an affiliate of B; or

(iv) an entity controlled by any person referred to in subparagraphs (i), (ii) and (iii); and

(b) in the case where the connected party is a director or officer referred to in subsection (1)*(e)*, a group consisting of any combination of—

(i) B;

(ii) the director or officer;

(iii) a relative of the director or officer; or

(iv) an entity controlled by any person referred to in subparagraphs (i), (ii) and (iii).

(3) For the purposes of this Act, in addition to the connected parties referred to in subsection (1) and the connected party groups referred to in subsection (2), the Inspector may determine that any other person is a connected party of an insurer or that any other group of persons is a connected party group of an insurer, where in the opinion of the Inspector their relationship may create a conflict of interest or may pose regulatory risk.

(4) Where the Inspector has determined that a person is a connected party in accordance with subsection (3), the Inspector shall notify the insurer of such determination and shall require the insurer to take such measures as the Inspector determines necessary to ensure that the insurer is in compliance with the provisions of this Act.

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Meaning of "control". [3 of 2020].

6. For the purposes of this Act, "control" means the power of a person, either alone or with an affiliate or relative or connected party or other person, or by an agreement or otherwise, to—

(a) exercise more than fifty per cent of the voting rights at any meeting of share-holders of an entity;

(b) elect a majority of the directors of an entity;

(c) secure that the business and affairs of an entity are conducted in accordance with his wishes; or

(d) directly or indirectly exercise dominant influence over the conduct of the business and affairs of an entity,

and the terms "controlling interest" and "controlling shareholder" shall be construed accordingly.

PART II

ADMINISTRATION

Central Bank to administer Act.

7. (1) The Central Bank shall be responsible for the general administration of this Act and the supervision of registrants, and shall have the powers and duties conferred on it by this Act, and the Central Bank Act.

(2) The primary objective of the Central Bank, in respect of registrants, is to maintain confidence in, and promote the soundness and stability of, the financial system in Trinidad and Tobago.

(3) The other objectives of the Central Bank, in respect of registrants are to—

(a) promote the existence of efficient and fair insurance markets;

(b) maintain an appropriate level of protection for policyholders and beneficiaries under policies; and

(c) ensure compliance of insurers and intermediaries with legislation to combat money laundering and terrorist financing.

(4) The Governor shall keep the Minister informed, at least once in every six months or more frequently if the need arises, of all developments and activities which affect the insurance industry in Trinidad and Tobago.

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Annual reports and returns to be furnished.

8. The Central Bank shall provide a written report annually to the Minister with respect to the performance of the Central Bank in meeting its objectives under this Act.

Act to prevail.

9. In the case of any inconsistency or conflict with this Act and any other written law, with the exception of the Central Bank Act, the provisions of this Act shall prevail and take precedence over such written law, unless expressly provided to the contrary in this Act or such written law.

Duties and powers of the Inspector. [3 of 2020].

10. (1) The Inspector shall have the powers and duties conferred on him by this Act and the Regulations.

(2) The Inspector shall examine all applications for approvals, registration and permits to be granted or issued under this Act and make recommendations thereon to the Central Bank.

(3) The Inspector shall make or cause to be made such examination and inquiry into the affairs or business of each—

(a) registrant;

(b) financial holding company;

(c) subsidiary of a local insurer in Trinidad and Tobago; and

(d) subsidiary or branch of an insurer located outside Trinidad and Tobago,

as he considers necessary or expedient, for the purpose of satisfying himself that the provisions of this Act are being observed and that the registrant or financial holding company or subsidiary is in a sound financial condition.

(4) The Inspector shall make or cause to be made such examination and inquiry into the affairs or business of a member of a financial group if, in the opinion of the Inspector, such examination and inquiry are necessary to assess any risk that such member may pose to the registrant.

(5) The Inspector shall make or cause to be made such examination and inquiry into the affairs of any representative office of a foreign insurance company, if in the opinion of the

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Inspector, such examination and inquiry are necessary to verify that no business activity is being carried on, other than applicable to a representative office under this Act.

(6) The Inspector shall report to the Governor at the conclusion of each examination and inquiry referred to in subsections (2), (3), (4) and (5).

(7) If an examination of the affairs of a registrant, financial holding company or other member of a financial group reveals that the registrant, financial holding company, or other member of a financial group is conducting its business in an unlawful or unsound manner or is otherwise in an unsound condition, the Inspector may require that the registrant or financial holding company or other member of a financial group forthwith or within such time as may be specified, take all such measures as he may consider necessary to rectify the situation.

(8) A registrant or financial holding company that fails to take measures required by the Inspector pursuant to subsection (7), commits an offence and is liable—

(a) on conviction on indictment to a fine of six hundred thousand dollars and in the case of a continuing offence to a fine of sixty thousand dollars for each day that the offence continues; or

(b) on summary conviction to a fine of three hundred thousand dollars and in the case of a continuing offence to a fine of thirty thousand dollars for each day that the offence continues.

(9) The Inspector shall take and maintain such steps and proceedings as may be necessary for the winding up of an insurer on behalf of the Central Bank and subject to the provisions of this Act.

(10) Where the provisions of this Act require anything to be done within a specified period of time and the person who is required to comply with the time limit prescribed is unable to do so because of circumstances beyond his control, including but not limited to the occurrence of any hurricane, storm, fire, flood

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or any similar natural disaster or events such as industrial unrest, riot, public disorder or the like, the Inspector shall grant such extension of time as may be reasonably sufficient for the doing of the act or thing.

(11) The Inspector or any person authorised in writing by the Central Bank or any designated member of staff of the Central Bank may enter the place of business of any registrant or financial holding company during normal business hours—

(a) to examine and make copies of, or remove from the premises, all books, records, accounts, vouchers, minutes of meetings, securities and any other documents, including documents stored in electronic form, of the registrant or financial holding company; and

(b) to determine whether the registrant or financial holding company is complying with this Act or any Regulations made thereunder.

(12) The Inspector or any other person authorised in writing by the Central Bank or any designated member of staff of the Central Bank shall have access to all books, records, accounts, vouchers, minutes of meetings, securities and any other documents, including documents stored in electronic form, of the registrant or financial holding company, even where in the possession of another person, save that where the person who is in possession claims a lien on the books or papers the production thereof shall be without prejudice to the lien.

(13) Notwithstanding subsection (11), the Inspector may apply to a Judge of the High Court for an *ex parte* order authorising him, any person authorised in writing by the Central Bank or any designated member of staff of the Central Bank, to enter into the premises of the registrant or financial holding company or to conduct an examination under subsection (11), where the Inspector, any person authorised by the Central Bank or any designated member of staff of the Central Bank is—

(a) prevented from exercising;

(b) required to exercise outside normal working hours; or

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(c) required to exercise urgently,

powers given to him under subsection (11).

(14) The Inspector may examine or cause to be examined the records of approved educational institutions and intermediaries in order to verify that the information contained in CPD Returns is valid and that there has been compliance with the Act and Regulations.

(15) Where an intermediary is the subject of an examination referred to in subsection (14), he shall produce supporting documentation confirming attendance or completion for each CPD activity referred to in the CPD Return filed pursuant to the Regulations.

(16) The examination referred to in subsection (14) may be conducted during the processing of applications for renewal of a certificate of registration in accordance with the Regulations or at any other time as the Inspector sees fit.

Power of Inspector to request information. [3 of 2020].

11. (1) The Inspector may require a—

(a) financial holding company, insurer, agency or brokerage, or employee or any person acting on its behalf;

(b) controlling shareholder, significant shareholder or acquirer of an insurer or financial holding company;

(c) subsidiary of the insurer or financial holding company;

(d) company or unincorporated body that is an affiliate or associate of the insurer or financial holding company;

(e) company that is a member of a related group or financial group of which an insurer is a member; or

(f) present or former director, officer, actuary, auditor or controlling shareholder or significant shareholder of any person referred to in paragraphs *(a)* to *(e)*,

to furnish such information in such form and within such period of time as the Inspector may require.

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(2) The Inspector may from time to time require—

(a) verification from the auditor or appointed actuary of an insurer, financial holding company or any other entity referred to in subsection (1) with respect to the accuracy of information submitted pursuant to that subsection and may himself verify the accuracy of such information by inspecting such insurer, financial holding company or other entity; or

(b) an officer or any other person in charge of an insurer, a financial holding company, agency or brokerage to supply, within such time as may be specified, any information relating to the insurer, financial holding company, agency or brokerage, or any connected party or connected party group, or any person over which the insurer, financial holding company, agency, brokerage, or the directors or officers of the insurer, financial holding company, agency or brokerage have control.

(3) A request for information under subsection (1) or (2), shall be in writing.

(4) The Inspector may exercise the powers under subsection (1) in relation to any person who is or is about to be elected or appointed as a director or officer of an insurer, financial holding company, agency or brokerage to determine whether the person is a fit and proper person in accordance with the criteria of Schedule 5 to hold the particular position which he holds or to which he is about to be elected or appointed.

Schedule 5.

(5) A person whom the insurer, financial holding company, agency or brokerage proposes to elect as a director or appoint as an officer shall be entitled to refuse to supply the documents requested by the Inspector pursuant to subsection (4) if he no longer intends to stand for election or take up the appointment and has so advised the Inspector.

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(6) Subject to subsection (5), a person who fails to supply information or produce the documents required under this section within the time specified commits an offence.

(7) Where a person fails to comply with a request under subsection (1), the Inspector may restrict any further transactions among the registrant, the financial holding company, controlling shareholder, significant shareholder, acquirer or affiliate and take such other measures as he thinks fit against the registrant, financial holding company, controlling shareholder, significant shareholder, acquirer or affiliate, if he considers that the transactions or relationship among the registrant, financial holding company, controlling shareholder, significant shareholder, acquirer or affiliate may expose the registrant to undue risk or could prejudice the interests of policyholders or potential policyholders of the registrant.

Power of Central Bank to collect statistics.

12. (1) The Central Bank shall collect statistics in relation to insurance business.

(2) Every registrant shall, for the purpose of enabling the Central Bank to collect statistics under this section, furnish the Central Bank with information in the form and at such times as specified by the Central Bank.

Appointment and delegation.

13. (1) The Governor or the Inspector may delegate in writing any of his functions, powers or duties to any qualified officer, employee or agent of the Central Bank.

(2) The Central Bank shall appoint, upon such terms and conditions as it may think fit, such persons as may be considered necessary to assist the Inspector in the performance of his duties.

(3) The Central Bank shall exercise any of its functions, powers and duties under this Act, through any qualified officer, employee or agent.

(4) The Central Bank shall, whenever it considers necessary, cause arrangements for the services of an actuary, auditor or any other competent person to be made available for the purpose of advising the Inspector on matters arising under this Act.

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(5) The Board may delegate in writing any of its functions, powers or duties to a committee appointed by the Board comprising a minimum of three members of the Board.

Central Bank to maintain registers.

14. (1) The Central Bank shall maintain such registers as may be required or authorised to be maintained under this Act or the Regulations and in particular shall maintain separate registers of—

(a) companies which are registered to carry on the various classes of insurance business in Trinidad and Tobago;

(b) associations of underwriters;

(c) agents, agencies, brokers, brokerages, sales representatives, adjusters; and

(d) insurance consultants.

(2) The Central Bank may establish and maintain an online registry of intermediaries and insurance consultants registered under this Act and the online registry shall be updated quarterly.

Information to be published by Central Bank. [3 of 2020].

15. (1) No later than the thirty-first day of March in each year, the Central Bank shall publish in the *Gazette* and in at least two daily newspapers circulated in Trinidad and Tobago a list of the insurers, agents, agencies, brokers and brokerages, sales representatives and adjusters registered to carry on insurance business in Trinidad and Tobago.

(2) The Central Bank shall make available to any person on request and on payment of such fee, if any, a list of the insurers, agents, agencies, brokers, brokerages, sales representatives and adjusters registered either at the date of the request or at such earlier date, being not more than twenty business days earlier, as may be specified in the request.

(3) The Central Bank shall publish a notice in the *Gazette* and in at least two daily newspapers circulated in Trinidad and Tobago, of all insurers, agencies and brokerages ceasing to hold a registration certificate, for each quarter.

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Prohibition against disclosure. [3 of 2020].

16. (1) No director, officer or employee of the Central Bank or person acting under the direction of the Central Bank shall disclose—

(a) any information regarding the business or affairs of a registrant or any of its affiliates or of a privately administered pension fund plan and its trustees; or

(b) any information regarding a policyholder, consumer or the other person dealing with a registrant or a beneficiary or contingent beneficiary of a privately administered pension fund plan,

that is obtained in the course of official duties.

(2) Notwithstanding subsection (1) or any other written law, the Central Bank, or a person authorised in writing by the Central Bank, may disclose the information referred to in subsection (1) to—

(a) any local or foreign regulatory agency or body that regulates financial entities, for regulatory purposes;

(b) any entity providing compensation or insurance for policyholders and consumers of financial services in Trinidad and Tobago for purposes related to its operations;

(c) the Financial Intelligence Unit established under the Financial Intelligence Unit of Trinidad and Tobago Act;

(d) any person designated under any other written law authorising the disclosure of such information; or

(e) ICATT, the Caribbean Actuarial Association or other professional association pursuant to sections 81 and 139(2),

if the Central Bank is satisfied that the information will be treated as confidential by the agency or body to whom it is disclosed and used strictly for the purpose for which it is disclosed and not otherwise.

(2A) The Central Bank may disclose information referred in subsection (1) to the Board of Inland Revenue in order

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to give effect to the Tax Information Exchange Agreements (United States of America) Act, 2017.

Act No. 4 of 2017.

(2B) The information referred to in subsection (1) may be utilised by the Central Bank as required to give effect to its powers under the Tax Information Exchange Agreements (United States of America) Act, 2017.

Act No. 4 of 2017.

(3) Notwithstanding subsection (1) or any other written law, the Central Bank, or a person authorised in writing by the Central Bank, shall disclose the information referred to in subsection (1) to any person in accordance with an order of the court.

(4) The Central Bank may enter into a Memorandum of Understanding with any person mentioned in subsections (2) and (2A) with respect to sharing information, but the absence of such Memorandum of Understanding shall not prevent the disclosure of information by the Central Bank to such person.

(5) A director, officer or employee of the Central Bank or any person acting under the direction of the Central Bank may disclose, at such times and in such manner as it deems appropriate, such information obtained by the Central Bank under this Act as the Central Bank considers ought to be disclosed for the purposes of the analysis of the financial condition of an entity registered pursuant to this Act and that—

(a) is contained in any return, statement or other document required to be filed with the Central Bank pursuant to this Act and the Regulations and Guidelines made under this Act; or

(b) has been obtained as a result of any industry-wide or sectoral survey conducted by the Central Bank in relation to an issue or circumstance that could have an impact on the financial condition of financial institutions generally or the financial system of Trinidad and Tobago.

(6) Where the Central Bank determines that the disclosure of information concerning a registrant or non-registrant in addition to that referred to in subsection (5) would be in the best interests of—

(a) the financial system of Trinidad and Tobago; or

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(b) the policyholders, consumers, other customers, creditors or shareholders of such registrant or non-registrant as the case may be,

the Central Bank or any person acting under the direction of the Central Bank may disclose such information by publication in the *Gazette* and in at least two daily newspapers circulated in Trinidad and Tobago and by any other means that the Central Bank considers appropriate.

(7) This section does not apply to information which, at the time of the disclosure is, or has already been made available to the public from other sources or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular individual to be ascertained from it.

(8) Notwithstanding any provision in this section, the Central Bank may publish information relating to the insurance industry including statistics collected under section 12, so long as the publication does not disclose details regarding any particular registrant or policyholder.

(9) Notwithstanding any provision in this section, the Central Bank shall publish or make available to any person on request and on payment of such fee as specified by the Central Bank, documents submitted pursuant to section 145(1)*(a)* and *(b)*.

(10) Notwithstanding any provision in this section, the Central Bank shall notify the public where action has been taken by the Inspector pursuant to section 101(4).

Supervisory information.

17. Supervisory information is the property of the Central Bank and may not be disclosed by a registrant or any other person to whom the information is made available without the prior written consent of the Central Bank.

Application and annual fees. Schedule 2.

18. (1) Each applicant, registrant or representative office situated in Trinidad and Tobago shall pay the relevant fees set out in Schedule 2 to the Central Bank.

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(2) Annual fees referred to in Schedule 2 shall be payable no later than the 31st day of January in each year or such later date as may be specified by the Central Bank, except that where a registration or permit is granted or a branch, subsidiary or representative office is opened for the first time after the first quarter in any year, the fee payable shall be calculated on a *pro rata* basis.

PART III

INSURERS

A. *Registration of Insurers*

Non-application of this Part.

19. (1) This Part does not apply to a privately administered pension fund plan.

(2) Except for sections 20, 21 and 52 to 54, this Part does not apply to an intermediary or an insurance consultant.

(3) Except for section 20, this Part does not apply to an association of underwriters.

Carrying on insurance business. [3 of 2020].

20. (1) Subject to subsection (2), for the purposes of this Act, "carrying on insurance business" includes but is not limited to any or all of the following:

(a) making of, or proposing to make, a contract of insurance in or from Trinidad and Tobago;

(b) making of, or proposing to make, as guarantor or surety, any contract of guarantee or suretyship as a business and not merely incidental to any other of the guarantor's or surety's legitimate business or activity in or from Trinidad and Tobago;

(c) taking or receiving an application for insurance in or from Trinidad and Tobago;

(d) the collection or receipt of any premium or other consideration for insurance or any part thereof in or from Trinidad and Tobago;

(e) the issuing of contracts of insurance in or from Trinidad and Tobago, to persons—

(i) resident in Trinidad and Tobago; or

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(ii) authorised to do business in Trinidad and Tobago; or

(f) the solicitation, negotiation, procurement or effecting of insurance or renewals thereof in or from Trinidad and Tobago,

whether carried on directly by a person or through another person acting with the actual or apparent authority or on behalf of the first person.

(2) A person shall not be treated as carrying on insurance business if the only reason for so treating the person is that—

(a) the risk covered by a policy of insurance issued by that person is situated in Trinidad and Tobago;

(b) the person makes, collects or receives in Trinidad and Tobago renewal premiums under a policy issued outside of Trinidad and Tobago; or

(c) the person solicits, negotiates or procures insurance business as a sales representative, broker, brokerage, agent or agency registered under this Act.

Restrictions on carrying on insurance business. [3 of 2020].

21. (1) Except as otherwise expressly provided in this Act, no person may carry on any type of insurance business or reinsurance business unless that person is a local company that is registered under this Part, as an insurer.

(2) An insurer shall only carry on the classes and types of insurance business for which it is registered under this Part.

(3) A person other than an insurer shall not—

(a) describe himself as an insurer; or

(b) so hold himself out as to indicate or be reasonably understood to indicate that he is an insurer.

(4) Except with the approval of the Central Bank, no person other than an insurer, agency or brokerage shall trade or carry on any business or undertaking under any name or title, in any language, which includes the words—

(a) "insurance", "assurance" or "reinsurance" or any of their derivatives;

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(b) "indemnity", "guarantee", "underwriting", "surety", "casualty", or any of their derivatives,

or any other expression which connotes, or is intended to connote, insurance business.

(5) Notwithstanding subsections (1) and (2), a foreign insurance company which does not have an established place of business in Trinidad and Tobago may, without being registered under this Part, carry on insurance business in Trinidad and Tobago if its activities in Trinidad and Tobago relate only to the acceptance of reinsurance ceded by an insurer.

(6) Where the Central Bank has reasonable grounds to believe that a person is carrying on any aspect of insurance business without being registered under this Act, it may—

(a) require information from, inquire into, and examine the affairs of that person, and it may take any action that the Central Bank sees fit to ensure that the person discontinue the activity; and

(b) apply for an *ex parte* order of a Judge of the High Court, authorising the Inspector or any person authorised in writing by the Central Bank or any designated member of staff of the Central Bank to enter into the premises where it is suspected that such insurance business is being carried on, to determine whether there is compliance with this Act.

(7) Where the Central Bank obtains an *ex parte* order under subsection (6)*(b)*, the Inspector, or any person authorised in writing by the Central Bank or any designated member of staff of the Central Bank shall enter the premises and examine any books, records, accounts, vouchers, minutes of meetings and other documents, including documents stored in electronic form and take any copies of such documents.

(8) Where an examination has been conducted under subsection (7) and the Central Bank is satisfied that the provisions of this Act are being contravened, the Central Bank may seek relief under section 156.

(9) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on conviction on indictment to a fine of ten million dollars and to imprisonment for ten years.

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Stated capital necessary for registration. [3 of 2020].

22. (1) Subject to subsections (2) and (3), no company shall be registered as an insurer to carry on long-term insurance business or general insurance business unless it has a minimum stated capital of fifteen million dollars.

(2) An insurer which immediately before the commencement of this Act was registered to carry on only long-term or only general insurance business and is not in compliance with subsection (1), shall within five years of the commencement of this Act, increase its stated capital, to not less than the amount specified in subsection (1), in the following manner:

(a) an insurer registered to carry on only long-term insurance business shall have a minimum stated capital of—

(i) five million dollars at the end of the first year;

(ii) eight million dollars at the end of the second year;

(iii) eleven million dollars at the end of the third year;

(iv) thirteen million dollars at the end of the fourth year; and

(v) fifteen million dollars at all times at the end of the fifth year,

following commencement of this Act;

(b) an insurer registered to carry on only general insurance business shall have a minimum stated capital of—

(i) three million dollars at the end of the first year;

(ii) six million dollars at the end of the second year;

(iii) nine million dollars at the end of the third year;

(iv) twelve million dollars at the end of the fourth year; and

(v) fifteen million dollars at all times at the end of the fifth year,

following commencement of this Act.

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(3) Subject to subsection (4A), an insurer which immediately before the commencement of this Act was registered to carry on both long-term and general insurance business shall be required to maintain at all times stated capital of at least twenty-two million, five hundred thousand dollars.

(4) Subject to subsection (4A), on the commencement of this Act, an insurer which is not in compliance with subsection (3) shall, within five years of the commencement of this Act, increase its stated capital to not less than the amounts as follows:

(a) six million dollars by the end of the first year;

(b) ten million, five hundred thousand dollars by the end of the second year;

(c) fifteen million dollars by the end of the third year;

(d) nineteen million dollars by the end of the fourth year; and

(e) twenty-two million, five hundred thousand dollars at all times at the end of the fifth year,

following commencement of this Act.

(4A) Where an insurer was registered to carry on both long-term and general insurance business immediately before the commencement of this Act, but a certificate or registration is re-issued under section 23(1) and (3) only in respect of one type of insurance business, the insurer shall increase its stated capital in accordance with subsection (2).

(5) Within six months following the commencement of this Act, an insurer that is subject to subsection (2), (3) or (4) shall submit a plan approved by its board of directors which is acceptable to the Central Bank for increasing its stated capital, as the case may be, to the amounts required pursuant to subsection (2), (3) or (4).

(6) Where—

(a) an insurer fails to submit or implement a plan under subsection (5); or

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(b) the Central Bank considers it appropriate to ensure that the insurer meets the requirements under this section,

the Central Bank may impose any conditions on the registration of the insurer or give any other directions that it considers to be necessary in relation to the plan.

(7) A company which has applied to be registered as an insurer under this Act may be required, based on the particular circumstances of the company, to provide capital in excess of the minimum stated capital under subsection (1), in cash or approved securities and in accordance with Regulations made under this Act.

(8) An insurer shall hold in Trinidad and Tobago all capital required under this section.

(9) An insurer shall at all times maintain the minimum stated capital required under this section.

Companies registered under former Act. [3 of 2020].

23. (1) Subject to subsection (3), an insurer, which at the commencement of this Act is registered as an insurer under the former Act, shall be deemed to have been registered under section 25 and the insurer shall obtain a new certificate of registration duly signed by the Governor, which shall specify the classes and types of insurance business in respect of which the insurer is registered and shall be *prima facie* evidence that the insurer named in the certificate has been registered under this Act.

(1A) An insurer registered under the former Act shall submit its certificate of registration issued under the former Act to the Central Bank for cancellation.

(1B) Where the certificate of registration of an insurer under the former Act has been lost or destroyed, the insurer shall submit a statutory declaration stating that its certificate of registration has been lost or destroyed and the circumstances of the loss or destruction.

(1C) Where the Central Bank is satisfied that the certificate of registration has been lost or destroyed, it shall deem the lost or destroyed certificate of registration cancelled by notice in writing to the insurer.

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(2) An insurer which immediately before the commencement of this Act is registered to carry on both long-term insurance business and general insurance business may continue to carry on both types of insurance business, subject to the requirements of this Act for each type of insurance business.

(3) An insurer shall only be deemed to be registered under subsection (1) in respect of the classes and types of insurance business that the insurer has carried on in Trinidad and Tobago within the period of twelve months prior to the commencement of this Act and the insurer shall only be registered in respect of the classes and types of insurance business that it was carrying on at such time.

(4) An insurer which is registered to carry on general insurance business and accident and sickness class of insurance business shall not be considered to be carrying on long-term insurance business.

(5) The accident and sickness class of insurance business of an insurer described in subsection (4) shall be subject to the same requirements under this Act as those applicable to long-term insurance business.

Application for registration. [3 of 2020]. Schedule 1.

24. (1) A company may apply to the Central Bank for registration under this Act to carry on insurance business in respect of any of the types and classes prescribed in Schedule 1.

(2) Except as provided in subsection (3), every application for registration shall be made to the Central Bank in writing and shall be accompanied by—

(a) a statement of the applicant's name and the address of its registered office and head office in Trinidad and Tobago;

(b) the name, address, nationality, experience, and other relevant information, including the information prescribed in Schedule 5 pertaining to each director and officer or proposed director and officer and all existing and proposed shareholders holding five per cent or more of any class of shares;

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(c) the name, address, nationality, experience, and other relevant information, including the information prescribed in Schedule 5 pertaining to the appointed actuary and auditor or proposed appointed actuary and auditor;

(d) a certified statement or where this cannot be produced, such proof as the Central Bank may require of the applicant's ability to meet the requirement of a minimum stated capital of not less than such amounts as may be required pursuant to section 22;

(e) a certified copy of the articles of incorporation or continuance, by-laws or other constituent document and the certificate of incorporation or certificate of continuance under which the applicant is incorporated, continued or constituted;

(f) in the case of an application by, or on behalf of a company that has been carrying on business other than that of insurance business prior to the application, a copy of its audited financial statements for the three consecutive years immediately preceding the application, except that where the local company has been functioning for less than three years, a copy of audited financial statements for each year it has been in operation shall be sufficient;

(g) a business plan for the three consecutive years immediately following the approved commencement date of carrying on insurance business, details of which are prescribed by Regulations made under this Act;

(h) statement showing its stated capital;

(i) evidence of payment of the prescribed application fee in Schedule 2;

(j) details of any refusal from a regulatory authority to carry on any class of insurance business in any other jurisdiction;

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(k) approval, if applicable, from any relevant foreign regulatory authority in respect of the controlling shareholder of or person with a controlling interest in the company; and

(l) such further information as the Central Bank may require.

(3) If an insurer is applying to amend its registration to carry on additional classes of business, the Central Bank may waive such items of information otherwise required under subsection (2) as it believes are unnecessary or inapplicable.

(4) Every application submitted under this section shall be signed by—

(a) two directors; and

(b) the chief executive officer or the secretary,

who shall certify that the information given in the application is true and correct.

(5) A person who certifies the information on an application under subsection (4) which contains any false particulars commits an offence and is liable on conviction on indictment to a fine of five million dollars and to imprisonment for five years.

Registration of Company.

25. (1) The Central Bank may, on an application duly made in accordance with section 24, and after being provided with all such information and documents as it may require under that section, after being satisfied that this Act and any Regulations have been complied with, and after consultation with the Minister, approve or refuse the application.

(2) Where the decision is made to refuse an application, the Central Bank shall notify the applicant in writing of its rejection and shall give reasons to the applicant.

(3) The Central Bank shall, upon approval of an application issue a certificate of registration to the applicant duly signed by the Governor, which shall specify the classes and types of insurance business in respect of which the insurer is registered and shall be *prima facie* evidence that the insurer named in the certificate has been registered under this Act.

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(4) Registration to carry on insurance business may contain such terms and conditions as the Central Bank considers necessary or appropriate taking into account the particular circumstances of the proposed insurer.

(5) Where the Central Bank imposes terms and conditions on registration under subsection (4), it shall inform the applicant in writing of the reasons for doing so.

(6) Notice of registration by the Central Bank shall be published in the *Gazette* and in at least two daily newspapers circulated in Trinidad and Tobago and notwithstanding the date of publication, the registration shall take effect on the date specified in the certificate of registration.

(7) Registration issued under this Act shall be valid until it is revoked.

(8) An insurer that wishes to vary the classes of business for which it is registered, shall first obtain the approval of the Central Bank and the Central Bank—

(a) may require the insurer to increase its stated capital and to satisfy such additional prudential criteria and any other requirements as the Central Bank considers necessary; and

(b) shall amend the certificate of registration issued under subsection (3) or section 23.

(9) It shall be a condition of every registration that the insurer shall—

(a) comply with such terms and conditions as may be specified; and

(b) within five business days of any change in its officers, notify the Central Bank in writing of such change.

(10) Where the Central Bank has registered a company to carry on any or all of the classes of general insurance business, it may also register such company to carry on accident and sickness class of insurance business.

(11) The accident and sickness class of insurance business of a company described in subsection (10) shall be

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subject to the same requirements under the Act as those applicable to long-term insurance business.

(12) Where the Central Bank has registered a company to carry on insurance business, the insurer may underwrite or accept reinsurance in respect of the specific classes of insurance business for which it is registered.

Representative offices of foreign insurance company.

26. (1) A foreign insurance company shall not—

(a) without the prior approval in writing of the Central Bank, establish, acquire or open any representative office in Trinidad and Tobago; or

(b) without at least five business days' prior notice in writing to the Central Bank, close or relocate a representative office in Trinidad and Tobago.

(2) A foreign insurance company applying for approval to establish, acquire or open a representative office pursuant to subsection (1) shall—

(a) appoint a person who is ordinarily resident in Trinidad and Tobago to be its principal representative for the purposes of this Act and who shall be responsible for the day to day management of the representative office;

(b) give the principal representative a registered power of attorney expressly authorising the principal representative to receive all notices from the Central Bank and shall submit that registered power of attorney to the Central Bank; and

(c) where a vacancy occurs in the position of the principal representative, fill the vacancy and submit the new registered power of attorney to the Central Bank.

(3) In determining whether to grant approval under subsection (2), the Central Bank shall take into account whether—

(a) the principal representative is a fit and proper person in accordance with Schedule 5; and

(b) the foreign insurance company has paid the application fee set out in Schedule 2.

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Branches and representative offices.

27. (1) An insurer shall not—

(a) establish a branch or agency outside Trinidad and Tobago unless it has—

(i) made an application in writing to the Central Bank;

(ii) paid the fee prescribed in Schedule 2; and

(iii) received the prior written approval from the Central Bank; or

(b) close or relocate a branch or agency outside Trinidad and Tobago unless it has—

(i) given the Central Bank at least five business days' written notice;

(ii) paid the fee prescribed in Schedule 2; and

(iii) received the prior written approval from the Central Bank.

(2) In determining whether to grant approval under subsection (1), the Central Bank shall take into account the financial condition of the insurer and such other criteria as may be specified by the Central Bank.

(3) An insurer shall not, without at least five business days prior notice in writing to the Central Bank establish, acquire, open, close or relocate a representative office outside Trinidad and Tobago.

(4) The Central Bank shall respond to a request or decide whether to grant approval under this section within a reasonable time.

(5) Where in relation to an application under subsection (1), the Inspector does not raise an objection or requests further information within a reasonable time from the submission of all required documents, the insurer may proceed as if the request has been approved.

Refusal to register company. [3 of 2020].

28. (1) A company shall not be registered in respect of any class and type of insurance business unless the Central Bank is satisfied that—

(a) the company has made arrangements for the management of risks, including internal control

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systems and information technology systems, policies and procedures that will be adequate for the nature and scale of that class or type of insurance business;

(b) the company has reinsurance arrangements that are adequate for the nature and scale of the insurance risks that it undertakes or plans to undertake;

(c) the acquirers, controlling shareholders, significant shareholders, directors, officers and appointed actuary, the company, and those who occupy such other positions as may be designated by the Central Bank, are fit and proper persons in accordance with Schedule 5 to perform their respective roles;

(d) the acquirers, controlling shareholders and significant shareholders of the company have complied with sections 52 to 54;

(e) subject to sections 30(6) and (7), in the case of a company which is carrying on or proposes to carry on some other form of business in addition to insurance business, the carrying on of such other form of business is not or would not be contrary to the interest of policyholders;

(f) having regard to the knowledge and competence of its officers, the company is, in relation to that class of insurance business, capable of carrying on such business efficiently;

(g) that the policy and practice of the company in dealing with claims are conducive to the fair, efficient and speedy settlement thereof;

(h) the business plan for the future conduct and development of the business is sound and feasible; and

(i) the company is not part of a larger organisational or group structure that would hinder its effective supervision.

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(2) A company shall not be registered to carry on insurance business unless, in addition to complying with the requirements of subsection (1), it satisfies the Central Bank that it meets the capital adequacy and liquidity requirements established in accordance with section 82.

(3) The Central Bank shall not register a company to carry on both long-term and general insurance business except as provided in section 23.

Continuous registration requirement. [3 of 2020].

29. (1) Where the Central Bank is satisfied that a company meets the requirements under sections 22, 24, 25 and 28 and has approved an application and issued a certificate of registration under this Part, the insurer shall continuously meet all registration requirements under this Part and comply with all terms and conditions of its registration and the requirements of Schedule 5.

(1A) For avoidance of doubt, all insurers issued certificates of registration under section 23 shall thereafter continuously meet all registration requirements under this Part and comply with all terms and conditions of its registration and the requirements under Schedule 5.

(1B) Any insurer which is deemed registered pursuant to section 23 and does not meet the requirements of section 28 at the time of commencement of this Act shall, within six months of the commencement of this Act, submit a plan approved by its board of directors for meeting the requirements under section 28 to the Central Bank by the end of the first year after the commencement of this Act.

(1C) Where an insurer which is deemed registered pursuant to section 23—

(a) fails to submit or implement a plan approved by its board under subsection (1B); or

(b) the Central Bank considers it appropriate to ensure that the insurer meets the requirements under the section 28,

the Central Bank may impose on the registration of that insurer such conditions as it considers necessary.

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(2) An insurer that contravenes subsection (1) commits an offence.

Restrictions on activities of insurer. [3 of 2020].

30. (1) An insurer shall not transact insurance business in Trinidad and Tobago with a—

(a) company which carries on, purports to carry on, or represents itself as carrying on insurance business; or

(b) person who carries on, purports to carry on, or represents itself as carrying on insurance business as an intermediary,

that is not registered under this Act

(2) An insurer shall not carry on insurance business outside of Trinidad and Tobago unless the Central Bank has given written prior approval pursuant to section 27.

(3) For the purposes of subsection (2), the transaction of insurance business does not include the ceding of insurance business to reinsurers outside of Trinidad and Tobago.

(4) Where the Central Bank has reasonable grounds to believe that a reinsurer poses an undue risk to policyholders, the Central Bank may by written direction prohibit the insurer from further ceding insurance business to such reinsurer.

(5) Subject to subsection (6) and the exception in subsection (13), an insurer shall not carry on any business other than insurance business.

(6) Notwithstanding subsection (5) and subject to the exception in subsection (13), an insurance company may carry on—

(a) the establishment, distribution and sale of collective investment schemes;

(b) the business of a Mortgage Institution or Trust company set out in the First Schedule of the Financial Institutions Act;

(c) the business of holding, managing or otherwise dealing in real estate; or

(d) such other form of business associated with the insurance business for which it is registered.

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(7) Where an insurer proposes to carry on any activity under subsection (6)*(c)*, it shall seek the prior approval of the Central Bank.

(8) Where the Central Bank is of the opinion that an insurer registered under the former Act is carrying on a form of business which is not listed in subsections (6) and (13) or is contrary to the interest of policyholders, the Central Bank shall direct the insurer to discontinue such form of business or take such other action as it deems fit, within such period as the Central Bank may determine.

(9) A company shall not be registered as both an insurer and an intermediary.

(10) Notwithstanding subsection (9), an insurer which immediately before the commencement of this Act was also registered as an agent, shall be allowed to carry on both its insurance business and its business as an insurance agency for a period of five years after the commencement of this Act.

(11) An insurer which is allowed to carry on both insurance business and business of an insurance agency pursuant to subsection (10), shall within five years of the commencement of this Act, separate its insurance business from its business of an insurance agency by incorporating a separate entity to carry on its business of an insurance agency and the provisions of section 87 shall apply.

(12) An insurer which carries on both insurance business and business of an insurance agency shall maintain separate records and accounts in respect of each business and shall in addition to its obligations under this Act, submit financial statements and returns to the Inspector, submit audited or unaudited financial statements or returns in respect of its insurance business or its business as an insurance agency in the format and time as may be required by the Inspector.

(13) Notwithstanding subsections (5) and (6), the Export-Import Bank of Trinidad and Tobago Limited may carry on business other than insurance business which is necessary to promote the export of goods and services from Trinidad and Tobago.

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Company to notify the Central Bank of change in particulars specified in the company's application.

31. Where, subsequent to the registration of a company under this Act there is any change—

(a) in the particulars specified in the application of the company; or

(b) in any information and in the particulars in any documents which the company is required to furnish under section 24,

the company shall, within five business days of such change, notify the Central Bank in writing of the change except as provided in section 32.

Amendment of articles of incorporation and other constituent documents.

32. (1) An insurer shall not make any alteration to its articles of incorporation or continuance, by-laws or any other constituent document under which it is incorporated, continued or constituted, unless it has notified the Inspector, in writing, that it proposes to make the alteration and the Inspector either—

(a) has, in writing, approved the proposed alteration; or

(b) has not within twenty business days of receipt of the notification, indicated in writing to the insurer any disapproval of the proposed alteration.

(2) The Inspector shall not disapprove a proposed alteration unless such proposed alteration is, or is likely to result in, a breach of—

(a) the terms and conditions of the insurer's registration; or

(b) the provisions of this Act or any Regulations.

(3) Notwithstanding any written law to the contrary an alteration made to the articles of incorporation or continuance, by-laws or any other constituent document of an insurer in contravention of subsection (1) shall be void.

(4) Every insurer shall, within ten business days of the date on which any alteration is made to its articles of incorporation or continuance, by-laws or other constituent document, submit to the Inspector a copy of the altered articles of incorporation or continuance, by-laws and other constituent documents.

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Duty of company to furnish Inspector with copy of form of policy, endorsement or application.

33. (1) Every insurer registered to carry on general insurance business shall, at least twenty business days prior to the date of the issue of a new or amended standard form of proposal, policy, endorsement or application, furnish the Inspector with the following, where applicable:

(a) the standard form of proposal;

(b) the standard form of policy;

(c) the standard form of endorsement;

(d) the standard form of application; and

(e) such other information as the Inspector may specify.

(2) The Inspector may, within twenty business days of receiving a standard form and any other information pursuant to subsection (1), prohibit an insurer from issuing a new or amended standard form under this section if—

(a) the Inspector requests further information; or

(b) such issue, in the opinion of the Inspector, is fraudulent, unjust, imprudent, or not in the public interest,

and the Inspector shall give written reasons for the prohibition.

(3) Where the Inspector receives further information requested under subsection (2)*(a)*, he may continue to prohibit the issue of a new or amended standard form within twenty business days of receiving such information.

(4) If the Inspector does not prohibit an insurer from issuing a new or amended standard form, in accordance with subsection (2) or (3), the insurer may proceed to issue the new or amended standard form.

(5) Notwithstanding that an insurer has issued a new or amended standard form in accordance with subsection (4), the Inspector may subsequently prohibit the insurer from continuing to issue the new or amended standard form, if in the opinion of the Inspector, the continued use will be fraudulent, unjust, imprudent, or not in the public interest and the Inspector shall give written reasons for the prohibition.

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(6) An insurer which issues a standard form prohibited by the Inspector under subsection (2), (3) or (5) commits an offence.

Revocation of registration. [12 of 2019 3 of 2020].

34. (1) The Board may revoke the registration of an insurer in respect of any or all classes and types of insurance business for which it is registered where—

(a) any of the criteria specified in Schedule 5, is not or has not been fulfilled or is unlikely to be, or may not have been fulfilled in respect of the insurer;

(b) the insurer has failed to comply with any obligation imposed on it under this Act or its Regulations, or any other written law relating to the regulation of financial services or designed to protect against fraud;

(c) it has failed to comply with any obligation imposed on it by any written law for the prevention of money laundering, terrorist financing or proliferation financing, including the Proceeds of Crime Act, the Anti-Terrorism Act, the Financial Intelligence Unit of Trinidad and Tobago Act and any Regulations made thereunder, the Economic Sanctions Act or any Orders made thereunder as they relate to proliferation financing;

(d) the insurer has provided the Central Bank with false, misleading or inaccurate information;

(e) the Central Bank has subsequently discovered that any information provided by the insurer which led to the registration of the insurer is false, misleading or inaccurate;

(f) the interests of policyholders or potential policyholders of the insurer are in any way threatened, whether by the manner in which the insurer is conducting or proposes to conduct its affairs;

(g) the insurer has not carried on insurance business in Trinidad and Tobago within the period of twelve months from the day on which the certificate of registration was issued or having

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carried on insurance business in Trinidad and Tobago, has subsequently not done so for any period of more than six months;

(h) a receiver or manager of the insurer has been appointed;

(i) the insurer fails to comply with any requirement, prohibition, compliance direction, or any other direction issued by the Central Bank, the Inspector or the Board under this Act;

(j) the insurer becomes illiquid and is unable to meet its obligations;

(k) the holder of any debenture secured by a charge has taken possession of any property of the insurer comprised in, or subject to, the charge;

(l) the insurer has merged or has been amalgamated with another company;

(m) the business of the insurer is no longer the business for which it was registered;

(n) the Board is satisfied that the policy and practice of the insurer in dealing with claims are unfair or that there is unreasonable delay in the settlement of claims payable under policies issued by it;

(o) the insurer is in breach of section 82;

(p) the reinsurance arrangements of the insurer are not adequate;

(q) a final judgment obtained against the insurer in any court and in relation to which there is no stay of execution and the judgment remains unsatisfied for at least forty business days;

(r) an insurer has an affiliate located outside Trinidad and Tobago and the relevant supervisory authority in that country has withdrawn from the affiliate an authorisation or registration corresponding to any which may be conferred by this Act; or

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(s) in the case of an affiliate, wherever incorporated, of an insurer—

(i) a winding up order has been made;

(ii) a resolution for its voluntary winding up has been passed; or

(iii) an order for the appointment of a receiver has been made.

(2) Subject to section 40, before the registration is revoked, the Board shall give the insurer written notice of its intention, specifying—

(a) the grounds upon which the Board intends to revoke the registration;

(b) the date on which such proposed revocation is to take effect; and

(c) the place and period of time during which the insurer may make written representations to the Board.

(3) After serving a notice of intention to revoke the registration, and after taking into account any representations under subsection (2), the Board shall decide whether to—

(a) revoke the registration; or

(b) restrict the registration pursuant to section 35.

(4) The Board shall inform the insurer, by notice in writing, of its decision.

(5) Where the Board decides to revoke the registration, the notice of revocation shall include the date on which the revocation takes effect, a statement of the grounds for the decision and the right of appeal of the insurer under subsection (9) and section 253.

(6) When the Board serves a notice of intention to revoke a registration under this section, it may direct the Inspector to take charge of all books, records and assets of the insurer or any portion thereof or direct the Inspector to apply to the High Court to appoint a judicial manager, and to do all such things as may be necessary to safeguard the interests of policyholders, creditors and shareholders of the insurer until any appeal filed pursuant to subsection (9) has been determined.

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(7) The Inspector may incur expenses to carry out the provision of subsection (6), including, without limitation, costs in connection with—

(a) utilities;

(b) rent; and

(c) administrative expenses of maintaining the business of the insurer but not including policyholder liabilities,

and any such costs shall be paid by the insurer.

(8) Where the insurer does not have adequate funds or the ability to meet the costs referred to in subsection (7), the Central Bank may provide funding to cover such costs which funding shall be recoverable as a civil debt payable to the Central Bank by the insurer.

(9) Where an insurer is aggrieved by a decision of the Board to revoke its registration pursuant to subsection (5), that insurer may appeal that decision in accordance with section 253.

(10) Where a decision is made to revoke a registration under subsection (5), the insurer shall cease carrying on insurance business from the date on which the revocation shall take effect.

(11) When a decision is made to revoke a registration of all classes of insurance business for which an insurer is registered, the Central Bank may—

(a) apply to the High Court for an order for the winding up of the insurer if the local insurer is under liability to its policyholders; or

(b) take such other action as provided for under this Act.

Restriction of registration.

35. (1) Subject to section 101, where it appears to the Board that there are grounds on which its power to revoke the registration of an insurer under section 34 is exercisable, the Board may consider the circumstances and restrict the registration of the insurer instead of revoking it.

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(2) The registration may be restricted by issuing such directions as the Board thinks necessary to protect the interests of the policyholders or potential policyholders.

(3) Directions issued under this section may—

(a) require the insurer to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way;

(b) stipulate limitations on the issuance of policies, the incurring of credit exposures or the distribution of profit;

(c) prohibit the insurer from soliciting insurance business, either generally or from persons who are not already policyholders;

(d) require the removal of any director or officer; or

(e) impose any other relevant restrictions.

(4) A direction imposed under this section may be varied or withdrawn by the Board.

(5) An insurer or any director or officer thereof who fails to comply with any requirement or contravenes any prohibition imposed on it by a direction under this section, commits an offence and is liable—

(a) on conviction on indictment—

(i) in the case of an insurer, to a fine of six hundred thousand dollars; or

(ii) in the case of a director or officer, to a fine of six hundred thousand dollars and to imprisonment for two years; or

(b) on summary conviction—

(i) in the case of an insurer, to a fine of three hundred thousand dollars; or

(ii) in the case of a director or officer, to a fine of three hundred thousand dollars and to imprisonment for one year.

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Notice of restriction or variation of restriction.

36. (1) Where the Board proposes to—

(a) restrict the registration; or

(b) vary any restrictions imposed on the registration of an insurer,

it shall serve written notice of intention to do so on the insurer.

(2) A notice of intention to restrict or to vary a restriction shall specify the proposed restriction or the proposed variation, as the case may be, and shall state the grounds on which the Board proposes to act and particulars of the insurer's representations under subsection (4).

(3) Where—

(a) the ground for a proposed restriction or variation of a restriction is that it appears to the Board that any of the criteria specified in Schedule 5 is not or has not been fulfilled, or is unlikely to be or may not have been fulfilled in the case of any person; or

(b) a proposed restriction consists of, or includes a condition requiring the removal of any person as director or officer,

the Board shall serve on that person a copy of the notice of intention to restrict or vary a restriction together with a statement of his right to make representations under subsection (4).

(4) An insurer which is served with a notice of intention to restrict or vary a restriction, and a person who is served with a copy of it under subsection (3) may, within the period of ten business days commencing from the day after which the notice was served, make written representation to the Board.

(5) After serving a notice of intention to restrict or vary a restriction, and after taking into account any representations made under subsection (4), the Board shall decide whether to—

(a) proceed with the action proposed in the notice;

(b) restrict or vary the restriction in a different manner; or

(c) take no further action.

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(6) The Board shall serve on the insurer and on any such person served with notice in subsection (3), written notice of its decision and, except where the decision is to take no further action, the notice shall state the reasons for the decision and shall give particulars of the appeal process under section 253.

Withdrawal of a restriction.

37. Where the Board withdraws a restriction or a condition of a restriction, the withdrawal shall be effected by written notice to the insurer.

Directions to insurers.

38. (1) The Board may give an insurer directions—

(a) when giving a notice of intention to revoke the registration of an insurer under section 34;

(b) at any time after such notice of intention to revoke its registration has been given to the insurer; or

(c) when giving a notice of revocation of its registration under section 40 and in the case of the voluntary winding up of the insurer as referred to in section 108.

(2) Directions under this section shall be such as to appear to the Board to be desirable in the interests of the policyholders or potential policyholders of the insurer, whether for the purpose of safeguarding its assets or otherwise, and may, in particular—

(a) require the insurer to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way;

(b) impose limitations on the issuance of policies and the incurring of credit exposures;

(c) prohibit the insurer from soliciting business either generally or from persons who are not already policyholders;

(d) prohibit the insurer from entering into any other transaction or class of transactions;

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(e) require the removal of any director or officer; or

(f) contain such other requirements as may be considered necessary in any particular case.

(3) An insurer who fails to comply with any requirement or contravenes any prohibition imposed by direction under this section commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Notification and confirmation of directions.

39. (1) Directions under sections 35 and 38 shall be given by notice in writing, and shall state the reasons for which the directions are given, and may be varied by a further notice containing directions, or cancelled by the Board by notice in writing to the insurer.

(2) Where a direction requires the removal of a person as director or officer of the insurer, the Board shall serve on that person a copy of the direction together with a statement of his right to make representations under subsection (3).

(3) An insurer to which a direction is given and a person who is served a copy of it under subsection (2) may, within the period of ten business days commencing from the day after which the direction is given, make verbal or written representations to the Board and the Board shall take any such representations into account in deciding whether to confirm, vary or cancel the direction.

(4) Where the Board decides to confirm, vary or cancel a direction it shall serve written notice of its decision on the insurer and such notice shall state particulars of the appeal process under section 253.

Mandatory revocation and restriction in cases of emergency.

40. (1) The Board shall revoke the registration of an insurer if—

(a) a winding up order has been made against it;

(b) all its assets have passed into the ownership of another person; or

(c) a resolution for its voluntary winding up has been passed in accordance with section 108.

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(2) No notice of intention is required to be given—

(a) under section 34 in respect of the revocation of a registration in any case in which revocation is mandatory under subsection (1); or

(b) under section 36 in respect of the imposition or variation of a restriction on the registration in any case in which the Board considers that the restriction should be imposed or varied as a matter of urgency.

(3) In any such case as mentioned in subsection (2), the Board may by written notice to the insurer revoke the registration or impose or vary the restriction.

(4) A notice under subsection (3) shall state the reasons for which the Board has acted and, in the case of a notice imposing or varying a restriction, give particulars of the insurer's right to appeal under section 253.

(5) Where—

(a) the grounds for a proposed restriction or variation of a restriction are that it appears to the Board that the criteria specified in Schedule 5 are not or have not been fulfilled, or are unlikely to be, or may not have been fulfilled in the case of any person; or

(b) a proposed restriction consists of, or includes a condition requiring the removal of any person as director or officer,

the Board shall serve on that person a copy of the notice to restrict or vary a restriction together with a statement of his right to make representations under subsection (6).

(6) An insurer which is served with a notice to restrict or vary a restriction, or a person who is served with a copy of it under subsection (3) or (5) respectively, may, within the period of ten business days commencing from the day after which the notice was served, make written representation to the Board.

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(7) After serving a notice under subsection (3) or (5) imposing or varying a restriction and taking into account any representations made in accordance with subsection (6), the Board shall decide whether to—

(a) confirm or rescind its original decision; or

(b) impose a different restriction or to vary the restriction.

(8) The Board shall, within the period of fifteen business days commencing from the day after which the representations have been made, give the insurer written notice of its decision under subsection (7) and any notice giving a decision under subsection (7)*(b)* shall state the reasons for the decision.

(9) Where the notice under subsection (8) contains a decision to take the action specified in subsection (7)*(b)*, the notice under subsection (8) shall have the effect of imposing the restriction or making the variation specified in the notice with effect from the date on which the notice is served.

Voluntary revocation and restriction.

41. (1) An insurer may make an application to the Central Bank to have its registration voluntarily revoked at any time after it has been issued a certificate of registration under section 23 or 25.

(2) Every application for voluntary revocation shall be made to the Central Bank in writing and shall be accompanied by such information as the Central Bank may require.

(3) Where the Central Bank receives an application for voluntary revocation, it shall place restrictions on the registration of the insurer in accordance with the provisions of section 35 to cease writing new business and any other restrictions and directions as the Central Bank deems necessary and no notice of intention under sections 34 and 36 is required to be given.

(4) The Central Bank shall direct the insurer to publish in the *Gazette* and in at least two daily newspapers circulated in Trinidad and Tobago a notice approved by the Central Bank—

(a) informing the public of its application to have its registration voluntarily revoked and the reasons thereof;

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(b) requiring persons or their legal personal representative to submit a claim to the insurer within sixty business days from the date of publication in the *Gazette* or daily newspapers, whichever is published later; and

(c) containing any other information required by the Central Bank.

(5) The insurer shall comply with all directions of the Central Bank with respect to the format of the notice and periods of publishing required under subsection (4).

(6) The insurer shall be required to provide evidence satisfactory to the Central Bank that it is not under liability to any policyholder and shall comply with the directions of the Central Bank with respect to ascertaining whether the insurer is under liability to any policyholder.

(7) Where the Central Bank is satisfied that the insurer has made all reasonable efforts to discharge its liabilities to policyholders and no sufficient discharge can otherwise be obtained, the Central Bank shall apply to the High Court for an order—

(a) to revoke the registration of the insurer;

(b) to apply the assets to any outstanding policyholders' liabilities;

(c) to receive payment of any money from the insurer in respect of outstanding policyholder liabilities of the insurer; and

(d) for directions on any other matter.

(8) Where the High Court grants an order for revocation under subsection (7), the registration of the insurer shall be deemed to be revoked as at the date of the order.

(9) Where the Central Bank receives any money pursuant to an order under subsection (7), it shall be a good and valid discharge to the insurer for the money so paid in respect of its liabilities to policyholders, and the money shall be dealt with according to the order.

(10) The Central Bank shall pay into the Consolidated Fund any monies received under this section and there shall be paid

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from the Consolidated Fund such sums as are necessary to give effect to this section and the order granted under subsection (7).

(11) Nothing in this section shall be construed so as to prevent the Central Bank from revoking or restricting the insurer's registration under other provisions in this Act, from making an application for the winding up of the insurer or taking any other action under this Act.

B. *Separate Accounts*

Separate accounts.

42. (1) Subject to section 43 and the Regulations, every insurer shall establish and maintain—

(a) separate accounts for—

(i) its Trinidad and Tobago policies; and

(ii) its foreign policies,

for each type of insurance business; and

(b) a separate shareholder account,

in such form and subject to such conditions or restrictions as may be specified by the Inspector in writing.

(2) Subject to subsection (1), the Inspector may require an insurer to maintain subaccounts for a class or subclass of its insurance business.

(3) An insurer shall maintain adequate assets in its Trinidad and Tobago policy account to support its liabilities to its Trinidad and Tobago policyholders.

(4) Notwithstanding subsection (3), the Inspector may direct the insurer to maintain and hold such additional assets in its Trinidad and Tobago policy account as may be specified for the purpose of safeguarding the interests of Trinidad and Tobago policyholders.

(5) Without prejudice to the generality of subsection (3), an insurer shall comply with the requirements of Schedule 9.

Participating account. [3 of 2020].

43. (1) An insurer shall maintain accounts in respect of participating policies, which shall be maintained separately from accounts in respect of other policies.

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(2) A participating account shall include a participating surplus account, and these accounts shall be in such form and subject to such conditions or restrictions as may be specified by the Inspector in writing.

(3) The Inspector may disallow any method used for the allocation of investment income or losses, including accrued capital gains or losses, expenses, including taxes, or any other accounting items on the ground that it is not fair and equitable to the participating policyholders and he may specify an alternate method which, in his opinion, is fair and equitable to the participating policyholders of the insurer.

C. *Catastrophe Reserve Fund Requirements*

Catastrophe Reserve Fund. [3 of 2020].

44. (1) Every insurer carrying on property insurance business shall establish and maintain at all times in respect of catastrophe risks a Catastrophe Reserve Fund, in such form and subject to such conditions or restrictions specified by the Inspector in writing.

(2) Every insurer under subsection (1) shall, at the end of each financial year, make an appropriation from its retained earnings to the Catastrophe Reserve Fund in an amount not less than twenty per cent of its net written premium income in relation to its property insurance business for that year.

(3) Subsection (2) shall not apply where the Catastrophe Reserve Fund is equal to, or exceeds the net written premium income in relation to its property insurance business for that year.

(4) For the purposes of this Part—

(a) "recoveries" includes reinsurance recoveries; and

(b) "ultimate net loss" means the liability of an insurer arising out of a catastrophe loss after deducting an amount for salvages and recoveries, but before the deduction of any catastrophe excess of loss reinsurance cover.

(5) An insurer shall not reduce the value of the Catastrophe Reserve Fund, unless—

(a) catastrophe losses in excess of two million dollars have occurred and the ultimate net loss

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of the insurer is estimated to exceed seven point five per cent of its capital base;

(b) the insurer ceases to write property insurance business and either a winding up order has been made against the insurer or the insurer is no longer under liability for policies relating to property insurance business relating to catastrophe risks; or

(c) after any reduction pursuant to paragraph *(a)* or *(b)* or where no reduction pursuant to paragraph *(a)* or *(b)* occurs, the value of the Catastrophe Reserve Fund at the end of a financial year is more than one hundred and twenty per cent of the net written premium income in relation to the insurer's property insurance business for that year, in which case the maximum reduction by the insurer shall be twenty per cent of the net written premium income in relation to the insurer's property insurance business at the end of that financial year.

(6) An insurer who contravenes this section commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Insurer to submit statements relating to Catastrophe Reserve Fund.

45. (1) The insurer shall submit to the Inspector statements relating to its Catastrophe Reserve Fund, in such form as specified by the Inspector in writing, showing details of appropriations pursuant to section 44(2) and reductions pursuant to section 44(5) within thirty business days after the end of each financial year and at any other time as required by the Inspector.

(2) An insurer who contravenes the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine of six hundred thousand dollars.

Inspector may request further information.

46. Where it appears to the Inspector that a statement furnished to the Central Bank under section 45(1) is in any respect unsatisfactory, incomplete, inaccurate, misleading or

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otherwise fails to comply with the requirement of that section, the Inspector may require information from the insurer within a period as specified by the Inspector.

D. *Ownership of Insurers*

Restructuring of ownership may be required.

47. (1) Where an insurer is a member of a related group in which there are two or more financial entities, the Central Bank may, in writing, direct the controlling shareholder to engage in a restructuring to form a financial holding company, such that the local insurer is directly controlled by the financial holding company and the resulting structure allows for consolidated supervision.

(2) In lieu of, or in addition to, a restructuring under subsection (1), the Central Bank may direct the controlling shareholder of the insurer to undertake any other measures that are necessary or appropriate to identify, assess and manage—

(a) the relationship among the insurer and other members of the related group; and

(b) the risks resulting from such relationship.

(3) In directing a restructuring under subsection (1), the Central Bank may require that the financial holding company be the direct subsidiary of the ultimate parent company of the related group.

(4) A restructuring directed under subsection (1) shall be carried out within twelve months of the date of the direction, however, the Central Bank may, in its discretion, extend this period by notice in writing to the local insurer to a maximum of two years from the date of such direction.

(5) Where a restructuring is completed under this section and the Central Bank is satisfied that the requirements for a permit under section 51 have been met, the Central Bank shall grant a permit and the provisions of section 51 shall apply *mutatis mutandis* to the grant of a permit under this section.

Restructuring of group where entities are engaged in both financial and non-financial activities.

48. (1) Where a related group comprises entities that engage in both non-financial activities and financial activities and such group contains at least two financial entities, one of which is an

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insurer, the Central Bank shall require a restructuring in accordance with section 47, to separate the financial activities from the non-financial activities.

(2) Where a financial holding company is formed under subsection (1), the other financial entities in the related group shall be either directly or indirectly controlled by the financial holding company, an insurer registered under this Act or a licensee under the Financial Institutions Act.

Application may be made for Vesting Order for restructuring under section 47 or 48. [3 of 2020].

48A. (1) Where a controlling shareholder is directed or required to engage in a restructuring under section 47 or 48 and a company within the related group is acquiring the undertaking of the local insurer and the Central Bank has approved the transfer scheme in accordance with sections 57 to 64, that company may make an application to the Minister for a Vesting Order under section 263(1).

(2) Where a controlling shareholder is directed or required to engage in a restructuring under section 47 or 48 and the business is being transferred to a newly established insurer which is not under liability to policyholders or any other creditors, the Central Bank may exempt the transfer from sections 57 to 64 of this Act and that insurer may make an application to the Minister for a Vesting Order under section 263(1).

Restructuring not required in certain cases. [3 of 2020].

49. The Central Bank shall not require a restructuring under section 47—

(a) where an insurer is directly controlled by a foreign company that provides financial services or a foreign holding company and—

(i) is subject to regulation by a foreign regulatory authority acceptable to the Central Bank and there are no obstacles to obtaining information from that regulatory authority; or

(ii) does not directly or indirectly control an entity that engages in non-financial activities; or

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(b) where the insurer is a member of a related group which comprises only financial entities and all the insurers in the related group—

(i) are controlled by a holding company that only performs the activities stated in section 51(1); or

(ii) are controlled by a licensee under the Financial Institutions Act or an insurer registered under this Act.

Restrictions on activities of financial holding company. [3 of 2020].

50. (1) A financial holding company shall not engage in, or carry on any business other than—

(a) establishing or acquiring of financial entities and administering the holdings of the financial group; or

(b) providing management, advisory, financing, accounting, or information processing services to entities in the financial group as well as such other services approved by the Central Bank.

(2) A financial holding company shall not guarantee on behalf of any person the payment or repayment of any sum of money, except where the person is a member of the financial group.

(3) Notwithstanding subsection (1) and subject to and in accordance with the limits permitted under sections 87, 89 and 90 on a consolidated basis, a financial holding company may invest its funds in the shares of, or ownership interests in any entity or make any other investment that its directors consider necessary or advisable to manage the financial holding company's liquidity.

(4) A financial holding company which contravenes this section commits an offence and is liable on conviction on indictment—

(a) to a fine of five million dollars; and

(b) in the case of a continuing offence, to a fine of fifty thousand dollars for each day that there is non-compliance.

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Requirement for a permit.

51. (1) A financial holding company required under section 47 or a holding company that only controls, whether directly or indirectly financial entities and is not itself an insurer shall apply for a permit under this section.

(2) Where a holding company is a foreign company but is excluded from a restructuring under section 49*(a)*, the foreign company shall not be required to apply for a permit under this section.

(3) Notwithstanding section 49*(b)*(i), a holding company in a related group of financial entities that only performs the activities stated in subsection (1) shall apply for a permit under this section.

(4) An application for a permit to carry on the business of a financial holding company shall be accompanied by the following information:

(a) capital resources and capital structure, including the identity of its controlling shareholder and significant shareholders;

(b) organisational, managerial and legal structures;

(c) composition of the board of directors;

(d) fitness and propriety of directors, officers, controlling shareholder and significant shareholders in accordance with the criteria in Schedule 5;

(e) audited financial statements for the past three years, if applicable;

(f) strategic and operational business plans;

(g) financial plans, including projections for the next three years;

(h) sources of funds for initial and ongoing costs;

(i) evidence of payment of fees under Schedule 2; and

(j) any other information that the Central Bank may require.

(5) In determining whether to grant a permit, the Central Bank shall—

(a) take into account the information referred to in subsection (4), and in particular, whether the

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applicant has satisfied the criteria in Schedule 5, or may be as such to prejudice the interests of the policyholders of the insurer; and

(b) determine whether ownership of shares by the applicant, given the corporate affiliations or structure of the applicant, will hinder effective supervision under this Act or would be likely to prejudice the interests of policyholders of the insurer.

(6) The Central Bank may attach conditions to a permit under this section, including, without limitation, conditions to ensure that—

(a) the capital available to the financial group is adequate or will not jeopardise the financial position of the insurer or insurers, and any licensee under the Financial Institutions Act within the financial group;

(b) no double or multiple gearing or excessive leveraging of capital exists or will take place;

(c) the financial group is structured and managed in such a manner that it may be supervised by the Central Bank;

(d) each member of the financial group maintains adequate internal control mechanisms enabling it to provide any data or information relevant to its supervision; and

(e) activities or operations of subsidiaries or affiliates that may be injurious to the insurer or insurers and any licensee under the Financial Institutions Act that are members of the financial group are prevented,

and may, at any time, vary or remove such conditions, or add further conditions to such permit.

(7) Where a financial holding company fails to comply with any condition of its permit, the Central Bank shall issue directions to the financial holding company and section 155 shall apply *mutatis mutandis* to this section.

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(8) A financial holding company that fails to comply with any condition of its permit commits an offence and is liable—

(a) on conviction on indictment to a fine of six hundred thousand dollars and in the case of a continuing offence, to a fine of sixty thousand dollars for each day that the offence continues; or

(b) on summary conviction to a fine of three hundred thousand dollars and in the case of a continuing offence, to a fine of thirty thousand dollars for each day that the offence continues.

(9) When a financial holding company is required to restructure under section 47 or 48, the Central Bank will take into consideration the members of the related group in determining whether this Act or the Financial Institutions Act shall take precedence for purposes of requiring a restructuring based on the relative size of activities of the group in the banking sector and in the insurance sector.

Requirements for controlling shareholder. [3 of 2020].

52. (1) Notwithstanding any other law, a person or a person on whose behalf shares are held either in trust or by a nominee, shall not become a controlling shareholder of an insurer without first obtaining a written permit from Central Bank.

(2) In the circumstances where a proposed controlling shareholder is an acquirer, the provisions of section 54 shall also apply and for the avoidance of doubt, where approval is granted for an acquirer to become a controlling shareholder, a permit shall be issued under this section in addition to the permit issued under section 54.

(3) Where a person becomes beneficially entitled after probate of a will or a grant of letters of administration to shares such as to make him a controlling shareholder, he shall apply for a permit within one month of this fact coming to his knowledge.

(4) A person who holds shares that entitle him to exercise or control more than fifty per cent of the voting power at any general meeting of an insurer prior to the commencement of this Act, is deemed to hold a permit under this section.

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(5) In determining whether a permit should be granted, the Central Bank shall take into account, without limitation, the criteria in Schedule 5 as to whether the proposed shareholder is a fit and proper person or may be such as to prejudice the interests of the policyholders of the insurer and whether ownership by a controlling shareholder who is—

(a) part of a group of relatives, each of whom is substantially dependent upon the same source of income; or

(b) in the case of a company, an affiliate of another company,

would be likely to prejudice the interests of policyholders of the insurer.

(6) Where a permit is granted or deemed to be granted under this section, the controlling shareholder shall—

(a) provide the Central Bank with such relevant information as the Central Bank may require from time to time; and

(b) comply with such terms and conditions as may be specified in the permit.

(7) Where—

(a) a controlling shareholder granted a permit after the commencement of this Act is no longer a fit and proper person;

(b) a person under subsection (3) is not granted a permit;

(c) a controlling shareholder deemed to be granted a permit upon the commencement of this Act is not a fit and proper person; or

(d) after commencement of this Act, a person who, without being granted a permit under this section, obtains shares such as to make him a controlling shareholder,

that person shall be notified, in writing, by the Central Bank of this fact and he shall be required to take such steps to reduce his

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shareholding in such manner and in such time as may be specified by the Central Bank.

(8) Where the Central Bank gives a notice—

(a) under subsections (7)*(a)*, *(b)* and *(c)*, the person is entitled to receive dividends and to exercise voting rights until such time as the shares disposed of in accordance with subsection (8) or an order of the High Court is made under this section; and

(b) under subsection (7)*(d)*, a person shall not be entitled to receive any dividends or to exercise any voting rights.

(9) Where a controlling shareholder is notified that he is not or no longer fit and proper in accordance with subsection (7), he may, within the period of ten business days commencing the day after which the notice is received, make written representations to the Central Bank which shall take such representations into account in determining whether to withdraw or vary the notice.

(10) Where a person fails to comply with the Central Bank's requirements under subsection (7), his shares shall be subject to disposal in accordance with subsections (11) and (12), without prejudice to any other penalty which may be incurred by any party pursuant to this Act.

(11) Where the circumstances so warrant, the Central Bank may apply to the High Court for an order for the disposal of shares on such terms and conditions as the High Court deems appropriate.

(12) Where shares referred to in subsection (9) are sold in pursuance of an order of the High Court, the proceeds of sale, less the costs of the sale, shall be paid into the High Court or into such fund as the High Court may specify for the benefit of the persons beneficially interested in the disposed shares, or to such person as the High Court may direct.

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(13) Where a controlling shareholder fails to comply with any condition of its permit, the Central Bank shall issue directions to the controlling shareholder and section 155 shall apply *mutatis mutandis* to this section.

(14) A person who—

(a) knowingly or wilfully supplies false information to the Central Bank under this section commits an offence and is liable on summary conviction to a fine of six hundred thousand dollars and to imprisonment for two years; or

(b) contravenes any other provision of this section commits an offence and is liable—

(i) on conviction on indictment to a fine of six hundred thousand dollars and to imprisonment for two years and in the case of a continuing offence, to a fine of sixty thousand dollars for each day that the offence continues; or

(ii) on summary conviction to a fine of three hundred thousand dollars and to imprisonment for one year and in the case of a continuing offence, to a fine of thirty thousand dollars for each day that the offence continues.

Requirements of significant shareholder. [3 of 2020].

53. (1) Notwithstanding any other law but subject to section 54, a person or a person on whose behalf shares are held either in trust or by a nominee, shall not become a significant shareholder of an insurer without first obtaining a written permit from the Central Bank.

(2) In the circumstances where a proposed significant shareholder is an acquirer, the provisions of section 54 shall also apply and for the avoidance of doubt, where approval is granted for an acquirer to become a significant shareholder, a permit shall be issued under this section in addition to the permit issued under section 54.

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(2A) Where a person becomes beneficially entitled to shares, after probate of a will or a grant of letters of administration, such as to make him a significant shareholder, he shall apply for a permit within one month of this fact coming to his knowledge.

(3) A person who, on the coming into force of this Act, holds shares that entitle him to exercise twenty per cent or more of the voting power at any general meeting of an insurer is deemed to hold a permit under this section for such shares.

(4) In determining whether a permit should be granted, the Central Bank shall take into account, without limitation the criteria contained in Schedule 5 as to whether the proposed shareholder is a fit and proper person or may be such as to prejudice the interests of the policyholders of the insurer and whether ownership by a significant shareholder who is—

(a) part of a group of relatives each of whom is substantially dependent upon the same source of income; or

(b) in the case of a company, an affiliate of another company,

would be likely to prejudice the interests of policyholders of the insurer.

(5) Where a permit is granted or deemed to be granted under this section the significant shareholder shall—

(a) provide the Central Bank with such relevant information as the Central Bank may require from time to time; and

(b) comply with such terms and conditions as may be specified in the permit.

(6) Where—

(a) a significant shareholder granted a permit after the commencement of this Act is no longer a fit and proper person;

(b) a person under subsection (2A) is not granted a permit;

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(c) a significant shareholder deemed to be granted a permit upon the commencement of this Act is not a fit and proper person; or

(d) after the commencement of this Act, a person who, without being granted a permit under this section, obtains shares such as to make him a significant shareholder,

that person shall be notified, in writing, by the Central Bank of this fact and he shall be required to take such steps to reduce his shareholding in such manner and in such time as may be specified by the Central Bank.

(7) Where the Central Bank gives a notice—

(a) under subsections (6)*(a)*, *(b)* and *(c)*, the person shall be entitled to receive dividends and to exercise his voting rights until such time as the shares are disposed of in accordance with subsection (6) or an order of the High Court is made under this section; and

(b) under subsection (6)*(d)*, a person shall not be entitled to receive any dividends or to exercise any voting rights.

(8) Where a significant shareholder is notified that he is not or no longer fit and proper in accordance with subsection (6) he may, within the period of ten business days commencing the day after which the notice is given, make written representations to the Central Bank which shall take such representations into account in determining whether to withdraw or vary the notice.

(9) Where a person fails to comply with the Central Bank requirements under subsection (6), his shares shall be subject to disposal in accordance with subsections (10) and (11), without prejudice to any other penalty which may be incurred by any party pursuant to this Act.

(10) Where the circumstances so warrant, the Central Bank may apply to the High Court for the disposal of shares on such terms and conditions as the High Court deems appropriate.

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(11) Where shares referred to in subsection (10) are sold in accordance with an order of the High Court, the proceeds of sale, less the costs of the sale, shall be paid into the High Court or into such fund as the High Court may specify for the benefit of the persons beneficially interested in the disposed shares or to such person as the High Court may direct.

(12) Where a significant shareholder fails to comply with any condition of its permit, the Central Bank shall issue directions to the significant shareholder and section 155 shall apply *mutatis mutandis* to this section.

(13) A person who—

(a) knowingly or wilfully supplies false information to the Central Bank under this section; or

(b) contravenes any other provision of this section,

commits an offence.

Requirements of acquirer. [3 of 2020].

54. (1) A financial entity or a significant or controlling shareholder of a financial entity shall not become an acquirer of an insurer or of the financial holding company of an insurer without obtaining a permit issued by the Central Bank under this section.

(2) In considering an application for an acquirer to become a significant or controlling shareholder the Central Bank shall take into account the matters listed in subsection (4) and the provisions of this section shall apply *mutatis mutandis* to section 52 or 53.

(3) An application for a permit under subsection (1), shall be made in writing by the proposed acquirer and submitted to the Central Bank together with such information as the Central Bank may require.

(4) In determining whether to issue a permit to the proposed acquirer, the Central Bank shall take into account such relevant matters including, without limitation—

(a) the criteria set out in Schedule 5;

(b) the size and concentration of economic power in the combination of the proposed acquirer and

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the insurer, holding company or the financial holding company of the insurer; and

(c) whether the business or a part of the business of the proposed acquirer, insurer, holding company or financial holding company of the insurer has failed or is being conducted in an unlawful or unsound manner or is otherwise in an unsound condition.

(5) In considering the criteria referred to in subsection (4)*(b)*, the Central Bank shall take into account, without limitation—

(a) the combined market share in Trinidad and Tobago of the insurer and any financial entity affiliated with the insurer, the proposed acquirer and any financial entity that is affiliated with the proposed acquirer; and

(b) whether the size of, and concentration of economic power in, the combination of the proposed acquirer and the insurer will prevent or lessen substantially, or is likely to prevent or lessen substantially, competition in the financial services industry in Trinidad and Tobago.

(6) Subject to subsection (7), after due consideration of the matters referred to in subsection (5), the Central Bank may—

(a) issue a permit to the proposed acquirer;

(b) refuse to issue a permit to the proposed acquirer; or

(c) issue a permit to the proposed acquirer subject to such conditions, requirements or restrictions as the Central Bank deems appropriate.

(7) Where the combined market share in Trinidad and Tobago of the insurer and any financial entity affiliated with the insurer, the proposed acquirer and any financial entity that is affiliated with the proposed acquirer would exceed forty per cent, the Central Bank shall forward to the Minister for his approval, the application referred to in subsection (3), together with its recommendation and any other relevant information.

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(8) In determining whether or not to approve the issue of a permit to the proposed acquirer, the Minister shall consult with the Central Bank and shall take into account the public interest, which shall include, without limitation—

(a) the interests of the financial services industry in Trinidad and Tobago; and

(b) the interests of consumers of financial services in Trinidad and Tobago.

(9) After due consideration of the matters referred to in subsection (8), the Minister may—

(a) approve the issuance of a permit to the proposed acquirer;

(b) refuse approval of the issuance of a permit to the proposed acquirer; or

(c) approve the issuance of a permit to the proposed acquirer subject to such conditions, requirements or restrictions as the Minister thinks appropriate,

and the Central Bank shall act accordingly.

(10) Where the issuance of a permit is refused, pursuant to subsection (6)*(b)* or (9)*(b)*, the reasons for the refusal shall be sent to the applicant.

(11) The provisions of section 52(3), (5) to (12) and (14) shall apply *mutatis mutandi*s to this section.

(12) Where an acquirer fails to comply with any condition of its permit, the Central Bank shall issue directions to the acquirer and section 155 shall apply *mutatis mutandis* to this section.

(13) A person who contravenes any provisions of this section commits an offence.

Revocation of permits.

55. (1) Where a permit has been granted to a person who is a significant shareholder to become a controlling shareholder under this Part, the Central Bank shall revoke the significant shareholder permit prior to issuing the controlling shareholder permit.

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(2) Where a permit has been granted to a person who is a controlling shareholder to become a financial holding company under this Part, the Central Bank shall revoke the controlling shareholder permit prior to issuing the financial holding company permit.

(3) Where the Central Bank is satisfied that a permit which has been granted under this Part is no longer required as a result of a decrease in a person's shareholding, the Central Bank shall revoke the permit.

(4) The Central Bank may revoke the permit of a financial holding company in accordance with section 34, 40 or 41 and the provisions of such sections shall apply *mutatis mutandis* to this section.

Information required from shareholders.

56. The Central Bank may, by notice in writing, require any shareholder of an insurer to submit written information—

(a) as to whether that shareholder holds any voting shares in the insurer as beneficial owner or as trustee or nominee; and

(b) if he holds those voting shares as trustee or nominee, the person for whom he holds them either by name or by such other particulars sufficient to enable those persons to be identified, and the nature of their interest,

and the shareholder shall comply with the requirement within such time as may be specified in the notice.

E. *Transfer and Amalgamation*

Application for transfer or amalgamation. [3 of 2020].

57. (1) Notwithstanding any other law and subject to sections 48A(2) and 281(4), the transfer of any class of insurance business, either in whole or in part, or an amalgamation shall not take place where one of the transferring or amalgamating companies is an insurer or the financial holding company of an insurer, without the prior approval in writing of—

(a) the Central Bank pursuant to section 61(2); or

(b) the Minister pursuant to section 62(3).

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(2) An application for approval under subsection (1) shall be made in writing, jointly, by all the companies proposing to transfer or amalgamate, and the following documents shall be submitted to the Central Bank along with the application:

(a) in the case of an amalgamation, the proposed amalgamation agreement referred to in section 221 of the Companies Act, the scheme of amalgamation and the resolution of the board of directors approving the amalgamation; and

(b) in the case of a transfer, the proposed transfer agreement, the scheme of transfer and the resolution of the board of directors approving the transfer,

and such further information as the Central Bank may require.

Submission of scheme of transfer or amalgamation. [3 of 2020].

58. (1) A scheme shall set out the terms of the agreement or deed under which it is proposed to effect the transfer by way of a deed or Vesting Order or amalgamation by way of an agreement and shall contain such further provisions as are necessary to give effect thereto.

(2) The following documents shall be submitted to the Central Bank together with the scheme of transfer or amalgamation:

(a) audited financial statements as at a date to be specified by the Central Bank, of the companies engaged in the transfer or amalgamation;

(b) audited returns as at a date to be specified by the Central Bank, of the companies engaged in the transfer or amalgamation;

(c) projected financial statements showing the financial position after amalgamation or transfer;

(d) a detailed list of outstanding claims as at a date to be specified by the Central Bank, of the companies engaged in the transfer or amalgamation;

(e) a copy of the actuarial and other reports, if any, upon which the scheme was founded;

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(f) a copy of the proposed notice to be published in the *Gazette* and draft letter to policyholders;

(g) a draft copy of the statutory declarations as required under the Companies Act;

(h) reinsurance arrangements for policies to be transferred; and

(i) any other documents as may be required by the Central Bank.

(3) The Central Bank may cause a report on the scheme to be made by an independent actuary and shall cause a copy of the report to be sent to each of the companies engaged in the transfer or amalgamation.

(4) All expenses incurred by the Central Bank in obtaining the report of any actuary on the scheme shall be defrayed by the companies engaged in the transfer or amalgamation, and any sum due in respect of those expenses may be recovered summarily as a civil debt by the Central Bank from the companies either jointly or severally.

Procedure prior to confirmation of scheme.

59. (1) Where the percentage of any market share in Trinidad and Tobago of the transferee or amalgamated company and any financial entity which will be affiliated with it would not exceed forty per cent, the Central Bank shall give directions concerning—

(a) the publication of advertisements of the scheme;

(b) the giving of notices to shareholders, policyholders or creditors of the companies; and

(c) the holding of meetings of any insurer or financial holding company affected,

and such directions shall be complied with by the person to whom they are given.

(2) Where the Central Bank is satisfied that the scheme of transfer or amalgamation is ready for inspection, the Central Bank shall direct the companies to publish in the *Gazette* and in

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at least two daily newspapers circulated in Trinidad and Tobago as may be approved by the Central Bank, a notice of intention to transfer or amalgamate within twenty business days of the date of such direction.

(3) The scheme shall be open for inspection by any policyholder or shareholder affected by it, for a period of fifteen business days after the publication of the notice referred to in subsection (2), at the office of each company engaged in the transfer or amalgamation.

(4) Any person who objects or is aggrieved by the proposed transfer or amalgamation shall inform the Central Bank and the companies of his objection either during the period of inspection or within twenty business days after the expiration of such period of inspection.

(5) After the period of objection under subsection (4), the Central Bank shall notify the companies and any person who objects to, or is aggrieved by the transfer or amalgamation of the date for the hearing of the confirmation of the scheme.

(6) At the hearing, the companies are entitled to appear and to be heard either through one of its officers or through an Attorney-at-law.

(7) The Central Bank may hear such other evidence as the Central Bank considers necessary and any person who, in the opinion of the Central Bank, is likely to be affected by the scheme is entitled to be heard.

Confirmation of scheme of transfer or amalgamation.

60. (1) The Central Bank shall inform the companies of its decision at the hearing and shall give notification in writing of such decision within five business days of the date of the hearing.

(2) Where the Central Bank confirms the scheme, it shall be binding on all persons and shall have effect notwithstanding anything in the articles of incorporation or continuance, by-laws or other constituent document of the companies.

(3) Where the Central Bank refuses to confirm a scheme, it shall include reasons for its refusal in the notification under subsection (1).

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Approval of transfer or amalgamation by Central Bank.

61. (1) In determining whether to approve a proposed transfer or amalgamation, the Central Bank shall consider the following:

(a) the terms of the proposed transfer or amalgamation agreement and any amendments thereto;

(b) the proposed changes to the articles of incorporation or continuance of the companies;

(c) the criteria set out in Schedule 5 as it applies to all companies proposing to transfer or amalgamate;

(d) the size and concentration of economic power in the companies engaged in the transfer or amalgamation including—

(i) the size of the proposed transferee or amalgamated company in terms of any combined market share that will be serviced or controlled by the proposed transferee or amalgamated company in Trinidad and Tobago;

(ii) the size of any of the affiliates of the proposed transferee or amalgamated company; and

(iii) whether such size and concentration will prevent or lessen substantially, or is likely to prevent or lessen substantially, competition in the financial services industry in Trinidad and Tobago;

(e) whether the business or a part of the business of the—

(i) companies engaged in the transfer or amalgamation; or

(ii) holding companies of the transferee or any of the amalgamating companies,

has failed or is being conducted in an unlawful or unsound manner or is otherwise in an unsound condition; and

(f) any other relevant matters as determined by the Central Bank.

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(2) After due consideration of the matters referred to in subsection (1) and after the scheme of transfer or amalgamation has been confirmed pursuant to section 60(2), the Central Bank may—

(a) approve the proposed transfer or amalgamation and may impose conditions, restrictions or requirements including publishing requirements; or

(b) refuse the proposed transfer or amalgamation.

Approval of transfer or amalgamation by Minister.

62. (1) Where the Central Bank has received an application for a transfer or amalgamation under section 57(2) and all the documents required under section 58, if the Central Bank determines that the percentage of any combined market share in Trinidad and Tobago of the proposed transferee or amalgamated company and any financial entity that will be affiliated with it would exceed forty per cent, the Central Bank shall forward to the Minister the application for his approval, the proposed transfer or amalgamation agreement and any other relevant information together with its recommendation.

(2) In determining whether to approve the proposed transfer or amalgamation, the Minister shall consult with the Central Bank and shall take into account the public interest and the matters prescribed in sections 54(9) and 61(1).

(3) After due consideration, the Minister may—

(a) approve the proposed transfer or amalgamation subject to the confirmation of the scheme of transfer or amalgamation and on such conditions, requirements or restrictions as he deems appropriate; or

(b) refuse the proposed transfer or amalgamation.

(4) Where the Minister has given approval subject to the confirmation of the scheme of transfer, sections 59 and 60 shall then apply *mutatis mutandis* to this section.

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Miscellaneous transfer or amalgamation. [3 of 2020].

63. (1) Where the Central Bank or the Minister refuses the proposed transfer or amalgamation, the Central Bank or the Minister shall give notice in writing of its decision and reasons for so doing.

(2) The companies shall submit copies of any approval of the proposed amalgamation by the Central Bank or the Minister and the confirmation of the scheme of amalgamation by the Central Bank to the Registrar of Companies and the Registrar of Companies shall not issue a certificate of amalgamation under the Companies Act unless the Registrar of Companies receives these documents.

(3) A person who contravenes section 57(1) or who breaches any condition, requirement or restriction attached to an approval commits an offence.

(4) A purported transfer or amalgamation done in contravention of sections 57 to 63 shall be null and void, but shall be without prejudice to the accrued rights of any bona fide party without notice.

(5) On the recommendation of the Central Bank, the Minister may by Order exempt transfers below a specified threshold from the requirements of sections 57 to 63.

(6) Where the Central Bank or the Minister has approved a transfer or amalgamation, the transfer or amalgamation agreement shall not be amended without prior written approval of the Central Bank or the Minister.

(7) The directors of any company affected by a scheme of transfer approved by the Central Bank or the Minister shall cause a copy of the scheme to be filed with the Registrar of Companies.

Return to be made in case of transfer or amalgamation. [3 of 2020].

64. Where any class of insurance business carried on by an insurer is transferred to, or amalgamated with the insurance business of another insurer, the insurer to which the insurance business is transferred or the insurer carrying on the amalgamated

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insurance business shall, within twenty business days after the transfer or the amalgamation, submit to the Central Bank—

(a) a certified copy of the agreement, deed or Vesting Order under which the transfer or the amalgamation was effected;

(b) a statutory declaration made by the Chairman of the board of directors of the insurer—

(i) specifying every payment made or to be made to any person in respect of the transfer or amalgamation; and

(ii) stating that to the best of his knowledge and belief no other payment, other than those specified has been or is to be made in monies, policies, bonds, valuable securities, property of any description or any other valuable consideration, by or with the knowledge of any parties to the transfer or amalgamation;

(c) a copy of the registered scheme of transfer; and

(d) a copy of a notarised declaration form.

F. *Corporate Governance*

Persons debarred from management. [12 of 2019 3 of 2020].

65. (1) A person who has been—

(a) adjudged bankrupt;

(b) a director or officer of a company in the ten years immediately preceding—

(i) a winding up order made by a court; or

(ii) the date that the company had been placed in receivership;

(c) a director or officer during the ten years prior to the revocation of the registration or licence of a former insurer or former licensee under the Financial Institutions Act, unless such revocation was due to—

(i) its amalgamation with another company;

(ii) the voluntary winding up of the former insurer, pursuant to section 40(1)*(c)* of

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this Act or the former licensee pursuant to section 66 of the Financial Institutions Act; or

(iii) the former insurer not carrying on business, pursuant to section 34(1)*(g)* of this Act or the former licensee not accepting a deposit in Trinidad and Tobago pursuant to section 23(1)*(e)* of the Financial Institutions Act; or

(d) a director or officer during the ten years prior to the revocation of the registration or licence of a foreign company carrying on insurance business, business of a financial nature or business of banking, by a foreign regulatory agency or body that regulates financial entities, unless such revocation was due to—

(i) its amalgamation with another company;

(ii) its voluntary winding up; or

(iii) for any other reasons under the applicable laws,

shall not, without the express approval of the Central Bank, act or continue to act as a director or officer or, be concerned in any way in the management of an insurer or financial holding company.

(2) A person who—

(a) has been convicted by a court for an offence involving fraud, a contravention of the Proceeds of Crime Act and the Anti-Terrorism Act or any Regulations made thereunder, the Economic Sanctions Act or any Orders made thereunder as they relate to proliferation financing or such other written law in relation to the prevention of money laundering, the combating of terrorist financing or proliferation financing as may be in force from time to time;

(b) is or was convicted of an offence under this Act; or

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(c) is not a fit and proper person in accordance with the criteria prescribed in Part A of Schedule 5,

shall not act or continue to act as a director or officer of, or be concerned in any way in the management of an insurer or financial holding company.

(3) A local insurer shall seek a permit from the Central Bank where a director or officer of the local insurer proposes to be appointed as a director or officer of another financial entity outside the financial group.

(4) Where for the purpose of subsection (2)*(c)* a person is not regarded or is no longer regarded as fit and proper by the Central Bank, the Central Bank shall serve a notice on the insurer or financial holding company and on the person concerned informing them that the Central Bank proposes to disqualify the person from being a director or officer, stating the reasons for its intention to disqualify and giving particulars of the appeal process under section 253.

(5) Within the period of ten business days, commencing from the day after which the notice under subsection (4) is served—

(a) the insurer or financial holding company; or

(b) the person concerned,

may make written representations to the Central Bank which shall take such representations into account in deciding whether or not to disqualify the person from acting as a director or officer.

(6) The Central Bank shall inform—

(a) the insurer or financial holding company; and

(b) the person concerned,

in writing of its decision and shall give reasons for its decision.

(7) Where the decision of the Central Bank referred to in subsection (6) is to disqualify the person, that person shall forthwith cease to be a director or officer of the insurer or financial holding company.

(8) Where—

(a) the Central Bank places a restriction on the registration of an insurer;

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(b) it appears to the Central Bank that an insurer's capital or liquidity is inadequate and the Central Bank has so notified the insurer; or

(c) the Central Bank has exercised any of its powers in relation to the insurer under the special emergency powers under the Central Bank Act,

the insurer or any financial holding company shall notify the Central Bank of the nomination of a person for election or appointment as a director or as an officer at least twenty business days before the effective date of election or appointment as the case may be.

(9) An insurer referred to in subsection (8), shall not elect a person as a director or appoint a person as an officer if within twenty business days of the election or appointment the Central Bank disapproves of the election or appointment as the case may be.

(10) A person who has been a director or officer of an insurer in the ten years immediately preceding the Central Bank's exercise of its special emergency powers in respect of that insurer under the Central Bank Act shall not, without the express approval of the Central Bank act as director or officer or, be concerned in any way in the management of an insurer, financial holding company or a licensee under the Financial Institutions Act.

(11) Notwithstanding the liability of a person under subsection (13), it shall be the duty of every insurer and financial holding company to ensure that its directors and officers do not act or continue to act in contravention of this section.

(12) Any—

(a) person who contravenes subsection (1), (2)*(a)* or *(b)* or (3); or

(b) financial holding company or insurer upon which notice has been served under subsection (4) and which permits a person who contravenes subsection (1) or (2) to act or continue to act as a director of, or be concerned in any way in the management of the insurer or financial holding company,

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commits an offence and is liable on conviction on indictment in the case of an individual, to a fine of five million dollars and to imprisonment for five years and to a fine of five hundred thousand dollars for each day that the offence continues, and in the case of an insurer or a financial holding company, to a fine of five million dollars and to a fine of five hundred thousand dollars for each day that the offence continues.

(13) A person referred to in subsection (2)*(c)* who contravenes subsection (7) commits an offence and is liable on conviction on indictment to a fine of five million dollars and imprisonment for five years and to a fine of five hundred thousand dollars for each day that the offence continues.

Restriction on voting power of director.

66. A director of an insurer or of a financial holding company shall not be present, or vote at a meeting of the board of directors or a committee of the board of directors when a contract which would result in a direct or indirect financial benefit, other than a benefit under the director's contracts of employment, accruing to—

(a) the director or a relative of the director;

(b) a company of which the director or a relative of the director is an officer; or

(c) a company in which the director or a relative of the director holds a beneficial interest,

is being considered.

Duties of directors. [3 of 2020].

67. (1) For the purpose of discharging his duty to act honestly and in good faith with a view to the best interests of an insurer or a financial holding company, a director or officer thereof shall take into account the interests of the insurer's policyholders.

(2) A director or officer of an insurer or financial holding company commits an offence if, in exercising his powers and discharging his duties under subsection (1) he knew or reasonably ought to have known that his conduct was not in the best interests of the policyholders, and is liable on summary conviction to a fine not exceeding six hundred thousand dollars and to imprisonment for two years.

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(3) The directors of an insurer or of a financial holding company shall notify the Inspector of any developments that they had knowledge of that in the opinion of the directors have material adverse effects on the financial condition of the insurer or financial holding company and require prompt rectification.

(4) A director of an insurer or of a financial holding company who—

(a) resigns;

(b) receives a notice, or otherwise learns, of a meeting of shareholders called for the purpose of removing him from office; or

(c) receives a notice, or otherwise learns, of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office upon his resignation or removal from office or because his term of office has expired or is about to expire,

shall submit within five business days to the Inspector a written statement giving the reasons for his resignation, removal or departure from office, or, where applicable, the reasons that he opposes his removal or departure from office or any proposed action or resolution and he may submit a copy of such statement to the insurer or financial holding company.

(5) The directors of an insurer or of a financial holding company shall establish and maintain procedures for the determination of remuneration for themselves and officers of the insurer or financial holding company.

(6) An insurer or a financial holding company shall submit to its audit committee an annual report containing complete and accurate information regarding the total remuneration paid to directors and officers, within twenty business days after the end of its financial year and such report shall be made available for review by the Central Bank.

(7) An insurer shall not award or pay any bonus to its directors and officers where—

(a) the assets of the insurer are insufficient to meet the requirements under this Act and Regulations; or

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(b) the bonus would reduce the assets of the insurer below the amount referred to in paragraph *(a)*.

(8) For the purposes of this section—

(a) "remuneration" means all cash and non-cash pay elements and includes base salary, allowances and bonuses, whether fixed or variable, and any other benefit that would accrue to a director or officer which may be quantifiable; and

(b) "bonus" means any special payment made in accordance with some formula dependent on profits of the insurer or volume of business written by the insurer or some combination of both.

Audit committee. [3 of 2020].

68. (1) The board of directors of an insurer shall appoint from among their number an audit committee, which shall consist of at least three directors—

(a) a majority of whom shall be independent directors;

(b) at least one of whom shall be a financial expert; and

(c) at least one of the independent directors shall not be a director of a connected party of the insurer.

(2) The chair of the audit committee shall be an independent director and a financial expert.

(3) Subsection (1)*(a)* shall not apply in respect of an insurer to which section 23 applies until six months after the commencement of this Act.

(4) The duties of the audit committee shall include, without limitation—

(a) the review of, and report to the board of directors on, the annual financial statements and other returns prior to approval by the board;

(b) the review of such returns of the insurer as the Inspector may specify; and

(c) ensuring that an appropriate framework for internal control procedures is in place.

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(5) For the purposes of this section—

(a) a "financial expert" means a person who has the necessary financial education from an accredited educational institute, a sound understanding of generally accepted accounting principles, financial statements and the way in which financial statements are prepared and audited and substantive experience as—

(i) a qualified accountant;

(ii) an auditor;

(iii) a chief financial officer;

(iv) a comptroller; or

(v) an actuary;

(b) a "qualified accountant" means a person who is a member of the ICATT or such other professional association as may be approved by the Central Bank;

(c) an "independent director" means a director who—

(i) is not the holder of five per cent or more of the shares of the insurer or of a connected party of the insurer;

(ii) is not a current officer of the insurer or of a connected party of the insurer;

(iii) is not a relative of a current officer or director, or of a person who was, within two years prior to his appointment, an officer or director of the insurer or a connected party of the insurer;

(iv) is not the auditor, nor has been employed by the auditor of an insurer nor the auditor of any of the connected parties of the insurer within three years prior to his appointment;

(v) has not been employed by the insurer or any of its connected parties within three years prior to his appointment;

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(vi) is not an incorporator of the insurer or of a connected party of the insurer;

(vii) is not a professional adviser of the insurer or of a connected party of the insurer;

(viii) is not a significant supplier to the insurer or of a connected party of the insurer; and

(ix) is not indebted to the insurer or any of its affiliates, other than by virtue of a fully collateralised loan; and

(d) "significant supplier" means a person who, either alone or with one or more affiliates or relatives or connected parties, supplies the insurer or a connected party of the insurer with products or services which comprise ten per cent or more of the total products or services used by the insurer or the connected party of the insurer as the case may be on an annual basis.

Reports on responsibilities. [3 of 2020].

69. Each insurer and each financial holding company shall submit to the Inspector, within sixty business days after the end of its financial year and at such other times as may be required by the Inspector, a report which contains—

(a) a statement signed by its chief executive officer and chief financial officer on behalf of management and signed by the chairman of the board of directors or a duly authorised director on behalf of the board of directors, which acknowledges the board of directors' and management's responsibility for—

(i) preparing financial statements;

(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting and maintenance of separate accounts;

(iii) establishing and maintaining adequate procedures for the settlement of claims; and

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(iv) complying with this Act and any Regulations made hereunder and Guidelines issued by the Central Bank;

(b) a statement signed on behalf of its board of directors that it has received the financial condition report of the appointed actuary or chief financial officer pursuant to section 159 or 214;

(c) a statement signed on behalf of its board of directors that it is satisfied that the risk management systems and internal controls are adequate for managing its risks and are being properly applied;

(d) a statement signed on behalf of its board of directors certifying that claims are settled in accordance with the established procedures; and

(e) a statement signed on behalf of its board of directors certifying compliance with section 56 of the Companies Act.

Policies and procedures for transactions with connected parties and employees.

70. The board of directors of an insurer shall—

(a) establish and maintain written policies for all transactions between the insurer and—

(i) connected parties;

(ii) connected party groups; and

(iii) employees; and

(b) review annually transactions referred to in paragraph *(a)* to ensure compliance with its policies.

Information systems or credit exposures.

71. The board of directors of an insurer shall establish and maintain document information systems that identify and monitor the credit exposures referred to in sections 89 and 90.

Internal control and risk management systems.

72. The board of directors of an insurer shall—

(a) establish, document and maintain adequate risk management systems and internal controls; and

(b) appoint an internal auditor, who shall report to its audit committee.

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Maintenance of policies and procedures.

73. (1) The board of directors of an insurer shall review annually the policies and documentation required under sections 70, 71 and 72*(a)*.

(2) The board of directors shall provide to the Inspector—

(a) upon request, the policies and documentation required under sections 70, 71 and 72; and

(b) within sixty business days after the end of its financial year, the results of the compliance reviews referred to in subsection (1).

(3) Where the polices and documentation referred to are inadequate, the Inspector may require the board of directors to change the polices and documentation, within sixty business days.

(4) Where the board of directors of an insurer fails to comply with subsection (2) and sections 70, 71 and 72, the Inspector may direct the board of directors to take within a specified period as he thinks fit, such action to effect compliance.

Central Bank may require directors or shareholders meeting.

74. (1) Where the Central Bank is of the opinion that an insurer or financial holding company has contravened this Act or any provision made by, or under an enactment appearing to the Central Bank to be designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts, the Central Bank shall by notice in writing—

(a) require the board of directors of an insurer or financial holding company to convene a special meeting of the board of directors; or

(b) require the board of directors of the insurer or financial holding company to convene a special meeting of the shareholders to report on the failure of the insurer or financial holding company to implement measures required to be taken by the Central Bank,

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and the Central Bank shall be invited to attend and be heard at such meetings.

(2) Where an insurer or financial holding company is in contravention of the minimum number of directors required under the Companies Act, the Central Bank shall have the power to convene a special meeting of shareholders to fill the vacancies and the Central Bank shall be heard at such meeting.

Appointment of auditor. [3 of 2020].

75. (1) An insurer and a financial holding company shall appoint annually an audit entity satisfactory to the Central Bank to be its auditor.

(2) An audit entity is qualified to be the auditor of an insurer or financial holding company if—

(a) each member is independent of the insurer or the financial holding company, within the meaning of subsection (3);

(b) at least one member—

(i) is a practising member in good standing with ICATT or is the holder of a valid practising certificate from such other professional association of accountants or auditors as the Central Bank may approve; and

(ii) has knowledge and experience satisfactory to the Central Bank, in the audits of insurers and other financial institutions; and

(c) it has adequate resources to perform its functions in accordance with this Act.

(3) For the purposes of this section, a member of an audit entity is not independent of an insurer or a financial holding company if he—

(a) is a connected party of the insurer or the financial holding company;

(b) has any business relationship with the insurer or the financial holding company or with any of

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their respective connected parties, other than in his capacity as the auditor thereof or as a policyholder;

(c) beneficially owns or controls, directly or indirectly, five per cent or more of the shares or other securities of the insurer or the financial holding company or of any of their respective affiliates;

(d) is indebted to the insurer or any of its affiliates other than by virtue of a fully collateralised loan; or

(e) has within two years immediately preceding the appointment of the audit entity, been a receiver, receiver-manager, liquidator or trustee in bankruptcy of any affiliate of the insurer or the financial holding company, other than a subsidiary or affiliate acquired through a realisation of security.

(4) An insurer or financial holding company shall not appoint an audit entity to be the auditor of the insurer or financial holding company pursuant to subsection (1) unless—

(a) the insurer or financial holding company has served written notice on the Central Bank of its intention to make such appointment; and

(b) the Central Bank has failed to serve on the insurer or financial holding company a written notice of objection to the appointment within twenty business days either of—

(i) the date on which the insurer or financial holding company served notice of its intention to make the appointment pursuant to paragraph *(a)*; or

(ii) the date of receipt of all information requested by the Central Bank in respect of the notice,

whichever is the later.

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(5) A member of an audit entity shall not be the audit partner, having primary responsibility for the audit of an insurer or a financial holding company for a period of more than five consecutive years.

(6) The auditor of an insurer or financial holding company shall not provide to that insurer or financial holding company—

(a) book-keeping or other services related to its accounting records or financial statements;

(b) financial information systems design and implementation services;

(c) actuarial services;

(d) internal audit outsourcing services; or

(e) such other non-audit-related services as the Central Bank may specify.

(7) If an insurer or financial holding company fails to appoint an auditor satisfactory to the Central Bank, the Central Bank shall appoint such auditor at the expense of the insurer or the financial holding company, as the case may be.

(8) For the purposes of this section, a member of an audit entity refers to an individual auditor who meets the criteria of subsection (2)*(b)*.

Notification in respect of auditors.

76. (1) An insurer or a financial holding company shall forthwith give written notice, together with reasons, to the Inspector if—

(a) it proposes to give notice to its shareholders of a resolution to remove an auditor before the expiration of his term of office;

(b) it gives notice to its shareholders of a resolution to replace an auditor at the expiration of his term of office with a different auditor; or

(c) a person ceases to be an auditor of the insurer or financial holding company otherwise than in consequence of a resolution referred to in paragraphs *(a)* and *(b)*.

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(2) The auditor of an insurer or a financial holding company shall forthwith give written notice to the Inspector and to the insurer or financial holding company if he—

(a) resigns before the expiration of his term of office; or

(b) does not seek to be reappointed,

together with the reasons for such resignation or decision not to seek reappointment.

(3) The auditor of an insurer or of a financial holding company who receives a notice, or otherwise learns of a meeting of directors or shareholders called for the purpose of—

(a) removing the auditor from office; or

(b) appointing another person as auditor because the term of office of the auditor has expired or is about to expire,

shall submit to the insurer or financial holding company a written statement giving the reasons why he opposes or accepts his proposed removal or the appointment of another person as auditor, and if he submits such a statement he shall submit a copy of the statement to the Inspector.

(4) Where the auditor of an insurer or of a financial holding company receives notice under subsection (3) as a result of a disagreement with the board of directors or the officers of an insurer or of a financial holding company, the auditor shall submit to the insurer or the financial holding company, and to the Inspector, a written statement setting out the nature of the disagreement.

(5) Where the auditor of an insurer or financial holding company has resigned or the appointment of the auditor has been revoked, no person shall accept an appointment as auditor of that insurer or financial holding company until the person has requested and received from the auditor who has resigned or whose appointment as auditor has been revoked, a written statement of the circumstances and reasons for such resignation or why, in the opinion of the former auditor, his appointment was revoked.

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(6) Notwithstanding subsection (5), a person may accept an appointment as auditor of an insurer or financial holding company if, within fifteen business days after a request under that subsection is made, no reply from the former auditor is received.

Duties of auditor to report to board of directors and Inspector.

77. (1) Where the auditor of an insurer or of a financial holding company discovers, in the ordinary course of an audit, any irregular transactions or conditions which, in the opinion of the auditor meets one or more of the following criteria:

(a) any change in accounting policy or any presentation of, or any failure to present facts or figures which, in the opinion of the auditor, has the effect of materially misrepresenting the financial position of the insurer or financial holding company;

(b) transactions that have a significant or material impact on the financial position of the insurer or financial holding company;

(c) transactions or conditions giving rise to significant risks or large exposures that have the potential to jeopardise the financial viability of the insurer or financial holding company;

(d) transactions or conditions indicating that the insurer or financial holding company has significant weaknesses in internal controls which render it vulnerable to significant risks or exposures that have the potential to jeopardise its financial viability; and

(e) any other transactions or conditions which, in the opinion of the auditor, should be included in a report under this section,

the auditor shall report such findings in writing to the chief executive officer and the board of directors of the insurer or financial holding company.

(2) Where the auditor of an insurer or a financial holding company discovers, in the ordinary course of an audit,

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that the insurer or financial holding company has contravened, is contravening or is likely to contravene this Act, the Regulations or any applicable financial reporting standards, the auditor shall report in writing such findings to the Inspector.

(3) Where the auditor of an insurer or of a financial holding company discovers, after receiving a request in writing from the Inspector for an investigation, any such transactions or conditions as set out in subsection (1), the auditor shall report such findings to the Inspector, and the Inspector shall share those findings with the insurer or financial holding company at such time as he deems necessary.

(4) The auditor of an insurer shall meet with the Inspector in camera at least once annually to discuss any matter relating to this Act and its Regulations.

(5) An auditor of an insurer who—

(a) knowing that a financial statement does not fairly present the financial position of an insurer; or

(b) being reckless as to whether a financial statement fairly presents the financial position of an insurer,

and renders an unqualified opinion on the financial statement, commits an offence.

(6) Any person who contravenes this section commits an offence and is liable on conviction on indictment—

(a) in the case of the audit entity, to a fine of ten million dollars; and

(b) in the case of an individual auditor who signs a report on behalf of the audit entity, to a fine of five million dollars and to imprisonment for five years.

Appointment of actuary.

78. (1) An insurer carrying on long-term insurance business or a general insurer carrying on the accident and sickness class of insurance business, and every other insurer that is required by the Inspector to provide actuarial reports, shall appoint an actuary pursuant to subsection (3).

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(2) Within three years of the commencement of this Act, a general insurer carrying on insurance business shall appoint an actuary pursuant to subsection (3).

(3) An insurer shall not appoint a person to be its appointed actuary required to submit a report or certificate to the Inspector under this Act unless—

(a) the insurer has served written notice on the Inspector of its intention to make such appointment;

(b) the insurer has submitted the information on the criteria specified in Schedule 5 to the Inspector;

(c) the Inspector has failed to serve on the insurer a written notice of objection to the appointment within twenty business days of the date on which the insurer served notice of its intention to make the appointment pursuant to paragraph *(a)* or the date on which all information required under paragraph *(b)* was submitted to the Inspector, whichever is later; and

(d) there is no situation in which an actuary's duty to the insurer or statutory duties comes into conflict with the actuary's personal interests or with the duties of the actuary to another party.

(4) The chief executive officer and the chief financial officer or a person performing like functions may not be appointed as, or hold the position of appointed actuary of an insurer.

Notification in respect of actuary. [3 of 2020].

79. (1) An insurer, shall forthwith give written notice together with reasons to the Inspector if its appointed actuary—

(a) is removed before the expiration of his engagement;

(b) is replaced at the expiration of his engagement with a different appointed actuary; or

(c) ceases to be its appointed actuary in circumstances otherwise than those set out in paragraphs *(a)* and *(b)*.

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(2) The appointed actuary of an insurer shall forthwith give written notice to the Inspector and to the insurer if he—

(a) resigns before the expiration of his engagement; or

(b) does not seek to be reappointed, together with the reasons for such resignation or decision not to seek reappointment.

(3) An appointed actuary who receives a notice, or otherwise learns that—

(a) his engagement is going to be discontinued; or

(b) another person is to be appointed as actuary of the insurer because the engagement of the appointed actuary has expired or is about to expire,

shall submit to the insurer a written statement giving the reasons why he opposes or accepts his proposed removal or the appointment of another person as appointed actuary, and shall submit a copy of any such statement to the Inspector.

(4) Where the appointed actuary of an insurer receives a notice under subsection (3) as a result of a disagreement with the board of directors or the officers of an insurer, the appointed actuary shall forthwith submit to the insurer, and to the Inspector, a written statement setting out the nature of the disagreement.

(5) Where the appointed actuary of an insurer has resigned or the appointment of the actuary has been revoked, no person shall accept an appointment as an appointed actuary of that insurer until the person has requested and received from the appointed actuary who has resigned or whose appointment as the appointed actuary has been revoked, a written statement of the circumstances and reasons for such resignation or why, in the opinion of the former appointed actuary, his appointment was revoked.

(6) Notwithstanding subsection (5), a person may accept an appointment as the appointed actuary of an insurer if, within fifteen business days after a request under that subsection is made, no reply from the former appointed actuary is received.

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Protection for whistle-blowers.

80. (1) Where an auditor or former auditor of an insurer, or financial holding company or an actuary or former actuary of an insurer communicates information or gives an opinion to the Central Bank or the Inspector in good faith and—

(a) he is required to give such information or opinion to the Central Bank or the Inspector under this Act or the Central Bank Act; or

(b) where he reasonably believes that the insurer or financial holding company is in contravention of any written law,

such auditor, former auditor, actuary or former actuary shall not be liable in any civil action seeking indemnification for damages attributable to the auditor, actuary, former auditor or former actuary having communicated the information or given the opinion.

(2) This section applies to any matter of which an auditor, former auditor, actuary, or former actuary becomes aware in his capacity as auditor, former auditor, actuary or former actuary and which relates to the business or affairs of the insurer or any of its affiliates or any director or officer or relative of such persons in relation to which the information is given.

(3) Subsection (1) shall apply *mutatis mutandis* to—

(a) any other person who is required to give information to the Central Bank or the Inspector under this Act; or

(b) any employee or external service provider of the insurer or financial holding company who provides information to the Central Bank or the Inspector regarding the conduct of an insurer, its affiliate or any director, officer or relative of such persons, which the employee or external service provider reasonably believes constitutes a violation of any written law.

(4) This section applies to the former auditor and former actuary of a former insurer or former financial holding company.

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Referring matters to the professional association for auditors and actuaries.

81. (1) Where the Inspector has reasonable grounds to believe that the auditor or actuary of an insurer or financial holding company—

(a) has failed to perform his duties or to comply with the provisions of this Act;

(b) has been a party to the preparation of, or has rendered an unqualified opinion on a financial statement that does not fairly present the financial position of the insurer or financial holding company; or

(c) is incompetent or is accused of professional misconduct,

the Inspector or Central Bank shall deliver a written report to the insurer, financial holding company and as appropriate ICATT, the Caribbean Actuarial Association or such other professional association that may, in the opinion of the Inspector be relevant.

(2) Where the Inspector has made a report under subsection (1) in good faith, the Inspector shall not be subject to any action, claim or demand by, or any liability to, any person in respect of which the report was made.

G. *Prudential Requirements, Restrictions and Prohibitions*

Capital adequacy liquidity. [3 of 2020].

82. (1) An insurer or financial holding company shall, in relation to its operations on an individual and consolidated basis maintain—

(a) adequate capital; and

(b) adequate and appropriate forms of liquidity,

and shall comply with Schedule 8 and the Regulations in relation to adequate capital and adequate and appropriate forms of liquidity.

(2) An insurer which has been reissued a certificate of registration under section 23 shall within five years of the commencement of this Act increase its capital ratios in accordance with the Regulations and Schedule 8.

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(2A) For the avoidance of doubt, if at any time within five years of the commencement of this Act, an insurer exceeds any of the transitional capital ratios prescribed in Schedule 8 and the Regulations, the insurer shall not reduce its capital ratios below that excess and shall continue to comply with the transitional capital ratios set out in Schedule 8 and the Regulations.

(3) Notwithstanding subsections (1) and (2), the Inspector may direct the insurer or financial holding company to—

(a) increase its capital; or

(b) provide additional liquidity,

in such forms and amounts, based on the particular circumstances of the insurer or financial holding company.

(4) An insurer or financial holding company shall comply with a direction under subsection (3) within such time as the Inspector may specify.

(5) Where an insurer does not comply with its requirements under this section, the insurer commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Adequate assets.

83. (1) An insurer which carries on insurance business through overseas branches shall maintain and hold adequate assets to support its liabilities to its foreign policyholders.

(2) An insurer shall maintain and hold adequate assets to support its liabilities to its Trinidad and Tobago policyholders.

Restriction on payment of dividend. [3 of 2020].

84. (1) An insurer or financial holding company shall not declare or pay a dividend or transfer an amount from which a dividend can be paid or make any payment to purchase or redeem any shares issued by it or reduce its stated capital—

(a) where the assets of the insurer are insufficient to meet the requirements under this Act and the Regulations;

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(b) where the dividend would reduce the assets of an insurer below the amount referred to in paragraph *(a)*;

(c) where the Catastrophe Reserve Fund referred to in Part III or capital is less than the amount required under this Act and the Regulations;

(d) until all the capitalised expenditure, including preliminary expenses, organisational expenses, share-selling commission and brokerage of the insurer not represented by tangible assets has been completely written off;

(e) in the event of the Central Bank's exercise of its special emergency powers under the Central Bank Act without first obtaining the Central Bank's approval; or

(f) where in the case of a financial holding company, any of the conditions referred to in paragraphs *(a)* to *(e)* apply to any of its insurer subsidiaries.

(2) Where an insurer or financial holding company declares a dividend but the Catastrophe Reserve Fund or capital is less than the amount required under this Act and the Regulations, it shall not apply, allocate or transfer any part of its assets to pay dividends.

(3) An insurer, holding company or financial holding company which contravenes this section commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Assets.

85. (1) An insurer shall invest in assets in Trinidad and Tobago an amount equal to at least seventy per cent of its policy benefit liabilities, other insurance and contract liabilities and the surplus which is derived from participating policies denominated in Trinidad and Tobago dollars.

(2) For the purposes of subsection (1), assets not exceeding ten per cent of policy benefit liabilities, other insurance and contract liabilities and the surplus which is derived

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from participating policies denominated in Trinidad and Tobago dollars shall be deemed to be assets in Trinidad and Tobago where such assets originate in any of the member States of the Caribbean Community.

(3) For the purposes of this Part—

(a) "assets in Trinidad and Tobago" means assets which—

(i) originate in Trinidad and Tobago, and are denominated in Trinidad and Tobago currency;

(ii) where denominated in a foreign currency, are issued or fully guaranteed by the Government of Trinidad and Tobago; or

(iii) fixed income securities issued by companies domiciled in Trinidad and Tobago whether or not denominated in Trinidad and Tobago currency; and

(b) "Caribbean Community" means the Caribbean Community established by the Treaty of Chaguaramas.

(4) Where any liability in respect of policies is payable in a foreign currency, the insurer shall invest in foreign assets in that currency an amount not less than seventy per cent of such foreign currency liability.

(5) The assets of an insurer shall be invested in accordance with this Act and the Regulations.

(6) The board of directors of an insurer shall establish and maintain written policies and procedures relating to the investment of the assets of the insurer.

(7) Where the board of directors of an insurer fails to comply with subsection (6), the Inspector may require the board of directors to take such action, within a specified period to effect compliance.

Investments to be made in corporate name.

86. (1) All investments and deposits of an insurer shall be made in its corporate name and no director or officer of the

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insurer and no member of a committee which can exercise any authority over the investments and deposits of the insurer shall—

(a) either directly or indirectly be a beneficiary or accept any fee, brokerage, commission, gift or other consideration for, or on account of any loan, deposit, purchase, sale, payment or exchange made by, or on behalf of, the insurer; or

(b) be pecuniarily interested in any purchase, sale or loan made by, or on behalf of the insurer, whether as principal or agent and whether solely or jointly, save that where the director, officer or member of the committee is a policyholder, he is entitled to all the benefits accruing to him under the terms of his contract.

(2) In respect of each credit exposure of an insurer, a written record showing the authorisation thereof shall be made and signed by an officer of the insurer or by the chairman of the committee authorising the credit exposure.

(3) Investment records are to be maintained at the insurer's principal office in Trinidad and Tobago.

(4) The insurer shall keep a separate record of all investments.

(5) Investments may be maintained in book-entry form if properly recorded with the Central Securities Depository of Trinidad and Tobago or such other recognised depository as the Central Bank may determine.

(6) A person who contravenes subsection (1) commits an offence and in the case of an insurer is liable on conviction on indictment to a fine of five million dollars.

Limits on aquisition of shares or ownership interests by an insurer. [3 of 2020].

87. (1) An insurer shall not, directly or indirectly hold shares or ownership interests in any entity, not including a financial entity, if such holding would result in—

(a) the insurer having the power to—

(i) exercise twenty per cent or more of the voting rights at any general meeting of the entity;

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(ii) elect twenty per cent or more of the directors or officers of the entity; or

(iii) exercise significant influence over the conduct of the business and affairs of the entity;

(b) the insurer holding shares in a company or ownership interests in an unincorporated entity of a value equal to twenty-five per cent or more of the capital base of the insurer; or

(c) the aggregate value of all such shareholdings and ownership interests referred to in paragraph *(b)* exceeding one hundred per cent of the capital base of the insurer.

(2) The restrictions imposed under subsection (1) shall not apply where such shareholding or ownership interest is acquired—

(a) in the administration of the estate of a deceased person; or

(b) in the course of the satisfaction of debts due to the local insurer,

but such shareholding or ownership interest shall be disposed of at the earliest possible time but in any event, not later than five years from the date of acquisition or such further period as the Central Bank may permit.

(3) Notwithstanding subsection (1) and subject to subsections (6) and (8), an insurer shall not, without first obtaining the approval in writing of the Central Bank, acquire shares in such number that would equal ten per cent or more in any class of shares in a financial entity.

(4) The restrictions imposed under subsections (1) and (3) shall not apply to shares or ownership interests in entities which—

(a) provide necessary services in support of the activities of an insurer, in the case where the insurer obtains the prior written approval of the Central Bank;

(b) are engaged solely in the business of the establishment, distribution or sale of collective investment schemes;

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(c) are permissible real estate entities; or

(d) are agencies established in accordance with section 30(11).

(5) An insurer shall not directly or indirectly hold any shares or ownership interest in a brokerage.

(6) Within sixty business days of the coming into force of this Act, an insurer shall notify the Central Bank of any shares or ownership interests held by it in any entity referred to in subsection (4).

(7) The Central Bank may—

(a) approve the holding of the shares or ownership interests in an entity referred to in subsection (4)*(a)*; or

(b) require the insurer to dispose of any of the shares or ownership interests in an entity referred to in subsection (4)*(a)*, in accordance with subsection (8), if the Central Bank is of the opinion that the entity does not provide necessary services in support of the activities of the insurer.

(8) Within sixty business days of the coming into force of this Act, an insurer shall notify the Central Bank of any shares and ownership interests held by it in contravention of subsection (5) or in excess of any limit imposed by this section and the Central Bank shall require the insurer to dispose of any excess shares or ownership interest within such time as the Central Bank shall specify.

Approval for certain transactions.

88. (1) An insurer shall not without the prior approval of the Central Bank—

(a) directly or indirectly establish or acquire a subsidiary in, or outside of Trinidad and Tobago; or

(b) enter into an agreement for sale or other transfer of—

(i) any of its subsidiaries of the insurer; or

(ii) its controlling or significant interest in a financial entity.

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(2) An insurer shall not without prior approval of the Inspector—

(a) enter into an agreement for sale or other transfer of ten per cent or more of—

(i) its assets;

(ii) the assets of any of its subsidiaries; or

(iii) the assets of any entity in which it has a controlling or significant interest; or

(b) undertake any other restructuring that would result in a reduction in its capital.

Limits on credit exposures. [19 of 2018 3 of 2020].

89. (1) Subject to subsection (1A), an insurer shall not, directly or indirectly, incur a credit exposure to a person including a borrower group or related group in an aggregate amount that exceeds twenty-five per cent of its capital base, other than a credit exposure that is—

(a) fully guaranteed by the Government of Trinidad and Tobago where such guarantee is explicit, unconditional, legally enforceable and irrevocable over the life of the credit exposure in question;

(b) extended directly to, or fully guaranteed by a sovereign state, other than the Government of Trinidad and Tobago, with an investment grade rating from a credit rating agency approved by the Central Bank and said guarantee is explicit, unconditional, legally enforceable and irrevocable over the life of the credit exposure in question;

(c) extended directly to the Government of Trinidad and Tobago;

(d) fully secured at all times by cash in Trinidad and Tobago dollars or other currencies readily convertible to Trinidad and Tobago dollars, delivered to the insurer and placed with it in a special account, in an approved financial institution, secured by a charge in favour of the insurer; or

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(e) for a period of less than twenty business days and fully secured by investments that are investment grade, as rated by a credit rating agency approved by the Central Bank, provided that the insurer shall give the Central Bank prior notice of such exposure being incurred.

(1A) The Inspector may grant approval to an insurer to, directly or indirectly, incur a credit exposure to a person, borrower group or related group in the form of an investment in a bond in an aggregate amount of up to fifty per cent of its capital base where such bond—

(a) is issued by a company incorporated in Trinidad and Tobago, wholly owned and controlled by Corporation Sole;

(b) is fully funded and denominated in Trinidad and Tobago dollars;

(c) has an investment grade rating from a credit rating agency approved by the Central Bank;

(d) is collateralised by highly marketable assets where the value of the collateral is at least 180 per cent of the value of the bond;

(e) is supported by a sinking fund or other appropriate creditor protection arrangement; and

(f) satisfies any other condition which the Inspector may require.

(2) An insurer shall not, directly or indirectly, incur any large exposure to a person including a borrower group or related group if by so doing the aggregate principal amount of all such large exposures would exceed eight hundred per cent of the capital base of the insurer.

(3) The aggregate principal amount referred to in subsection (2) shall include the aggregate principal amount for connected parties referred to in section 90(1)*(b)*.

(4) Where, in any particular case—

(a) an insurer is in contravention of the limits referred to in subsections (1) and (2); or

(b) a credit exposure of an insurer is not prudent,

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the Inspector may require an insurer to reduce its credit exposure, increase its capital pursuant to section 82(3), or, where applicable, make adequate provisions for potential losses.

(5) Within sixty days of the commencement of this Act, an insurer shall notify the Inspector of—

(a) all credit exposures to persons including borrower groups or related groups which are in excess of the limits under this section; and

(b) the measures that the insurer shall take in order to—

(i) reduce within a period of three years the excess credit exposures granted so that they are within the limits in subsections (1) and (2); or

(ii) provide within a period of two years, additional capital.

(6) Any modification of, addition to, or renewal or extension of a credit exposure referred to in subsection (5) shall be subject to the limits imposed by this section.

(7) Notwithstanding subsection (6), the limits imposed by this section shall not apply to modifications which seek to reduce the insurer's credit exposure to any person, related group or borrower group.

(8) Where a sovereign state loses its investment grade rating from a credit rating agency approved by the Central Bank—

(a) any credit exposure incurred by the insurer shall be subject to the limit in subsection (1); and

(b) the provisions of section 91 shall apply.

(9) The Central Bank may, from time to time, establish criteria to be taken into account in determining credit exposure and other exposures to risk, by publication of Guidelines or a notice in the *Gazette* or through directions to a particular insurer.

(10) The requirements of this section shall apply—

(a) to an insurer on an individual basis and on a consolidated basis to include where applicable, all the domestic and foreign—

(i) subsidiaries of the insurer; or

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(ii) companies in which the insurer is a significant shareholder; and

(b) on a consolidated basis, to a financial holding company and all of the domestic and foreign members of the financial group that the financial holding company controls.

Limits on credit exposures to connected parties. [19 of 2018 3 of 2020].

90. (1) An insurer shall not, directly or indirectly, incur credit exposures—

(a) to any connected party or connected party group in a principal amount exceeding ten per cent of its capital base; or

(b) to all connected parties and connected party groups in an aggregate principal amount exceeding twenty-five per cent of its capital base, other than a credit exposure listed in section 89(1) and (1A).

(2) Subject to section 89(1), (1A) and (2), subsection (1) shall not apply to—

(a) a subsidiary of an insurer where no other connected party holds any share in such subsidiary; or

(b) a holding company or financial holding company of an insurer that is itself an insurer or permit holder under this Act, respectively.

(3) For the purposes of subsections (1) and (2), equity investments in wholly owned subsidiaries that are insurers, shall not be taken into account in the determination of credit exposure.

(4) Notwithstanding subsection (1), an insurer shall not incur credit exposures to—

(a) a director of an insurer;

(b) an officer of an insurer; or

(c) a relative of a person referred to in paragraphs *(a)* and *(b)*, in an amount exceeding—

(i) in the case of a non-executive director or relative of a non-executive director, two per cent of the capital base of the insurer; or

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(ii) in the case of an executive director, officer, or relative of an executive director or officer, two per cent of the capital base of the insurer or two years' emoluments of the director or officer, whichever is the lesser.

(5) The limit referred to in subsection (4) shall not apply to a loan made on the security of a mortgage on the principal residence in Trinidad and Tobago of a director or officer of the insurer where the amount of the loan does not exceed eighty per cent of the value of the property at the time the loan is made.

(6) Any credit exposure incurred by an insurer to a connected party or to a connected party group under this section shall be—

(a) on similar terms and conditions on which such credit exposure is offered to the public; and

(b) subject to the approval of the board of directors.

(7) Within sixty business days of the commencement of this Act, an insurer shall notify the Inspector of all credit exposures to connected parties and connected party groups which are in excess of the limits fixed under this section or not in accordance with subsection (6).

(8) With the exception of subsections (7) and (10), this section does not apply in respect of any credit exposure incurred by an insurer to a connected party or a connected party group prior to the commencement of this Act.

(9) Any modification of, addition to, renewal or extension of a credit exposure referred to in subsection (7) shall be subject to the limits imposed by this section.

(10) Where, in the opinion of the Inspector, a credit exposure incurred by an insurer to a connected party or to a connected party group exposes the insurer to excessive risk, or does not accord with the terms and conditions referred to in subsection (6)*(a)*, the Inspector may require the insurer to set aside or direct that changes be made to the credit exposure, or require the insurer to limit or reduce the credit exposure.

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(11) This section shall apply—

(a) to an insurer on an individual basis, and on a consolidated basis to include where applicable, all the domestic and foreign—

(i) subsidiaries of the insurer; and

(ii) companies in which the insurer is a significant shareholder; and

(b) on a consolidated basis, to a financial holding company and all of the domestic and foreign members of the financial group that the financial holding company controls.

(12) For the purposes of sections 89 and 90, where the credit exposures of two (or more) statutory companies or state owned enterprises do not meet the criteria set out under section 89(1)*(a)*, and are not otherwise connected to each other, those entities will not be deemed to be part of a borrower group.

Reporting contravention of credit exposure limits.

91. (1) Where an insurer has contravened the limitations on credit exposures referred to in sections 89 and 90, the insurer shall inform the Inspector within two business days of becoming aware of such contravention.

(2) Where an insurer informs the Inspector that it has contravened a credit exposure limit, the Inspector shall require the insurer to reduce its credit exposure or take such other steps within a specified period as he determines appropriate.

Prohibitions with respect to acquiring shares, borrowing or lending funds. [3 of 2020].

92. (1) An insurer shall not directly or indirectly—

(a) acquire its own shares or the shares of its holding company or financial holding company, except that an insurer shall be allowed to acquire and cancel shares issued by it pursuant to the Companies Act;

(b) deal in, underwrite or incur credit exposures on the security of its own shares or the shares of a holding company, financial holding company or subsidiary of the insurer;

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(c) grant unsecured credit except—

(i) to any person for temporary cover which in the case of general insurance shall not exceed twenty business days; or

(ii) for advances to agents, sales representatives or to employees against commissions or salaries to be earned; or

(d) guarantee on behalf of any person, other than a subsidiary or entity controlled by the insurer, the payment or repayment of any sum of money unless—

(i) the sum of money is a fixed sum of money with or without interest thereon; and

(ii) the person on whose behalf the insurer has undertaken to guarantee the payment or repayment has an unqualified obligation to reimburse the insurer for the full amount of the payment or repayment to be guaranteed;

(e) issue bonds or other evidence of indebtedness unless they are fully paid for in money or with the approval of the Inspector in property; and

(f) grant to a person the right to appoint a receiver or a receiver-manager of the property or business of the insurer.

(2) The restriction imposed under subsection (1)*(a)* shall not prevent an insurer from acting as trustee of a pension fund plan, or from investing the assets of the plan in shares of the insurer or in a financial holding company, holding company or subsidiary of the insurer up to a limit of ten per cent of the assets of the pension fund plan, inclusive of revaluation gains and losses on the shares.

(3) The board of directors of an insurer shall—

(a) establish and maintain written policies in relation to the—

(i) creation of a security interest of the insurer to secure obligations of the insurer; or

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(ii) acquisition by the insurer of a beneficial interest in property that is subject to a security interest; and

(b) review annually the policies referred to in paragraph *(a)* to ensure compliance with its policies.

(4) An insurer may only grant a security interest—

(a) on immovable property; or

(b) on assets other than immovable property, as collateral for an asset-backed security or such other securities as the Inspector may approve.

(5) If an insurer has committed a breach of subsection (1), the insurer shall, on becoming aware of that fact, notify the Inspector without delay.

H. *Judicial Management, Suspension and Winding up*

Application for judicial management. [3 of 2020].

93. (1) Where the Inspector is satisfied that—

(a) a ground for revocation under section 34(1) exists;

(b) the insurer or financial holding company has failed to submit financial statements and returns in accordance with sections 144, 145 and 146 and that the true financial position of an insurer or financial holding company is uncertain; or

(c) a financial holding company is no longer considered to be fit and proper in accordance with Schedule 5,

he shall advise the Board accordingly.

(2) The Board may, after receiving the advice of the Inspector and where it is of the opinion that it is necessary or proper for the insurer or financial holding company or any part of its business be placed under judicial management, direct the Inspector to apply to the High Court for an order of judicial management.

(3) An insurer or financial holding company may, after giving the Central Bank one month's notice in writing of its intention to do so apply to the High Court for an order that it or any part of its business be placed under judicial management.

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(4) Where an application is made to the High Court under this section—

(a) the insurer or the financial holding company, as the case may be; and

(b) the Central Bank,

shall be entitled to be heard on the application.

(5) Where an application is made under this section for an order in respect of any insurer or financial holding company, all actions and the execution of all writs, summonses and other processes against the insurer or financial holding company shall, by virtue of this section, be stayed and shall not be proceeded with, without the prior leave of the High Court or unless the High Court directs otherwise.

Judicial management.

94. (1) An order for the judicial management of an insurer or financial holding company or of any part of its business shall be subject to the provisions of this section and of sections 93 and 95 to 100.

(2) The High Court shall appoint a judicial manager who shall receive such remuneration from the insurer or financial holding company and may at any time cancel the appointment and appoint some other person as the judicial manager.

(3) The High Court may, if it thinks fit, charge the remuneration charges and expenses of the judicial manager on the property of the insurer or financial holding company in such order of priority, in relation to any existing charges on that property, as it thinks fit.

(4) Where an order for judicial management is made under this section, the management of the insurer or financial holding company or of that part of its business to which the order relates shall, on and after the date specified in the order, vest exclusively in the judicial manager.

(5) A person who is appointed judicial manager, shall not, except with the leave of the High Court, issue any new policies other than paid-up policies.

(6) The High Court may from time to time issue to the judicial manager such directions regarding his powers and duties as it considers necessary.

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(7) The judicial manager shall act under the control of the High Court and may at any time apply to the High Court for instructions as to the manner in which he shall conduct the judicial management or in relation to any matter arising in the course of the judicial management.

(8) The judicial manager shall give a report on the status of the judicial management to the Central Bank on a monthly basis and shall provide the Central Bank with such information as it may from time to time require and shall report to the Central Bank whenever he intends to apply to the High Court for instructions and shall at the same time furnish the Central Bank with particulars of the application.

(9) The Central Bank is entitled to be heard on any application made pursuant to subsection (7) and may make an application to the High Court to be heard on any matter relating to the conduct of the judicial management.

Report by judicial manager.

95. (1) The judicial manager shall conduct the management with due diligence, and shall as soon as possible after his appointment, file with the High Court a report stating which of the following courses is in the circumstances, in his opinion most advantageous to the general interests of the policyholders of the insurer:

(a) the transfer of the business of the insurer to some other company in pursuance of a scheme to be prepared in accordance with sections 57 to 64 (whether the policies of the business continue for the original sums insured, with the addition of bonuses that are attached to the policies, or varied for reduced amounts or otherwise varied in the case of annuities);

(b) the carrying on of its business by the insurer (whether the policies of the business continue for the original sums insured, with the addition of bonuses that are attached to the policies, or varied for reduced amounts or otherwise varied in the case of annuities) or financial holding company;

(c) the winding up of the insurer or financial holding company or of any part of its business; or

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(d) the dealing with part of the business of the insurer or financial holding company in one manner, and with another part in another manner.

(2) The judicial manager shall, as soon as he has filed the report, furnish a copy thereof to the Central Bank and make a written application to the High Court for an order to give effect to the course stated in the report.

(3) The report or a copy thereof shall be open for inspection by any person during official hours at the registry of the High Court in which the report is filed or at such other place as the Central Bank determines.

(4) Where the judicial manager recommends the transfer of the business of the insurer or financial holding company in accordance with subsection (1)*(a)*, the Central Bank shall assess whether the proposed transfer meets the criteria of sections 61 and 62 and advise the High Court of its assessment during the hearing under section 96(1).

Decision of High Court on judicial manager.

96. (1) The High Court shall on the hearing of an application made under section 95(2)—

(a) after hearing the Central Bank, the judicial manager and any other person who in the opinion of the High Court ought properly to be heard; and

(b) after considering the report of the judicial manager,

make an order giving effect to the course which it considers in the circumstances to be most advantageous to the general interest of the policyholders of the insurer.

(2) An order of the High Court under subsection (1) shall be binding on all persons, and shall have effect notwithstanding anything contained in the articles of incorporation or continuance, by-laws or other constituent documents of the insurer or financial holding company.

Transfer of business to another company. [3 of 2020].

97. (1) Where an order is made by the High Court for the transfer of the business of an insurer or financial holding company to some other company, the judicial manager shall prepare a scheme of transfer in accordance with section 58.

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(2) The judicial manager shall submit a copy of the scheme of the transfer to the Central Bank at least ten business days before making an application to the High Court for a confirmation of the scheme in accordance with subsection (3).

(3) The judicial manager shall apply to the High Court for a confirmation of a scheme of transfer and the Central Bank shall be entitled to be heard by the High Court on its confirmation.

(4) Until a scheme of transfer is confirmed by the High Court, the management of the insurer or financial holding company shall continue to be vested in the judicial manager.

(5) Where the High Court confirms a scheme of transfer, the High Court shall order the judicial manager to file a copy of the confirmed scheme of transfer with the Registrar of Companies.

Cancellation of contracts or agreements.

98. The High Court may, either of its own motion or on the application of the judicial manager, at any time while an order made under section 94 is in force with respect to an insurer or financial holding company, after hearing all persons who, in the opinion of the High Court are entitled to be heard, cancel or vary, either unconditionally or subject to such conditions as the High Court thinks just, any contract or agreement, other than a policy between the insurer or financial holding company and any other person, which the High Court is satisfied is detrimental to the interests of the policyholders.

Indemnity.

99. The judicial manager shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise of, or in connection with the exercise of, the powers conferred on him under this Part.

Cancellation of judicial management.

100. (1) The judicial manager, the Central Bank or any interested person may at any time apply to the High Court for the cancellation of an order made by the High Court under section 94.

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(2) Where an application is made under subsection (1) and the High Court has heard the Central Bank on such application, the High Court may cancel the order if it appears to it that—

(a) the purpose of the order has been fulfilled; or

(b) it is undesirable for the order to remain in force.

(3) Upon the cancellation of an order, the judicial manager shall be divested of the management which shall thereupon vest in the board of directors, other governing body of the company, the liquidator or receiver, appointed by the High Court.

Suspension of operations. [3 of 2020].

101. (1) Subject to subsections (11) and (12), where the Inspector is satisfied that an insurer has a regulatory capital ratio as defined in the Regulations of seventy per cent or less, he shall direct the insurer in writing to comply with section 82 within a period of sixty business days.

(2) Where the insurer fails to comply with section 82 in accordance with subsection (1), the Inspector shall advise the Board accordingly.

(3) The Board shall, after receiving the advice of the Inspector under subsection (2), order the insurer to suspend business forthwith and—

(a) where there are reasonable grounds to believe that the circumstances leading to the order of suspension may be rectified, direct the Inspector to make an application for an order of judicial management in accordance with section 93; or

(b) where there are no reasonable grounds to believe that the circumstances leading to the order of suspension may be rectified, direct the Inspector to petition to wind up such insurer in accordance with section 103.

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(4) Where the Board orders that an insurer's business be suspended under subsection (3), it may also direct the Inspector to take charge of all the books, records, other documents, including electronically stored information, and assets of the insurer and to take all such measures as may be necessary to—

(a) prevent the continuation in business by that insurer during the period of suspension; and

(b) preserve the assets of the insurer.

(5) Notwithstanding subsections (3) and (4), the Board may also direct the Inspector to take all such measures as may be necessary to collect—

(a) premiums due in respect of long-term insurance business of an insurer; and

(b) all receivables due and owing to the insurer during the period of suspension,

and any monies so collected shall be held in escrow during the period of suspension.

(6) All costs incurred by the Inspector under subsections (4) and (5) shall be treated as a loan by the Central Bank to the insurer and shall be repaid out of the assets of the insurer during the suspension and upon liquidation or judicial management, shall be payable out of the assets of the insurer in priority to all other unsecured claims.

(7) An order made under subsection (3) shall cease to have effect on the appointment of a judicial manager or liquidator, as the case may be, or where the petition is presented and dismissed.

(8) Notwithstanding section 10(13), any person who directly or indirectly prevents the Inspector, any person authorised in writing by the Central Bank or a designated member of staff of the Central Bank from—

(a) entering the premises of an insurer;

(b) having access to its books, records or other documents, including electronically stored information; or

(c) having the items in paragraph *(b)* made readily available,

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during a period of suspension, commits an offence and is liable on conviction on indictment to a fine of five million dollars and to imprisonment for five years.

(9) Where the Board suspends the business of an insurer under this section, all claims, actions and the execution of all writs, summonses and other processes against the insurer shall, by virtue of this section, be stayed and shall not be proceeded with, without the prior leave of the High Court or unless the High Court directs otherwise.

(10) No time shall run in relation to any period of limitation prescribed by the Limitation of Certain Actions Act or any other written law relating to the limitation of actions, proceedings or the enforcement of any judgment or order in respect of any claim of a person pursuant to a policy against an insurer, from the date of the order under subsection (3) and until the termination of the suspension of the insurer's business in accordance with this section.

(11) Subsection (1) shall not apply to an insurer registered under the former Act and which at the commencement of this Act is subject to the powers of the Central Bank under section 44D of the Central Bank Act.

(12) Subsection (1) shall not apply to an insurer registered under the former Act, other than an insurer referred to in subsection (11), for a period of twenty-four months from the commencement of this Act.

Other grounds for suspension.

102. (1) Notwithstanding the provision of section 101(11) and (12) where it appears to the Board that there are grounds on which its power to revoke the registration of an insurer under section 34 is exercisable, the Board may, after considering the circumstances, suspend the operations of the insurer and the provisions of section 101(3) to (10) shall apply *mutatis mutandis*.

(2) Where a financial holding company fails to submit financial statements and returns in accordance with sections 144, 145 and 146 and the Board is satisfied that the true financial position of the financial holding company is uncertain, is insolvent or its continuation in business is likely to involve a loss to the policyholders, the Board may after considering the

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circumstances, suspend the operations of the financial holding company and the provisions of section 101(3) to (10) shall apply *mutatis mutandis*.

High Court may order winding up.

103. (1) The High Court may order the winding up of an insurer or financial holding company and appoint a liquidator in accordance with the Companies Act subject to the modification that the insurer or financial holding company may also be ordered to be wound up on the petition of—

(a) the Central Bank; or

(b) ten or more policyholders owning policies of an aggregate of not less than twenty per cent of the aggregate sum assured of the insurer.

(2) A petition shall not be presented except by leave of the High Court, and such leave shall not be granted unless—

(a) a *prima facie* case has been established to the satisfaction of the High Court; and

(b) security for costs for such amounts as the High Court may think reasonable has been given.

(3) The Central Bank shall be a party to any proceedings under the Companies Act relating to the winding up of an insurer or financial holding company.

(4) A reference in this section to an "insurer" shall include an "insurance company" which has ceased to be registered under this Act but remains under any liability in respect of its policyholders.

(5) The appointment of a liquidator, receiver, receiver-manager or special manager does not in any way absolve any director or officer of the insurer or financial holding company from liability arising from wilful neglect, fraudulent transactions, abuse of policyholders funds, or from any breach of the provisions of this Act.

Procedure on winding up.

104. (1) An order of the High Court for the winding up of an insurer or financial holding company shall be subject to the provisions of this section and sections 105 and 106.

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(2) Subject to subsections (4) and (6), a liquidator appointed under section 103 shall act under the control of the High Court and may apply to the High Court at any time for instructions as to the manner in which he shall conduct the winding up or in relation to any matter arising in the course thereof.

(3) The liquidator shall furnish the Central Bank with—

(a) such information as the Central Bank may from time to time require within the period specified by the Central Bank;

(b) all documents submitted to the Registrar of Companies as required under the Companies Act within five business days of such submission; or

(c) particulars of any application that the liquidator intends to make under subsection (2) at least ten business days prior to the making of such application.

(4) The Central Bank is entitled to be heard on an application under subsection (2) and may make an application to the High Court to be heard on any matter relating to the conduct of the winding up.

(5) The liquidator may, in the case of an insurer which was carrying on long-term insurance business, continue to carry on the business with a view to its being transferred as a going concern to another insurer, whether in existence or being formed for that purpose.

(6) For the purposes of exercising his functions under subsection (5), the liquidator may agree to the variation of any contracts of insurance in existence at the date of the order but he shall not effect any new contracts of insurance.

(7) Where the liquidator is satisfied that the interests of the creditors in respect of liabilities of the insurer or financial holding company require the appointment of a special manager, he may apply to the High Court for such an appointment.

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(8) The High Court may on an application under subsection (7), appoint a special manager to act during such time and with such powers as the High Court may direct.

(9) A liquidator or a special manager, or both, shall receive such remuneration as the High Court directs.

(10) In addition to any other action that the Central Bank may take, it is entitled to make complaints to the Registrar of Companies who shall enquire into the matter and take such appropriate action.

Ascertainment of value of liability under policies.

105. (1) The liquidator shall ascertain, in such manner and on such basis as the High Court may approve, the value of the liability of the insurer to every person who, according to the books of the insurer, is entitled to, or is interested in a policy issued by the insurer and shall in such manner as he thinks proper give notice to every such person of the value so ascertained.

(2) A person to whom notice is given under subsection (1) shall be bound by the value ascertained by the liquidator unless he disputes the valuation in such manner and within such time as is prescribed by Rules of Court or as the High Court, in any particular case, by order directs.

Winding up of part of business of insurer.

106. (1) Where the High Court makes an order for the winding up of part of the business of an insurer, a scheme for the purpose of the winding up shall be prepared and submitted for the confirmation of the High Court by the liquidator, receiver or receiver-manager appointed in respect of the insurer or financial holding company where the order is made pursuant to section 103.

(2) Any scheme prepared under this section shall provide—

(a) for the allocation and distribution of the assets and liabilities of the insurer between any classes of business affected by the winding up, including the allocation of any surplus assets which may arise on the proposed winding up;

(b) for any future rights of every class of policyholders in respect of their policies; and

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(c) for the manner in which any part of the business of the insurer may be wound-up and may contain such provisions as are expedient for giving effect to the scheme.

(3) The provisions of sections 105 and 107 shall apply, with such adaptations as are necessary, on a winding up in accordance with a scheme under this section.

Application of assets of an insurer and priority of policyholders. [3 of 2020].

107. (1) On the winding up of an insurer in the event that the assets are insufficient to meet—

(a) policy liabilities;

(b) unexpired risks and outstanding claims; or

(c) the aggregate of *(a)* and *(b)*,

the claims on Trinidad and Tobago and foreign policies shall have priority over the claims of other unsecured creditors.

(2) Where–

(a) the insurer enters into—

(i) a scheme of transfer or amalgamation under sections 57 to 64 of this Act; or

(ii) an arrangement under section 237(1)*(b)*, *(c)* or *(d)* of the Companies Act; or

(b) the business of the insurer or any part thereof is being restructured pursuant to section 44D of the Central Bank Act,

the assets of the insurer shall, subject to the rights of secured creditors and the payment of expenses directly related to the arrangement including the costs of valuations of assets, the fees of experts retained by the insurer and the costs of voluntary separation agreements, be applied first to securing policyholders and thereafter to other unsecured creditors, whether or not the assets are insufficient to meet policy liabilities.

(3) Notwithstanding the provisions of this section, all costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.

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Voluntary winding up. [3 of 2020].

108. (1) An insurer or financial holding company shall not pass a resolution for a voluntary winding up or commence a voluntary winding up without first obtaining written approval of the Central Bank.

(2) An insurer or financial holding company that makes an application for approval of the voluntary winding up under subsection (1) shall submit to the Central Bank—

(a) the draft resolution to voluntarily wind up;

(b) the draft of the advertisement that the insurer or financial holding company intends to publish as required under the Companies Act and subsection (6)*(a)*;

(c) any draft statutory declaration that the directors intend to make pursuant to section 410 of the Companies Act;

(d) audited financial statements of the insurer or financial holding company;

(e) the name and other particulars of the proposed liquidator in the case of a members' voluntary winding up; and

(f) such other information as the Central Bank may require.

(3) The Central Bank shall not provide the approval referred to in subsection (1) unless it is satisfied that the voluntary winding up will be effected in a manner that would not pose undue risks to policyholders and consumers of the insurer or adversely affect public confidence in the financial system of Trinidad and Tobago.

(4) The Central Bank shall, within forty business days of receipt of the documents referred to in subsection (2), communicate to the insurer or financial holding company, its approval or non-approval of the voluntary winding up of the insurer or financial holding company.

(5) Where the Central Bank has given the insurer or financial holding company approval to voluntarily wind-up, the insurer or financial holding company shall hold a meeting to pass

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the resolution to voluntarily wind-up within two months of the date of approval.

(6) An insurer or financial holding company shall within ten business days after it has passed the resolution to voluntarily wind-up, give notice of the resolution—

(a) by publication in the *Gazette* and in two daily newspapers circulated in Trinidad and Tobago;

(b) to the Registrar of Companies; and

(c) to its policyholders and other consumers, in such form and containing such information as the Central Bank may require.

(7) Section 104(3) and (4) shall apply *mutatis mutandis* to this section.

(8) An insurer or financial holding company that contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine of six hundred thousand dollars and every director who votes for, or consents to a resolution authorising a voluntary wind-up in contravention of this section also commits an offence and is liable on summary conviction, to a fine of six hundred thousand dollars and to imprisonment for two years.

(9) The provisions of this section shall apply, with such modifications as are necessary on a voluntary winding up in accordance with the provisions of the Companies Act.

Protection of receiver, receiver-manager and liquidator.

109. (1) The liquidator shall conduct the liquidation and management of an insurer or financial holding company with due diligence including the greatest economy compatible with efficiency.

(2) Where the Court, on application of the Central Bank, a contributory, a creditor or policyholder, is satisfied that the liquidator is acting with unreasonable delay or is failing or has failed to carry out any duty imposed in this Part or under any other written law, the Court may make an order, on such terms as it considers proper—

(a) directing the liquidator to carry out that duty;

(b) restraining the liquidator from dealing with the property of the insurer or financial holding company until that duty has been carried out; or

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(c) removing the liquidator and appointing another liquidator.

(3) Where the Central Bank, a contributory, creditor or policyholder claims unreasonable delay or failure to act pursuant to subsection (1), the Court shall consider all relevant factors in deciding whether the delay was unreasonable including—

(a) the length of the delay;

(b) the complexity of the liquidation;

(c) the reasons for the delay; and

(d) the conduct of the liquidator, the insurer or financial holding company, the Central Bank and the applicant.

(4) The liquidator shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise of, or in connection with, the exercise of the powers conferred on him under this Part.

PART IV

INTERMEDIARIES

Registration of intermediaries.

110. (1) No person shall, in respect of any class and type of insurance business, carry on business as an agency or brokerage unless that person is registered under this Part and no person other than a company may be registered as an agency or brokerage.

(2) No individual shall, in respect of any class and type of insurance business, carry on business as a broker, agent, sales representative, or adjuster unless he is registered under this Part.

(3) No person shall, in respect of any class and type of insurance business, carry on business as an insurance consultant unless he is registered under this Part.

(4) A company which at the commencement of this Act is registered as an agent or broker under the former Act, shall be deemed to have been registered as an agency or brokerage, as

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applicable, under this Part and such registration shall be valid up to the end of the period stated in the certificate of registration issued under the former Act.

(5) An individual that is registered as an agent or broker under this Part shall be incorporated within one year of the commencement of this Act.

(6) An individual who, at the commencement of this Act is registered as a salesman, agent, broker or adjuster under the former Act, shall be deemed to have been registered as a sales representative, agent, broker or adjuster under this Part.

(7) Where the Central Bank has reasonable grounds to believe that a person is carrying on business in contravention of subsection (1), (2) or (3), the provisions of section 21(6) shall apply with the necessary modifications.

(8) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine of three million dollars.

(9) An individual who contravenes subsection (2) or (3) commits an offence and is liable on conviction on indictment to a fine of one million, five hundred thousand dollars and to imprisonment for two years.

Application for registration.

111. (1) An application for registration under this Part shall be made to the Central Bank, in accordance with the form specified by the Central Bank and shall be accompanied by evidence of payment of the application fee prescribed in Schedule 2.

(2) On receipt of an application, the Central Bank may request the applicant to furnish such additional information as the Central Bank may consider necessary.

(3) Where a company wishes to be registered as an agency of more than one insurer in accordance with section 129(3), a separate application shall be made in respect of each insurer.

Restriction on registration. [3 of 2020].

112. (1) An individual shall not be registered as a sales representative in respect of any particular class and type of

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insurance business where the insurer, agency or brokerage by which he is employed or contracted at the time of his application for registration as a sales representative—

(a) is not registered under this Act; or

(b) is carrying on the particular class and type of insurance business in contravention of this Act.

(2) An individual shall not be registered as a sales representative with more than one agency or insurer under the same class of insurance business at any particular time.

(3) An individual shall not be registered as a sales representative with more than one brokerage at any particular time.

(4) No person carrying on business as an insurance consultant shall—

(a) carry on business as a broker, sales representative, agent or adjuster; or

(b) carry on the business of an insurance agency or the business of an insurance brokerage.

(5) Where an individual wishes to be registered as a sales representative of more than one insurer or agency, the provisions of section 129(3) shall apply *mutatis mutandis* and the individual shall make a separate application in respect of each insurer or agency.

(6) A significant or controlling shareholder, director, officer or other employee of a brokerage shall not be registered as a sales representative of an insurer or agency, or as an agency or an agent.

(7) A significant or controlling shareholder, director, officer or other employee of an insurer shall not be registered as a broker or brokerage or as a sales representative of a brokerage.

(8) A significant or controlling shareholder, director, officer or other employee of an insurer or agency shall not be registered as an adjuster.

(9) An individual shall not be registered as an agent or broker with more than one agency or brokerage as applicable.

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(10) A company shall not be registered to carry on the business of an insurance brokerage or the business of an insurance agency under this Part unless it has in its employ at least one broker or agent, as applicable, and such broker or agent shall be an officer of the brokerage or agency, as the case may be.

(11) An agency shall not carry on any business other than the business of an insurance agency except for the distribution and sale of collective investment schemes.

(12) A brokerage shall not carry on any business other than the business of insurance brokerage except for the distribution and sale of collective investment schemes and the administration of self-insurance on behalf of an entity.

(13) An agency or brokerage who contravenes subsection (11) or (12) commits an offence and is liable on summary conviction to a fine of three hundred and fifty thousand dollars.

Central Bank to register person under this Part. [3 of 2020].

113. (1) Subject to this Part, the Central Bank may either unconditionally or subject to such conditions as the Central Bank considers necessary, register an applicant as an intermediary in respect of such class and type of insurance business as may be specified in its certificate of registration.

(2) The Central Bank may, subject to sections 110 and 111, register an applicant as an intermediary where the Central Bank is satisfied—

(a) that the applicant is a fit and proper person in accordance with the criteria set out in Schedule 5;

(b) that the applicant has complied with all obligations imposed on him by, or under this Act and Regulations made thereunder;

(c) that the applicant is competent to carry on business as an intermediary in the particular class and type of insurance business in which the person applied to be registered;

(d) in the case of a company applying to carry on the business of an insurance brokerage, that it has such stated capital and professional indemnity cover as required pursuant to section 116;

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(e) in the case of a company applying to carry on the business of an insurance brokerage, that no agreement relating to the preferential offer of insurance business and which is likely to impair the applicant's impartiality in placing insurance business, such as an agreement for preferential terms of commission or other compensation, has been made between the applicant and any other person carrying on insurance business, except that a brokerage may enter into an agreement as provided for under section 130; and

(f) in the case of an application to be an agent, broker, sales representative or adjuster, that the applicant has complied with any requirement imposed by the Regulations relating to the passing of any examination and has the relevant experience prescribed by the Regulations.

(3) The Central Bank shall, where it refuses an application for registration under this Part, notify the applicant in writing of its refusal either generally or in respect of a particular class of insurance business, give reasons for its refusal and inform the applicant of his right to appeal under section 124.

Provisional certificates for sales representatives. [3 of 2020].

114. (1) Where a person does not have the educational qualification necessary to be considered fit and proper for registration as a sales representative of an insurer, agency or brokerage, but an insurer, agency or brokerage has endorsed his application to be a sales representative and he otherwise meets the fit and proper requirements, the Central Bank may issue a provisional certificate permitting the person to perform the functions of a sales representative of an insurer, agency or brokerage for a period of not more than three years.

(2) The provisional certificate issued to a sales representative of an insurer under subsection (1) shall be subject to the following conditions:

(a) the person holding a provisional certificate shall be supervised by a registered sales representative;

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(b) all documents, including an application form, which are usually signed by a sales representative in relation to the sale of a policy shall be signed by both the person holding a provisional certificate and the supervisor of the registered sales representative; and

(c) any other condition which in the opinion of the Central Bank is necessary for the protection of policyholders.

(3) The provisional certificate issued to an agency or sales representative of a brokerage under subsection (1) shall be subject to the following conditions:

(a) the person holding a provisional certificate shall be supervised by a registered agent or broker; and

(b) any other condition which in the opinion of the Central Bank is necessary for the protection of policyholders.

(4) Where a provisional certificate is issued to a person under this section for a period of less than three years and such person does not achieve the educational qualification necessary to be registered as a sales representative by the expiry date of the provisional certificate—

(a) the Central Bank may subject to paragraph *(b)*, renew the provisional certificate or at any subsequent time grant a new provisional certificate to that person;

(b) the person shall not be allowed to perform the functions of a sales representative pursuant to a provisional certificate issued under subsection (1) and this subsection in excess of an aggregate period of three years; and

(c) the person shall immediately stop performing the functions of a sales representative where the provisional certificate has expired and the person has not been issued a certificate of registration as a sales representative pursuant to section 113.

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(5) Where a person holding a provisional certificate under this section achieves the necessary educational qualification to be registered as a sales representative, he may apply for such registration under the provisions of this Part no later than twenty business days before the expiry of the provisional certificate or at any time thereafter.

(6) No person shall perform the functions of a sales representative during any period in which he is not registered.

Personal liability.

115. (1) An intermediary is personally liable to a policyholder on all contracts of insurance—

(a) made by, or through him directly or indirectly with any company which is not registered in Trinidad and Tobago or elsewhere to carry on insurance business; or

(b) unlawfully made by, or through him directly or indirectly with an insurer or foreign insurance company,

in the same manner as if the intermediary had been an insurance company.

(2) Where an intermediary proposes to place insurance business with a foreign insurance company he shall disclose this information to the consumer and receive the signed authorisation of the consumer in a form approved by the Central Bank.

(3) An intermediary which places business with a foreign insurance company shall comply with such reporting requirements as may be specified by the Central Bank.

(4) An intermediary who contravenes sub-section (2) or (3) commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars.

Capital and professional indemnity cover. [3 of 2020].

116. (1) Each brokerage shall maintain professional indemnity insurance of at least five million dollars, with a maximum deductible of fifty thousand dollars or ten per cent of stated capital, whichever is greater.

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(2) Each brokerage shall maintain at all times minimum stated capital of at least five hundred thousand dollars, which shall be in the form of cash and approved securities.

(3) A brokerage which immediately before the commencement of this Act is registered as a broker but is not in compliance with subsection (2), shall within three years of the commencement of this Act increase its stated capital to not less than the amount prescribed in subsection (2) as follows:

(a) two hundred thousand dollars by the end of the first year;

(b) three hundred and fifty thousand dollars at the end of the second year; and

(c) five hundred thousand dollars at the end of the third year,

following commencement.

(4) Within six months following commencement of this Act, a brokerage that is subject to subsections (2) and (3) shall submit a plan approved by its board of directors which is acceptable to the Central Bank for increasing its minimum stated capital to the amounts required under subsections (2) and (3).

(5) Where—

(a) a brokerage fails to submit or implement a plan under subsection (4); or

(b) the Central Bank considers it appropriate to ensure that the brokerage meets the requirements under this section,

the Central Bank may impose any conditions on the registration of the brokerage or give any other directions that it considers to be necessary in relation to the plan.

(6) A brokerage that contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and in the case of a continuing offence, to a fine of fifteen thousand dollars per day for each day the offence continues.

Certificate of registration.

117. (1) The Central Bank shall issue a certificate of registration to every person registered under this Part.

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(2) A certificate of registration shall—

(a) be valid for such period as is stated in the certificate, not to exceed three years from the date of issue for a certificate issued to a sales representative, an agency, agent, broker, brokerage or adjuster;

(b) be renewable for the periods stated in paragraph *(a)*;

(c) state the types of insurance business and each class in respect of which the person is registered;

(d) where a company is registered as an agency, specify the insurer in respect of which the company is so registered;

(e) where an individual is registered as a sales representative, specify the insurer, agency or brokerage, as applicable, in respect of which the person is so registered; and

(f) where an individual is registered as an agent or broker, specify the agency or brokerage as applicable, in respect of which the individual is registered.

(3) The Central Bank shall issue a schedule to every certificate of registration of an agency or brokerage, which shall list the names of the agents or brokers registered to such agency or brokerage, as applicable.

(4) The certificate of registration shall be prominently displayed at the principal place of business of the agency or brokerage and a copy thereof shall be similarly displayed at each of its offices in Trinidad and Tobago.

(5) A certificate of registration shall be *prima facie* evidence that the person named therein has been registered in the capacity stated therein.

(6) A company which without reasonable excuse fails to comply with the provisions of subsection (4) commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars.

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Continuous registration requirement.

118. Where the Central Bank has issued a certificate of registration pursuant to section 117, the intermediary shall continuously meet all registration requirements and comply with all terms and conditions of its registration.

Continuous professional requirement.

119. (1) A certificate of registration shall not be renewed if the sales representative, agent, broker or adjuster to whom it is issued has not complied with continuing professional development requirements.

(2) The Minister may after consultation with the Central Bank appoint a statutory body or company incorporated under the Companies Act as an approved educational institution for all or any combination of the following purposes:

(a) to supervise and administer the examinations referred to in Part IV of this Act and the Regulations;

(b) to supervise and administer CPD activities;

(c) to provide written verification that the activities listed in a CPD Return constitute CPD activities; and

(d) such other purposes as the Central Bank may require.

(3) An approved educational institution shall be appointed for a period of three years in the first instance and shall be eligible for reappointment for further periods of not less than twelve months but no more than three years.

Certificate to be produced on request.

120. Every person registered under this Part shall produce his certificate of registration or a copy thereof when requested to do so by—

(a) any person authorised in writing by the Central Bank;

(b) the insurer or a person in respect of whom he is registered to carry on business as a sales representative; and

(c) an actual or a prospective consumer.

Revocation of registration. [12 of 2019].

121. (1) The Central Bank may revoke the registration of a person registered under this Part in respect of all or any of the

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classes and types of insurance business the person is registered to carry on where—

(a) any of the criteria prescribed in Schedule 5 is not or has not been fulfilled or is unlikely to be, or may not have been fulfilled in respect of the person;

(b) the person has failed to comply with any obligation imposed on it by, or under this Act and the Regulations;

(c) the Central Bank has been provided with false, misleading or inaccurate information by, or on behalf of the person or, in connection with an application for registration, by, or on behalf of a person who is or is to be, a director or officer of the person;

(d) in the opinion of the Inspector, the interests of policyholders or potential policyholders of the insurer were in any way threatened, whether by the manner in which the person is conducting or proposes to conduct its affairs;

(e) the person has not carried on business as an intermediary in Trinidad and Tobago within one year of being registered to carry on such business or has not carried on such business in Trinidad and Tobago for a period of more than six months;

(f) in the case of a person registered as an agency or a brokerage, a receiver, receiver-manager or liquidator has been appointed;

(g) the person fails to comply with any requirement, prohibition, compliance direction or any other direction issued by the Central Bank;

(h) in the case of a person registered as a brokerage, the stated capital or professional indemnity insurance of the broker is less than the amount prescribed in section 116;

(i) in the case of a person registered as an agency or a brokerage, the company has merged or has been amalgamated with another company and the registration is no longer required;

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(j) the business of the person is no longer the business for which it was registered;

(k) a final judgment obtained against the person in any court and from which no appeal is pending remains unsatisfied for at least forty business days;

(l) the person has committed, is committing, is about to commit, or is pursuing or is about to pursue a course of conduct that is an unsafe or unsound practice;

(m) the person has been convicted of fraud;

(n) the person requests that registration be revoked; or

(o) the person has failed to comply with any obligation imposed on him by any written law for the prevention of money laundering, terrorist financing or proliferation financing, including the Proceeds of Crime Act, the Anti-Terrorism Act, the Financial Intelligence Unit of Trinidad and Tobago Act and any Regulations made thereunder the Economic Sanctions Act or any Orders made thereunder as they relate to proliferation financing.

(2) Before registration is revoked by the Central Bank under subsection (1), the Central Bank shall give to the person written notice of its intention to do so, specifying the grounds upon which the Central Bank proposes to revoke the registration and the date on which such proposed revocation is to take effect, and shall require the person to submit to the Central Bank within a specified period a written statement of any objections to the revocation of the registration.

(3) After serving a notice of intention under subsection (2), to revoke the registration, and after taking into account any objection under subsection (2), the Central Bank shall decide whether to revoke the registration and shall inform the person by notice in writing, of its final decision.

(4) Where the Central Bank decides to revoke the registration under this section, the notice of revocation shall include the date on which the revocation takes effect, a statement of the grounds for the decision and the appeal process under section 124.

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Mandatory revocation. [3 of 2020].

122. (1) The Central Bank shall immediately revoke the registration of an agent, broker, agency or sales representative where the Central Bank has—

(a) received notice under section 123(1) that the contract of an agent, broker, agency or sales representative has been terminated; or

(b) revoked the registration of an insurer, agency or brokerage in respect of which an agent, agency, broker, or sales representative has been registered.

(2) Where the Central Bank has revoked the registration of an agent, agency, broker or sales representative under subsection (1), the Central Bank shall give written notice of the revocation to the agent, agency, broker or sales representative.

Notice of termination of intermediary to be given.

123. (1) Where a contract of—

(a) a sales representative has been terminated by the insurer, agency or brokerage in respect of which he was registered to carry on such business;

(b) an agency has been terminated by the insurer; or

(c) an agent or broker has been terminated by the agency or brokerage in respect of which he has been registered,

the insurer, agency or brokerage which terminates the contract shall give written notice to the Central Bank in the form approved by the Central Bank, within five business days of such termination.

(2) Where an agent, agency, broker or a sales representative enters into any new contract with a relevant registrant, the agent, broker, agency or sales representative shall reapply for registration under section 111.

(3) An agent, broker or sales representative that enters into a new contract with an agency, a brokerage or an insurer, shall not conduct any insurance business unless he has received a certificate of registration in respect of such agency, brokerage or insurer, as the case may be.

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(4) An agency, brokerage or insurer shall not conduct any insurance business with an agent, broker or sales representative unless such agent, broker or sales representative has received a certificate of registration in respect of such agency, brokerage or insurer, as the case may be.

(5) An agent, broker or sales representative that contravenes subsection (3) commits an offence and is liable on conviction on indictment to a fine of one million, five hundred thousand dollars and to imprisonment for two years.

(6) An agency, brokerage or insurer that contravenes subsection (4) commits an offence and is liable on conviction on indictment to a fine of three million dollars.

Right of appeal.

124. A person who is aggrieved by the decision of the Central Bank to refuse to register him or to revoke his registration as an intermediary under this Part may invoke the appeal process under section 253.

Restriction on payment of compensation for placing or negotiating insurance.

125. Where, at the date of placing or negotiating insurance a person is not registered as an agency, a brokerage or a sales representative, no insurer and no officer, employee or agent of the insurer shall pay, agree to pay, or allow to be paid to that person compensation or anything of value for placing, negotiating or attempting to place or negotiate insurance or for negotiating the continuance or renewal of insurance other than reinsurance.

Rebating.

126. No insurer and no officer, employee or agent of an insurer and no broker or sales representative shall directly or indirectly—

(a) make or attempt to make an agreement as to the premium to be paid for a policy other than as specified in the policy; or

(b) pay, allow, give, offer or agree to pay, allow or give a rebate of the whole, or part of the

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premiums stipulated by the policy or any other consideration or thing of value intended to be in the nature of a rebate of premium,

to any person who is insured or is applying for insurance in respect of life, person or property in Trinidad and Tobago.

Exemption of payment of dividend to salaried employee.

127. (1) Nothing in sections 125 and 126 shall affect any payment by way of dividend, bonus, profit or savings, which is provided for by the policy.

(2) Nothing shall be construed so as to prevent a registrant from offering a policy at special rates to a bona fide salaried employee or the spouse or a child of such employee, in respect of insurance issued for any class of business or so as to require such employee to be registered under this Part.

Company to make return to Central Bank.

128. (1) Every insurer shall make a return to the Central Bank within sixty business days after the end of the financial year in such form and at such other times as the Central Bank requires, showing all persons—

(a) registered as its agencies and sales representatives in Trinidad and Tobago; and

(b) to whom it has, within such period as may be specified in the form, paid or agreed to pay or allowed to be paid directly or indirectly, compensation for placing or negotiating any class of insurance business or negotiating the continuance or renewal of such insurance or for attempting to do so.

(2) Every agency or brokerage shall make a return to the Central Bank within sixty business days after the end of the financial year in such form and at such other times as the Central Bank requires, showing all persons—

(a) registered as its agents, brokers or sales representatives in Trinidad and Tobago, as the case may be; and

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(b) to whom it has, within such period as may be specified in the form, paid or agreed to pay or allowed to be paid directly or indirectly, compensation for placing or negotiating any class of insurance business or negotiating the continuance or renewal of such insurance or for attempting to do so.

Authority of agency.

129. (1) Subject to subsection (3), no agency shall—

(a) be an agency providing the same class of insurance business for two or more insurers;

(b) act or purport to act on behalf of more than one insurer; or

(c) represent himself to the public by advertisement or otherwise as the agency of more than one insurer.

(2) Notwithstanding subsection (1), where an agency is unable to negotiate insurance on behalf of an applicant for insurance with the insurer in respect of which he is registered to carry on business, the agency may procure the insurance from another insurer if that insurer obtains in each case the consent in writing of the insurer in respect of which the agency is registered and files a copy of such consent with the Central Bank within seven business days of its receipt.

(3) Where the Central Bank has received an application from an agency to act on behalf of more than one insurer, the Central Bank may approve the application—

(a) in respect of a different class, within any one type of insurance business; or

(b) in respect of a different type of insurance business.

(4) The Central Bank may refuse to grant or may revoke an approval granted under subsection (3) where it is satisfied that the granting or continuance of such approval is not in the public interest.

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(5) An agency that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of three hundred thousand dollars.

Disclosure of preferential arrangements by brokerage.

130. (1) In the case of a brokerage that has entered into an agreement under which the brokerage can commit an insurer to provide coverage to a consumer in accordance with such criteria as may be established by the insurer, or an agreement that is unique, the brokerage shall disclose such arrangement to the consumer in writing in such manner as may be specified by the Central Bank.

(2) A brokerage that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars.

Offence to procure payment of premium by fraudulent misrepresentation.

131. (1) An agent, agency, broker, brokerage or a sales representative shall not—

(a) knowingly procure by fraudulent representations payment or the obligation for payment of any premium on an insurance policy;

(b) cause a policyholder to discontinue an insurance policy without first discussing the advantages and disadvantages of the discontinuance of the policy; or

(c) cause a policyholder to replace a long-term insurance policy without first discussing the advantages and disadvantages of the discontinuance of the policy and shall comply with the standards on post sale communication as prescribed in Schedule 11 and the form of disclosure set out in Guidelines.

(2) An agent, broker, or sales representative who contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine of one million, five hundred thousand dollars and to imprisonment for two years.

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(3) An agency or brokerage that contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine of three million dollars.

Receipt of premiums.

132. (1) Premiums or other payments due that are received by an agency, brokerage or a sales representative on behalf of an insurer shall be deemed to be received by the insurer notwithstanding any conditions or stipulations to the contrary.

(2) Upon receipt of any premium or other payment due from a consumer, the agency, brokerage or sales representative shall issue to the consumer a receipt, which shall be considered to be a receipt of the insurer.

(3) If a premium is paid to an agency, brokerage, or sales representative, then the insurer shall not avoid liability under the contract of insurance for non-payment of premiums.

Consumer trust account. [3 of 2020].

133. (1) An agency registered to transact general insurance business, shall establish and maintain a consumer trust account for the receipt and payment of consumer funds.

(2) A brokerage shall establish and maintain a consumer trust account for the receipt and payment of consumer funds in respect of each type of insurance for which it is registered.

(3) An agency registered to transact general insurance business or a brokerage shall deposit monies received from a consumer for the account of an insurer or from an insurer for the account of a consumer in each consumer trust account.

(4) An agency or a brokerage transacting general insurance business shall be permitted to deduct from the consumer trust account any commission and other deduction to which it may by agreement be entitled.

(5) A brokerage transacting long-term insurance business shall not be permitted to deduct from a consumer trust account any commission and other deductions.

(6) Subject to subsection (4), an agency registered to transact general insurance business or a brokerage shall not commingle the monies to be deposited in a consumer trust account with any other monies of the agency or the brokerage.

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(7) Each agency registered to transact general insurance business and brokerage shall report to the Central Bank on each consumer trust account in accordance with the timing, form and content of such reports as the Central Bank may specify.

(8) An agency or brokerage that contravenes subsection (1), (2), (3), (5) or (6) commits an offence and is liable on summary conviction to a fine of three hundred thousand dollars.

Payment of premium to insurer.

134. (1) An agency, brokerage or sales representative that receives monies from a consumer for the account of an insurer registered to carry on general insurance business or the accident and sickness class of business shall pay over such monies to the insurer within ten business days from the date on which it received such monies.

(2) An agency, brokerage or sales representative of an insurer that receives monies from a consumer for the account of an insurer registered to carry on long-term insurance business shall pay over such monies to the insurer within ten business days from the date on which it received such monies.

(3) Where an insurer at the request of a brokerage provides temporary cover in respect of general insurance on credit in accordance with section 92(1)*(c)*(i), the brokerage is liable to the insurer for the premium due in respect of such cover and such premium may be sued for and recovered from the brokerage as a civil debt.

(4) An agency, brokerage or sales representative that contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of three hundred thousand dollars.

Payment to consumer.

135. (1) An agency, brokerage or sales representative that receives a cheque in the name of a consumer from an insurer shall deliver or make reasonable efforts to deliver the cheque to the consumer within five business days from the date on which the cheque was received.

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(2) Notwithstanding subsection (1), where an agency or brokerage receives a cheque in the name of a consumer from an insurer in respect of an accident and sickness claim, the agency or brokerage shall deliver or make reasonable efforts to deliver the cheque to the consumer within ten business days from the date on which the cheque was received.

(3) An agency or brokerage that receives a cheque in its name from an insurer for the account of a consumer shall deposit such cheque in its consumer trust account within five business days on which it was received.

(4) An agency or brokerage that makes a deposit in accordance with subsection (3) shall pay over or make reasonable efforts to pay over the same to the consumer within seven business days from the date on which such deposit was made.

Financial statement of intermediary. [12 of 2019 3 of 2020].

136. (1) Every agency and brokerage shall submit to the Inspector within sixty business days after the end of its financial year, and at such other times as may be required by the Inspector, financial statements prepared in accordance with financial reporting standards and duly audited in accordance with International Standards on Auditing.

(2) Every financial statement submitted by an agency or brokerage shall be signed by a director and an agent or broker, as the case may be.

(3) The auditor of every agency and brokerage shall monitor and evaluate compliance with the Proceeds of Crime Act, the Anti-Terrorism Act and any regulations made thereunder and the Economic Sanctions Act and any Orders made thereunder as they relate to proliferation financing, any guideline on anti-money laundering, the combating of terrorist financing or proliferation financing issued by the Central Bank and submit an annual report including recommendations to the Central Bank within four months of the end of its financial year.

(4) The provisions of section 146 in relation to the submission of financial statements shall apply *mutatis mutandis* to the submission of financial statements pursuant to subsection (1).

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(5) The financial statements required under this section shall be audited by an auditor that is—

(a) a fit and proper person in accordance with the criteria set out—

(i) in subhead A of Schedule 5 of the Act where the auditor is an individual; and

(ii) paragraph 1 of subhead B and subhead C of Schedule 5 of the Act where the auditor is an entity; and

(b) a practising member in good standing with ICATT or the holder of a valid practicing certificate from such other professional association of accountants or auditors as the Central Bank may approve.

Monthly accounts.

137. Every brokerage shall keep, in relation to insurance placed with it relating to each class or classes of insurance business for which it is registered, monthly accounts showing all receipts and expenses relating to such insurance business and such accounts shall be completed not later than fifteen business days after the end of the month in respect of which they are prepared.

Monthly records of agencies.

138. Every agency shall keep, with respect to policies issued or renewed by them, such monthly records as will enable the amounts due to them by the insurer or due from them to the insurer to be determined, and such records shall be completed not later than fifteen business days after the end of the month in respect of which they are prepared.

Audits of accounts of agencies and brokerages.

139. (1) The auditor of an agency or brokerage shall include in its opinion to the financial statements whether or not the agency or brokerage has satisfied the requirements of sections 133, 134 and 135.

(2) Where the Inspector has reasonable grounds to believe that the auditor of an agency or brokerage—

(a) has failed to perform his duties or to comply with the provisions of this Act;

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(b) has been a party to the preparation of, or has rendered an unqualified opinion on a financial statement that does not fairly present the financial position of the agency or brokerage; or

(c) is incompetent or is accused of professional misconduct,

the Inspector or Central Bank shall deliver a written report to the agency or brokerage and as appropriate, ICATT or such other professional association that may, in the opinion of the Inspector be relevant.

(3) Where the Inspector has made a report under subsection (2) in good faith, the Inspector shall not be subject to any action, claim or demand by, or any liability to, any person in respect of which the report was made.

Persons may act as adjusters during a catastrophe.

140. (1) For the purposes of this section, "foreign adjuster" means a person who is registered in another jurisdiction to carry on the business of an adjuster and is permitted under this section to act as an adjuster during periods of catastrophe or where there is a complex claim or major loss.

(2) In the event of a catastrophe or where there is a complex claim or major loss an insurer, brokerage or adjuster may retain the services of a foreign adjuster and notwithstanding section 110(2), such person may carry on the business of an adjuster in accordance with this Part.

(3) The Inspector may notify insurers, brokerages or adjusters of the date on which the catastrophe shall be deemed to be terminated for purposes of this section and any person who continues to act as an adjuster after such date commits an offence and is liable on conviction on indictment to a fine of one million, five hundred thousand dollars and to imprisonment for two years.

(4) For the purposes of this section—

(a) a "complex claim" means a claim that satisfies the criteria set out in Guidelines issued by the Central Bank; and

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(b) "major loss" means any loss that satisfies the criteria set out in Guidelines issued by the Central Bank.

Offences for intermediaries.

141. (1) A person who contravenes any provision of this Part commits an offence and the offence shall be deemed to be continued so long as the default continues.

(2) All offences against this Part for which no other penalty is expressly provided are punishable—

(a) in the case of an agency or brokerage, by a fine not exceeding twenty thousand dollars and to an additional fine of two thousand dollars for each day the offence continues; and

(b) in the case of agent, broker, sales representative, adjuster or insurance consultant, by a fine not exceeding ten thousand dollars and to an additional fine of one thousand dollars for each day the offence continues.

PART V

FINANCIAL STATEMENTS AND RETURNS

Non-application of Part.

142. This Part does not apply to a privately administered pension fund plan, an association of underwriters, an intermediary or an insurance consultant.

Duty of company to keep books, vouchers and valuation of assets.

143. (1) Every insurer and financial holding company shall keep at its head office, such books, vouchers, records, receipts, schedules and other documents as may be necessary to enable it to prepare the financial statements and returns required under this Act.

(2) Every insurer and financial holding company shall cause its books, vouchers, records, receipts, schedules and other documents to be readily available for examination and shall assist as far as possible in facilitating the examination.

(3) The assets of each insurer and financial holding company shall be valued in accordance with financial

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reporting standards and such values shall be used for the financial statements, reports, and returns required under this Act or the Regulations.

(4) Where the financial reporting standards do not provide a method for valuing certain assets, the board of directors of an insurer or financial holding company shall approve a methodology to value such assets.

(5) The fair value of real estate shall be determined by the appraisal of a qualified valuer at the time of acquisition and thereafter on a triennial basis.

(6) Notwithstanding subsection (5), an insurer or financial holding company shall cause annual appraisals of its real estate to be conducted where there are significant and volatile market fluctuations in value.

(7) The Inspector may require new appraisals to be conducted by a qualified valuer from a list of qualified valuers provided by the Inspector, at the insurer's or financial holding company's expense, whenever he considers it advisable.

Financial statements. [3 of 2020].

144. (1) Every insurer and financial holding company shall submit to the Inspector within sixty business days after the end of its financial year and at such other times as may be required by the Inspector, financial statements of all its operations both domestic and foreign, prepared in accordance with financial reporting standards and duly audited in accordance with International Standards on Auditing, on an individual basis and on a consolidated basis.

(2) The Inspector may require for regulatory purposes that an insurer or financial holding company exclude a subsidiary or other company in which it has a significant shareholding from the consolidated financial statements required under subsection (1).

(3) An insurer and financial holding company shall submit audited financial statements on the request of the Inspector in respect of any—

(a) subsidiary of the insurer;

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(b) financial holding company or company in which the insurer or financial holding company is a significant shareholder; or

(c) member of the financial group which the financial holding company controls.

(4) Every financial statement submitted by an insurer and financial holding company shall be signed by two directors of the relevant company.

(5) If, in the opinion of the Inspector, the information contained in the financial statements required under this section, indicates the likelihood of insolvency of any company under subsection (3), the Inspector may, after consultation with the insurer or the financial holding company require the insurer or financial holding company to take such measures as the Inspector may consider necessary to prevent the financial condition of the company under subsection (3) from affecting the insurer or financial holding company and, in particular, may require that the—

(a) company referred to in subsection (3)—

(i) increase its stated capital; or

(ii) transfer or otherwise dispose of its business or part of its business; or

(b) insurer or financial holding company where such company has credit exposures with the insurer or financial holding company—

(i) cease to make any advances or incur any credit exposures to the company; or

(ii) make special provision for any potential losses which, in the opinion of the Inspector, the company is likely to incur.

(6) A person who fails to comply with the requirements of the Inspector pursuant to subsection (5) commits an offence and is liable on conviction on indictment to a fine of five million dollars and, in the case of a continuing offence, to a fine of five thousand dollars per day for each day that the offence continues.

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Returns.

145. (1) Every insurer and financial holding company shall submit to the Inspector within sixty business days after the end of its financial year and at such other times as may be required by the Inspector, and in such form as the Inspector may from time to time specify, audited returns prepared in accordance with the Act and financial reporting standards on an individual and a consolidated basis, signed by the chief financial officer and one director of the company containing—

(a) statements of its assets and liabilities;

(b) statements of its earnings and expenses;

(c) the reports of the auditor as required by section 147(1)*(a)*; and

(d) any other information that the Inspector may require.

(2) Where an insurer is carrying on long-term insurance business, every balance sheet which it is required to prepare under subsection (1) shall bear a certificate signed by its appointed actuary in accordance with the Regulations.

(3) Every insurer and financial holding company shall submit to the Inspector quarterly returns in a form as specified by the Inspector within twenty business days after the end of each quarter.

(4) Every insurer and financial holding company shall submit to the Inspector a quarterly return showing all credit exposures amounting to ten per cent or more of the capital base of the insurer or financial holding company within twenty business days after the end of each quarter.

(5) The Inspector may apply additional reporting requirements under this section to an insurer or a financial holding company, including—

(a) subsidiaries of the insurer or financial holding company and companies in which the insurer or financial holding company is a significant shareholder;

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(b) members of a financial group which the insurer controls; and

(c) minority holdings of the insurer or financial holding company.

(6) No statement or return shall in any case be required in respect of the affairs of any particular policyholder of an insurer.

(7) Every insurer and financial holding company shall submit to the Inspector within twenty business days at the end of every quarter a list of its shareholders including beneficial and nominee shareholders—

(a) who hold five per cent or more if its issued share capital; or

(b) are parties to any agreement with respect to the voting of five per cent or more of the issued shares of the insurer or financial holding company.

(8) Whenever a person becomes the holder of five per cent or more of the issued share capital of an insurer or financial holding company, the insurer or financial holding company shall, within twenty business days of the person becoming such a holder, notify the Inspector.

Transition period for submitting financial statements and returns.

146. Notwithstanding sections 144(1), 145(1) and 152 an insurer and financial holding company shall be permitted to submit its audited financial statements and returns and to publish its audited financial statements within four months after the end of its financial year, for the first year following the commencement of this Act.

Audits of returns. [12 of 2019].

147. (1) The auditor of an insurer or financial holding company shall—

(a) audit the returns of the insurer or financial holding company filed annually pursuant to section 145(1); and

(b) report annually in writing to the Inspector on the adequacy of the accounting procedures,

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records and such internal control systems of the insurer or financial holding company as may be relevant to its financial reporting function.

(2) The auditor of an insurer shall report annually in writing to the Inspector on whether the—

(a) insurance liabilities relating to unexpired general insurance policies have been calculated in accordance with the provisions of section 212;

(b) provisions regarding the settlement of outstanding claims are adequate, having regard to the latest estimated cost of settlement of such claims; and

(c) separate accounts established pursuant to section 42 have been maintained in accordance with the Act and Regulations.

(3) The provisions of subsection (2)*(a)* and *(b)* shall apply only to an insurer carrying on general insurance business.

(4) The Inspector may, by notice in writing to an insurer or financial holding company require its auditor to comply with such other reporting requirements as the Inspector may stipulate in addition to International Standards on Auditing with respect to the report and annual returns referred to in subsection (1).

(5) The Inspector—

(a) shall, in relation to the audit of an insurer or financial holding company have access to the working papers of the auditor for a period not exceeding four years preceding the date of submission of the audit report; and

(b) may require the auditor of an insurer or financial holding company to provide him with any further information that he considers relevant.

(6) Every insurer and financial holding company shall pay the expenses incurred by its auditor in the performance of the duties and obligations set out in this Part.

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(7) Where the auditors, for the purpose of meeting their responsibilities under subsections (1), (2) and (8)—

(a) are unable to obtain all the information they require; or

(b) are not completely satisfied with the information contained in the returns on which they are reporting,

they shall, in their report specify the matters in respect of which they were unable to obtain information or were not completely satisfied with such information.

(8) The auditor of an insurer or financial holding company shall monitor and evaluate compliance with the Proceeds of Crime Act, the Anti-Terrorism Act and any regulations made thereunder and the Economic Sanctions Act and any Orders made thereunder as they relate to proliferation financing, any guideline on anti-money laundering, the combating of terrorist financing or proliferation financing issued by the Central Bank and submit an annual report including recommendations to the Central Bank within four months of the end of its financial year.

Unsatisfactory financial statements and returns.

148. (1) Where it appears to the Inspector that any financial statement or return submitted to the Central Bank by an insurer or financial holding company in accordance with sections 144 and 145—

(a) is in any particular unsatisfactory, incomplete, incorrect or misleading; or

(b) does not comply with the requirements of this Act,

he may, by notice in writing, require such explanations as he considers necessary to be made by, or on behalf of, the insurer or financial holding company within such time as is specified in the notice.

(2) After considering any explanations made by, or on behalf of, the insurer or financial holding company or where no explanations were made within the time specified in the notice or where the Inspector does not serve a notice under subsection (1), the Inspector may reject the financial statement or return.

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(3) Where the Inspector rejects any financial statement or return under subsection (2), he may give directions as he thinks necessary for varying the financial statements or returns within such time as he may specify or he may proceed to issue compliance directions in accordance with section 155.

Offence *re*: submission of documents.

149. An insurer or financial holding company which fails to submit any financial statement or return to the Inspector in accordance with section 144 or 145 or which submits such a document that is in any particular unsatisfactory, incomplete, incorrect or misleading or that does not comply with the requirements of this Act commits an offence.

No commingling of funds.

150. An insurer shall not commingle the funds of its insurance business with the funds of any other business.

Apportionment of receipts and payments between various classes of insurance business.

151. (1) Where an insurer is carrying on more than one class of insurance business and an amount received or paid by the insurer is not received or paid wholly in respect of any one class of insurance business the insurer shall apportion the amount in an equitable manner between the several classes of insurance business to which the receipt or payment may be applicable.

(2) Whenever the Inspector requires the reporting of financial results by classes within a type of insurance business and an amount received or paid by the insurer is not received or paid wholly in respect of any one class or type of insurance business, an insurer shall, for the purposes of that report, apportion the amount received, paid, or apportioned with respect to the relevant class or type of insurance business in an equitable manner between the several classes within that type of insurance business.

Publication of financial statements.

152. (1) Every insurer and financial holding company shall within sixty business days after the end of its financial year publish in at least two daily newspapers circulated in Trinidad and Tobago and exhibit in a conspicuous place in each of its offices, the audited financial statements referred to in section 144(1).

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(2) An insurer shall—

(a) in addition to the audited financial statements referred to in subsection (1), keep at each of its offices, such other information for the protection of policyholders and other consumers as the Central Bank may specify from time to time; and

(b) during normal business hours make copies of the information referred to in paragraph *(a)* available for inspection by its policyholders and other consumers upon request.

(3) The Central Bank may consult with insurers to create abridged financial statements for the purpose of publication.

(4) Where the Central Bank and ICATT have agreed to abridged financial statements under subsection (3), the Central Bank shall publish a notice in the *Gazette* and in at least two daily newspapers circulated in Trinidad and Tobago.

(5) Following a publication under subsection (4), every insurer and financial holding company may publish abridged financial statements instead of its financial statements in accordance with the requirement under subsection (1).

Power to appoint independent actuaries.

153. (1) The Inspector may appoint an independent actuary to review actuarial work required under this Act or to make an independent investigation into the insurer's financial condition, if the Inspector is of the opinion that the appointment is necessary.

(2) The independent actuary shall submit a report to the Inspector and the insurer on the results of such review or investigation.

(3) The costs incurred in carrying out the review or investigation under subsection (1) are payable by the insurer.

Power to prohibit recognition of insurance.

154. (1) The Inspector may prohibit an insurer from recognising in its financial statements or returns any asset or any reduction of liabilities, or require that the amounts thereof be

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varied, in respect of reinsurance, any arrangement having the effect of reinsurance, or any other arrangement with another insurance company if, in the opinion of the Inspector—

(a) there is a significant possibility that the insurer's counterparty or counterparties under such reinsurance or other arrangement may default on their obligations thereunder;

(b) the reinsurance or other arrangement does not result in a reduction of risk for the insurer commensurate with the amount of the asset or reduction in liability that would result from its recognition;

(c) the reinsurance or other arrangement is not adequate in terms of criteria set out in Guidelines; or

(d) the reinsurance or their arrangement would significantly increase the risk that the insurer is, or is likely to be unable to meet its liabilities.

(2) An insurer shall not allow its reinsurance arrangements to lapse.

(3) An insurer shall, within twenty business days of the expiry of prior reinsurance arrangements or any other change to its reinsurance arrangements—

(a) notify the Central Bank in writing of the particulars of such changes; and

(b) provide the relevant information regarding its reinsurer or reinsurance arrangements to the Central Bank upon request.

PART VI

COMPLIANCE DIRECTIONS AND INJUNCTIVE RELIEF

Compliance directions. [3 of 2020].

155. (1) Notwithstanding any other action or remedy available under this Act, if the Inspector reasonably believes that any person including the principal representative of a foreign insurance company—

(a) has committed, is committing or is about to commit an act, or is pursuing or is about to

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pursue any course of conduct, that is an unsafe or unsound practice;

(b) has committed, is committing or is about to commit an act, or is pursuing or is about to pursue a course of conduct, that may directly or indirectly be prejudicial to the interest of policyholders or a person beneficially interested in a privately administered pension fund plan;

(c) has violated, is violating or is about to violate any of the provisions of any law relating to the regulation of financial services or designed to protect against fraud;

(d) has breached any requirement or failed to comply with any measure imposed by the Central Bank or Inspector in accordance with this Act or the Regulations;

(e) is unlikely to meet the liabilities due to policyholders of the insurer; or

(f) is likely to continue in business that would result in a loss to the policyholders of the insurer,

the Inspector may direct the person to—

(i) cease or refrain from committing the act, pursuing the course of conduct, or committing a violation; or

(ii) perform such acts which, in the opinion of the Inspector, after consultation with the Governor, are reasonably necessary to remedy the situation or minimise the prejudice.

(1A) Notwithstanding any other action or remedy available under this Act, if the Board of Inland Revenue indicates to the Inspector, that a registrant or an officer, other employee or agent of the registrant has breached any requirement or failed to comply with Guidelines related to a declared agreement, the Inspector may direct a registrant or an officer, other employee or agent of the registrant to give effect, comply with or perform such acts as may be necessary for compliance with a declared agreement.

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(2) For the purposes of this section, the term "unsafe or unsound practice" shall include, without limitation, any action or omission that is contrary to generally accepted standards of prudent operation and conduct, the possible consequences of which, if continued, would be a risk of loss or damage to the registrant, policyholders or consumers.

(3) Subject to subsection (6), before a direction is issued under subsection (1), the person to whom the direction is to be issued shall be served with a notice specifying—

(a) the facts of the matter;

(b) the directions that are intended to be issued; and

(c) the time and place at which the person served with the notice may make representations to the Inspector.

(4) If the person served with the notice referred to in subsection (3) fails to make representation at the time and place stipulated by the said notice, the Inspector may proceed to issue directions.

(5) Where, after considering the representations made in response to the notice referred to in subsection (3), the Inspector determines that the matters specified in the notice are established, the Inspector may proceed to issue directions to the person served with the notice.

(6) Notwithstanding subsection (3), if after consultation with the Governor the Inspector is of the opinion that the length of time required for representations to be made might be prejudicial to the interests of policyholders or to the stability of the financial system, the Inspector may issue an emergency direction with respect to the matters referred to in subsection (1), having effect for a period not exceeding twenty business days.

(7) A person shall be entitled to make representations within twenty business days after the issuance of the directions by the Inspector under subsection (6).

(8) A direction made under subsection (6) shall be complied with during the period specified and shall continue to

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have effect after the expiration of such period if no representations are made to the Inspector within that period or, if representations have been made, the Inspector notifies the person to whom the direction was issued that he is not satisfied that there are sufficient grounds for revoking the direction.

(9) If a person to whom a direction is issued, fails to comply with that direction, the Inspector may, in addition to any other action that may be taken under this Act, apply to the High Court for an order requiring that person to comply with the direction and any other order the High Court deems fit.

(10) A person who fails to comply with directions under this section commits an offence and is liable, in the case of—

(a) an insurer or financial holding company, holding company, controlling shareholder, or significant shareholder, on conviction on indictment to a fine of five million dollars and, in the case of a continuing offence, to a fine of five hundred thousand dollars for each day that the offence continues;

(b) a director or officer, other employee or agent, or principal representative of a foreign insurance company, holding company or financial holding company, on conviction on indictment to a fine of five million dollars and to imprisonment for five years and, in the case of a continuing offence, to a fine of five hundred thousand dollars for each day that the offence continues;

(c) an agency or brokerage, on summary conviction to a fine of one hundred and fifty thousand dollars and in the case of a continuing offence, to a fine of fifteen thousand dollars for each day the offence continues;

(d) a director, officer or other employee of an agency or brokerage, on summary conviction to a fine of eighty thousand dollars and in the case of a continuing offence, to a fine of fifteen thousand dollars for each day the offence continues; and

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(e) an agent, broker, sales representative, adjuster or any other person, on summary conviction to a fine of eighty thousand dollars and in the case of a continuing offence, to a fine of eight thousand dollars for each day the offence continues.

Injunctive relief.

156. Where the Central Bank reasonably believes that a person is in violation of this Act, or is engaged in any activity or course of conduct described under section 155(1), the Central Bank may in addition to, or in lieu of other actions authorised under this Act—

(a) seek a restraining order or other injunctive or equitable relief, to prohibit the continued violation or prevent the activity or course of conduct in question or any other action; or

(b) pursue any other remedy which may be provided by law.

PART VII

LONG-TERM INSURANCE BUSINESS

A. *Actuarial Investigations*

Application of this Part.

157. (1) This Part shall apply to all insurers carrying on long-term insurance business.

(2) Sections 163 and 165 to 210 shall apply to insurers only in respect of their Trinidad and Tobago business, in any class of long-term insurance.

(3) Sections 196 and 197 shall also apply to insurers which carry on general insurance business.

Actuarial reports.

158. (1) Every insurer carrying on long-term insurance business shall—

(a) as at the end of each financial year cause its appointed actuary to—

(i) make a valuation of its policy liabilities and other actuarial liabilities; and

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(ii) prepare an actuarial report,

in accordance with the Regulations; and

(b) submit the actuarial report referred to in paragraph *(a)* to the Inspector within sixty business days after the end of each financial year.

(2) The actuarial report required under subsection (1) shall include a description of any matters for which the appointed actuary was unable to obtain information or for which he was not satisfied with the information provided.

(3) Where an insurer causes its appointed actuary to make an investigation and the results of the investigation are made public, the insurer shall cause a copy of the actuarial report to be submitted to the Inspector within five business days of making the results of such report public.

(4) For the purposes of this section, "policy liabilities and other actuarial liabilities" includes—

(a) policy benefit liabilities;

(b) premium liabilities;

(c) claims liabilities; and

(d) liabilities in respect of guarantees or other commitments—

(i) to policyholders and other consumers under contracts of insurance;

(ii) to persons to whom the insurer owes benefits; and

(iii) associated with the business carried on by an insurer pursuant to section 30(6).

Financial condition report.

159. (1) For the purpose of this section, "financial condition report" means a report on the prospective ability of an insurer as at a particular date to meet its future obligations to policyholders and to those to whom it owes benefits.

(2) The appointed actuary shall carry out an annual investigation of the insurer regarding its current and expected future financial condition so as to identify plausible threats and actions which will mitigate those threats.

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(3) With effect from the end of its first financial year that ends after the expiration of twelve months from the commencement of this Act, an insurer shall—

(a) each financial year, cause its appointed actuary to prepare a written financial condition report in accordance with the Regulations;

(b) submit a copy of the report referred to in paragraph *(a)* to the Inspector, within sixty business days after the end of each financial year; and

(c) submit a copy of the report referred to in paragraph *(a)* to the board of directors.

(4) In addition to the annual requirement in subsection (3), where the appointed actuary of an insurer discovers any matters or conditions that, in the opinion of the appointed actuary, could have material adverse effects on the financial condition of the insurer and may require urgent corrective action, the appointed actuary shall immediately report such findings in writing to—

(a) the Inspector; and

(b) the chief executive officer and the board of directors of the insurer.

Distribution of surplus. [3 of 2020].

160. (1) An insurer may, from a participating account, in a financial year or at any time within six months after the end of that financial year, make a payment to its shareholders, or transfer an amount to an account from which a payment may be made to its shareholders if—

(a) the aggregate of the amount so paid or transferred in respect of that financial year does not exceed twenty-five per cent of the portion of the profits paid or distributed in respect of that financial year to participating policyholders;

(b) in respect of that financial year, the insurer paid or distributed dividends or bonuses to its participating policyholders out of the profits of the participating account in accordance with its dividend or bonus policy;

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(c) in the opinion of the appointed actuary, due regard has been given to the interest and fair treatment of the policyholders, including their reasonable expectations; and

(d) in the opinion of the appointed actuary, the payment to the shareholders, or the transfer to the account from which a payment can be made to the shareholders—

(i) would not affect the insurer's ability to meet its obligations under its participating policies, including its ability to continue to comply with its dividend or bonus policy or to maintain the levels or rates of dividends or bonuses paid or distributed to the insurer's participating policyholders; and

(ii) would not lead to a breach of this section or section 82 or 84.

(2) Where the amount paid or transferred under subsection (1) is less than the maximum amount allowed under the dividend and bonus policy, the insurer shall not pay or transfer the difference between the amount actually paid or transferred and the maximum amount allowed under dividend and bonus policy, to the shareholders at any time after the expiration of the six-month period referred to in subsection (1).

(3) The only transfers that may be made from a participating account maintained pursuant to section 43 are—

(a) transfers made pursuant to subsection (1);

(b) transfers made in respect of transfers or reinsurance of all or any portion of the participating policies in respect of which the participating account is maintained;

(c) transfers, with the approval of the Inspector, of amounts that can be reasonably attributed to sources not related to the participating policies in respect of which the account is, or has been maintained, if the transfer would not, in the

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opinion of the appointed actuary, materially affect the company's ability to continue to comply with its dividend or bonus policy, maintain the levels or rates of dividends or bonuses paid to the company's participating policyholders or meet the company's obligations under its participating policies; and

(d) transfers with the approval of the Inspector and the High Court made pursuant to a reattribution plan.

(4) Subject to this section, the directors of an insurer that issues participating policies may declare, and the company may pay or otherwise satisfy, a dividend, bonus or other benefit on those policies and such payment or satisfaction shall be in accordance with its dividend or bonus policy established pursuant to the Regulations.

(5) The appointed actuary shall, annually in writing, report to the directors on the fairness to participating policyholders of a proposed dividend, bonus or other benefit and whether it is in accordance with the policy. The directors shall consider the appointed actuary's report before declaring the dividend, bonus or other benefit.

(6) The report of the appointed actuary referred to in subsection (5) shall be prepared in accordance with generally accepted actuarial practice with such changes as may be determined by the Inspector and any additional directions that may be made by the Inspector.

(7) The directors of an insurer shall not declare a dividend, bonus or other benefit to participating policyholders or authorise transfers from the participating account if there are reasonable grounds for believing that—

(a) the company is, or the payment or other satisfaction would cause the company to be, in contravention of section 82 or the Regulations; or

(b) the declaration or transfer is not fair and equitable to participating policyholders or that their reasonable expectations have not been given due regard.

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(8) An insurer who contravenes subsection (3) commits an offence and is liable on conviction on indictment to a fine of five million dollars.

B. *Issue of Policies*

Pricing of policies.

161. (1) An insurer shall not issue any policy unless the pricing of the policy has been approved by an actuary as being suitable for the class of policy to which the policy belongs.

(2) The Inspector may at any time require the insurer to obtain and to furnish the Inspector with a report by the appointed actuary as to the appropriateness of the pricing of any class of policy.

(3) Where a report is required under subsection (2), the insurer shall not issue any policy of that class unless it has obtained from the appointed actuary approval as to the pricing of policy.

(4) When approving the pricing under subsection (1) in respect of any class of policy, an actuary shall have regard to—

(a) the maximum rate of commission proposed to be paid to any person; and

(b) the maximum rate of reduction of premium to be allowed to any person,

in respect of that class of policy.

Restriction on commission to be paid or reduction of premium to be allowed.

162. Where the pricing of a policy is approved by an actuary in respect of any class of policy, the insurer shall not, except with the approval of an actuary, pay or allow in respect of any policy of that class a commission or a reduction of premium at a rate greater than—

(a) the maximum rate of commission or reduction of premium to which the actuary had regard to when approving the rate of premium; or

(b) the maximum rate of commission or reduction of premium payable by the insurer, immediately prior to the commencement of this Act, in

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respect of policies of that class, if any, issued using the approved pricing,

whichever is the greater.

Annuity contract for the benefit of an employee.

163. An employer shall not enter into, and an insurer shall not issue, an annuity contract for the benefit of an employee unless the employer has first obtained the written consent of the employee.

Form of proposal to be approved by the Inspector.

164. (1) Every insurer registered to carry on long-term insurance business shall not issue, accept or amend any form of proposal, policy, endorsement or application unless the standard form has been approved by the Inspector.

(2) Where an insurer has submitted a request for approval under this section, the insurer shall also submit—

(a) details of the pricing under section 161(1); and

(b) copies of the following forms where applicable:

(i) the standard form of proposal;

(ii) the standard form of policy;

(iii) the standard form of endorsement; and

(iv) the form of application.

(3) The Inspector may specify such other information as he thinks necessary for the review of a standard form under this section.

(4) A form of proposal shall be framed so as to require a person making a proposal for a life policy to specify the date of birth of the person whose life is proposed to be insured and the person making the proposal shall supply those particulars to the best of his knowledge and belief.

(5) Where an insurer has submitted a request for approval with all of the required information, a standard form under this section will be deemed to be approved sixty business days after the request and all of the required information is received by the Inspector, unless he informs the insurer otherwise.

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Insurer may give notice requiring proof of age.

165. Where an insurer issues a life policy which provides that proof of age of the life of the insured is a condition precedent to the payment of the sum insured, the insurer shall, unless the age of the life insured has already been admitted by it, issue on, or with the policy a printed notice stating that proof of age of the life insured may be required prior to the payment of the sum insured.

Procedure where insurer declines to accept proof of age tendered.

166. Where an insurer declines to accept the proof of age tendered in respect of a policy, whether issued before or after the commencement of this Act, the policyholder or his legal personal representative may apply to the High Court for an order directing the insurer to accept the proof tendered.

Policy not to be void by reason only of misstatement of age of the life insured or other incorrect statement.

167. (1) A policy is not void by reason only of a misstatement of the age of the life insured.

(2) Where there is proof of the true age of the life insured and such age is greater than the age on which the policy is based, the insurer may vary the sum insured by, and the bonuses, if any, allotted to the policy so that, as varied, they bear the same proportion to the sum insured by, and the bonuses, if any, allotted to the policy before variation as the amount of the premiums which have become payable under the policy as issued bears to the amount of the premiums which would have become payable if the policy had been based on the true age.

(3) Where there is proof of the true age of the life insured and such age is less than the age on which the policy is based, the insurer shall either—

(a) vary the sum insured by, and the bonuses, if any, allotted to the policy so that, as varied, they bear the same proportion to the sum insured by, and the bonuses, if any, allotted to the policy before variation as the amount of the premiums which have become payable under the policy as issued bears to the amount of the premiums which would have become payable if the policy had been based on the true age; or

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(b) reduce, as from the date of issue of the policy, the premium payable to the amount which would have been payable if the policy had been based on the true age and repay the policyholder the amount of over-payments of premium less any amount paid as the cash value of bonuses in excess of the cash value which would have become payable if the policy had been based on the true age.

(4) A policy issued after the 10th day of December 1966, shall not be void by reason only of any incorrect statement, other than a statement as to the age of the life insured, made in any proposal or other document on the faith of which the policy was issued or reinstated by the insurer unless the statement—

(a) was fraudulently untrue; or

(b) is material in relation to the risk of the insurer under the policy and was made within the period of three years immediately preceding the date on which the policy is sought to be voided or the date of the death of the life insured, whichever is the earlier.

Minors may effect policies or take assignments of policies. [3 of 2020].

168. (1) A minor who has attained the age of sixteen years—

(a) may effect a policy upon his own life or upon another life in which he has an insurable interest; or

(b) may take an assignment of a policy,

and subject to subsection (3), is as competent in all respects to have and exercise the powers and privileges of a policyholder as he would have had he been of full age.

(2) A minor who has attained the age of sixteen years may assign or mortgage a policy with the prior consent in writing of his parent or a person standing in *loco parentis* to the minor.

(3) This section does not—

(a) impose on a minor any liability to which, but for this section, he would not be subject;

(b) confer on a minor any power or capacity which, but for this section, he would not have;

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(c) validate a receipt, a discharge or a surrender of, or security over a policy given by a minor which, but for this section would not be valid; or

(d) validate any assignment of a policy which, but for this section, would not be valid.

Persons who are deemed to have an insurable interest.

169. (1) An insurer shall only enter into a contract of insurance with the insured person or a person who has an insurable interest in the insured person.

(2) An insurable interest shall be deemed to be had by—

(a) a parent, or a legal guardian of a child under eighteen years of age or a person in *loco parentis* to such child, in the life of the child;

(b) a husband, in the life of his wife;

(c) a wife, in the life of her husband;

(d) any person, in the life of another upon whom he is wholly or in part dependent for support or education;

(e) a company or other legal person in the life of a director, officer or employee thereof;

(f) a person who has a pecuniary interest in the duration of the life of another person, in the life of that person; and

(g) a person, in the life of his or her cohabitant as defined in the Cohabitational Relationships Act.

(3) No insurer shall issue a policy on the life of a person unless that person signs the insurance application form, except for minors.

(4) Nothing in this section shall be construed as limiting or restricting the meaning of "insurable interest" as understood immediately before the commencement of this Act.

C. *Assignments and Mortgages of Policies*

Assignment of policies.

170. (1) Subject to section 173, every assignment of a policy shall be by deed or by other instrument, and if by other

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instrument, such instrument shall be substantially in accordance with the forms set out in Schedule 3.

Schedule 3.

(2) An assignment is not binding on the insurer liable under the policy until written notice of the date and purport of the assignment is received by the insurer at its principal office in Trinidad and Tobago.

(3) Every insurer shall register in the register of policies required to be kept by section 270, the date and purport of every assignment of which it receives notice and the date on which the notice is received.

(4) A copy of an entry made in accordance with subsection (3), and certified by the secretary or any director or authorised person or by the Attorney-at-law for the insurer shall –

(a) as regards the registration and the date of registration of the assignment, be conclusive evidence thereof; and

(b) as regards the date on which the notice was received, be *prima facie* evidence thereof.

(5) Priority of claims under any assignment shall be determined according to the order in which notice is received by the insurer, except that a subsequent assignee does not, by giving notice first, obtain priority over a previous assignment of which he had notice when taking the assignment.

(6) An assignee under a duly registered assignment shall have all the powers and be subject to all the liabilities of the assignor under the policy, and may sue in his name on the policy, but nothing in this section shall be construed so as to admit the assignee to membership of an insurer or to deprive the assignor of his membership in respect of a policy, except as provided in the instruments constituting the insurer or in its articles of incorporation, by-laws or other constituent document.

(7) The receipt of the assignee shall be a discharge to the insurer for all monies paid by the insurer under the policy.

(8) The insurer shall be notified in writing of every trust, right, equity or interest created in respect of a policy.

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Effects of notice.

171. (1) Notwithstanding anything contained in section 170, an insurer shall not be entitled to any protection under that section or rely upon any of the provisions of that section where the insurer—

(a) has not acted in good faith; or

(b) has received notice in writing of any trust, right, equity or interest of any person.

(2) Where an insurer receives notice in writing of any trust, right, equity or interest of any person, the insurer may, if it thinks fit, pay to the Central Bank any money payable under the policy, and the receipt of the Central Bank for the money shall be a valid discharge to the insurer for the money so paid.

(3) Money paid to the Central Bank pursuant to subsection (2), shall be paid by the Central Bank to such person or persons as the High Court orders.

Assignment of policy to insurer not to extinguish rights and liabilities.

172. (1) The rights and liabilities arising under a policy shall not be deemed, either at law or in equity, to be merged or extinguished by reason only of an assignment of the policy, whether at law or in equity, to the insurer which issued the policy.

(2) Notwithstanding anything to the contrary in section 170, 171 or 173, but subject to subsection (3), no assignment of an industrial policy shall be valid without the consent of the insurer liable under such policy.

(3) Where the insurer refuses its consent to the assignment of an industrial policy, the policyholder may appeal to the Central Bank.

Policies held by trustees.

173. Where an insurer is satisfied that a policy has been issued or transferred to, or the ownership of a policy is otherwise vested in persons as trustees and those persons are no longer the trustees for the purposes of the, trust the insurer may, if it sees fit, at the request in writing of the persons claiming to be trustees for the time being for the purposes of the trust and on the evidence of a statutory declaration by one of those persons verifying the claim,

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record the names of those persons as the holders of the policy, and thereupon those persons shall become the holders of the policy.

Memorandum of discharge and deed of release.

Schedule 3.

174. (1) Upon the payment or discharge of any money or other obligation secured by an assignment of a policy, the assignee shall give to the assignor a memorandum of discharge in the form as prescribed in Schedule 3 and shall, where the assignment was by deed, also execute a deed of release in favour of the assignor.

(2) Upon the presentation of the memorandum of discharge to the insurer, the insurer shall register the discharge in its register of policies.

Existing assignments and notices to continue to have effect.

175. (1) Every assignment of a policy made under the former Act and every notice of an assignment or of a trust, right, equity or interest of any person, if valid, when made or given shall, without prejudice to anything contained therein, have effect for all purposes, as if made or given under this Act.

(2) Every assignment registered in a register of policies under the former Act shall be deemed to have been registered under this Act.

D. *Paid-up Policies, Surrender Values and Non-Forfeiture*

Application to class of policy.

176. (1) Sections 177 to 181 shall not apply to—

(a) an instrument securing the grant of an annuity for a term dependent upon human life, not being a deferred annuity during the period of deferment; or

(b) a policy which provides insurance against contingencies none of which may happen, not being a policy which provides for the payment of a sum of money if the life insured by the policy survives a specified period.

(2) The Minister may after consultation with the Central Bank declare by Order, subject to negative resolution of

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Parliament, that the provisions of this section and of sections 177 to 181 shall apply in respect of any policy or class of policies with such modifications as may be prescribed by the Order and where such a declaration is made, the provisions of this section and of sections 177 to 181 shall apply in respect of that policy or class of policies accordingly.

Paid-up policies.

177. (1) A policyholder who desires to discontinue further premium payments on a policy on which not less than three years' premiums have been paid in cash shall, where the policy has a cash surrender value, be entitled on application to the insurer to receive in lieu of the cash surrender value a paid-up policy.

(2) Where a paid-up policy is issued pursuant to subsection (1) and the contingency occurs which would have rendered the insurer liable under the original policy, the insurer shall thereupon be liable under the paid-up policy.

Surrender of policies.

178. (1) The owner of a policy, other than an annuity contract—

(a) in respect of which there is no contractual obligation on the owner to make any payments of premiums after the first year for which the policy is in force; or

(b) which is not a policy under subparagraph *(a)* that has been in force for at least three years,

shall, on application to the insurer, be entitled to surrender the policy and to receive not less than the cash surrender value of the policy less the amount of any debt owing to the insurer under or secured by the policy and less any applicable surrender penalties.

(2) Subject to subsection (3), the owner of an annuity contract that is in the accumulation stage shall, on application to the insurer, be entitled to surrender the policy and to receive not less than the cash surrender value of the policy less the amount of any debt owing to the insurer under or secured by the policy and less any applicable surrender penalties.

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(3) The owner of an annuity contract that is in the accumulation stage and has been in force for less than five years may only surrender the policy where he requires immediate cash in circumstances of financial hardship.

Central Bank may suspend or vary obligation of insurer to pay surrender value.

179. The Central Bank may, on an application by an insurer, suspend or vary for such period and subject to such conditions as the Central Bank thinks fit, the obligation of the insurer to make payments pursuant to the policy where in the Central Bank's opinion, such payments would be prejudicial to the financial viability of the insurer or to the interests of its policyholders.

Non-forfeiture of ordinary policies in certain cases of non-payment of premiums. [3 of 2020].

180. (1) A policy shall not be forfeited by reason only of non-payment of any premiums where the surrender value of the policy, calculated as at the day immediately preceding that on which the premium falls due, exceeds the sum of the amount of the debts owing to the insurer under, or secured by, the policy and the amount of the overdue premium.

(2) An insurer may until payment of the overdue premium, charge compound interest on it, on terms not less favourable to the policyholder than such terms, if any, as may be specified in the policy.

(3) The overdue premium and any interest charged on it under this section which remains unpaid shall for the purposes of this Act be deemed to be a debt owing to the insurer under the policy.

(4) A policy shall not be forfeited by reason only of non-payment of any premiums where the surrender value of the policy, calculated as at the day immediately preceding that on which the premium falls due, does not exceed the sum of the amount of the debts owing to the insurer under, or secured by, the policy and the amount of the overdue premium, unless on, or after the day on which the premium fell due—

(a) the insurer liable under the policy serves a late-payment notice on the policyholder stating—

(i) the date of the notice, the due date of the premium and the amount due or payable to the insurer; and

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(ii) that the policy will be forfeited at the expiration of twenty business days after the date of the notice if the premium or a sum sufficient to keep the policy in force is not paid to the insurer within that period; and

(b) a period of at least twenty business days has elapsed after service of the notice.

(5) For the purposes of subsection (4), a notice posted to the last known address of the policyholder shall be deemed to be service of the notice on the policyholder.

Treatment of debts on issue of paid-up policies.

181. Where, in pursuance of any provision of this Part a policyholder is entitled to receive or an insurer is required to issue a paid-up policy and there is any debt owing to the insurer under or secured by the policy, the insurer may elect—

(a) to treat the debt as a debt secured by the paid-up policy and thereupon the paid-up policy shall be security for the debt owing to the insurer; or

(b) in ascertaining the amount of the paid-up policy, to reduce the amount by taking into account, on a basis approved by the Central Bank, the debt owing to the insurer and thereupon the debt shall cease to be owing to the insurer.

E. *Payment of Policy Monies*

Interest of life insured to be protected in certain cases.

182. (1) The property and interest of any person in a policy upon his own life shall not be liable to be applied or made available in payment of his debts by any judgment, order or process of any Court.

(2) Where a person who has effected a policy on his life dies, the monies payable upon his death under or in respect of such policy shall not be applied or made available in payment of his debts by any judgment, order or process of any Court, or by

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retainer by an executor or administrator, or in any other manner, except by virtue of—

(a) a contract or a charge made by the person whose life is insured; or

(b) an express direction contained in his will or other testamentary instrument executed by him that the monies arising from the policy shall be so applied.

(3) A direction to pay debts or a charge of debts upon the whole or any part of the testator's estate or a trust for the payment of debts, is not an express direction for the purposes of subsection (2)*(b)*.

(4) The provisions of subsection (2)*(b)* shall apply only where no named beneficiary has been designated in accordance with section 183.

Designation of beneficiaries generally.

183. (1) A policyholder may designate his legal personal representative, trustee or beneficiary as the person to receive the proceeds of the insurance policy—

(a) at the time of making a contract of insurance; or

(b) at any time subsequent to the making of the contract.

(2) A designation made under subsection (1)—

(a) shall be in the form and effected in the manner specified in the contract of insurance;

(b) shall be submitted to the insurer at its principal office in Trinidad and Tobago within the lifetime of the policyholder;

(c) shall, subject to section 184(2)*(b)*, not affect the right of a policyholder to assign, exercise rights under or in respect of, surrender or otherwise deal with, the contract of insurance as provided therein or as may be agreed upon with the insurer; and

(d) may, subject to section 184(1) and (2)*(a)*, be altered or revoked from time to time and such

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alteration or revocation shall be made by declaration which shall be submitted to the insurer at its principal office in Trinidad and Tobago within the lifetime of the policyholder.

(3) Where the policyholder is the life insured, a designation made in favour of the "heirs", "next-of-kin" or "estate" of the life insured or the use of words of like import in a designation, shall be deemed to be a designation of the legal personal representative of the life insured.

(4) Where a designation is made in favour of a legal personal representative or is deemed under subsection (3) to be so made, that legal personal representative shall receive the proceeds of the insurance policy on behalf of the beneficiaries of the life insured's estate.

(5) An insurer shall, in a contract of insurance, specify the requirements for the making of a valid submission under subsection (2)*(b)* and *(d)*.

Irrevocable designation of beneficiaries.

184. (1) A policyholder may designate irrevocably a named beneficiary—

(a) at the time of the making of a contract of insurance; or

(b) by declaration at any time subsequent to the making of the contract.

(2) Where a policyholder designates a beneficiary irrevocably, then so long as the designated beneficiary is alive—

(a) subject to section 185, the policyholder shall not alter or revoke the designation without the beneficiary's consent; and

(b) the policyholder shall not assign, exercise rights under or in respect of, encash any units accruing to, surrender or otherwise deal with, the insurance policy without the beneficiary's consent.

(3) The provisions of section 183(2)*(a)* and *(b)* shall apply to a designation made under subsection (1).

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(4) For the purposes of sections 184 to 192, "declaration" means an instrument signed by the policyholder and signed and witnessed by a Justice of the Peace, Notary Public or Commissioner of Affidavits in which the policyholder designates, alters or revokes the designation of his legal personal representative, trustee or a beneficiary.

Alteration or revocation of designation on cessation of marriage.

185. (1) Where under section 184(1), in respect of a life policy, a named beneficiary is the policyholder's spouse or cohabitant then, if during the subsistence of the insurance policy, the named beneficiary ceases to be the policyholder's spouse or cohabitant, otherwise than by death—

(a) the policyholder may alter or revoke the irrevocable designation without the consent of the named beneficiary; and

(b) such alteration or revocation shall be made by declaration which shall be submitted to the insurer at its principal office in Trinidad and Tobago within the lifetime of the policyholder.

(2) A designation by a policyholder shall not be regarded as irrevocable unless the words creating the irrevocable designation are clear and unequivocal and—

(a) are prominently displayed on the proposal form and signed by the policyholder; and

(b) there is sufficient evidence that the meaning of the word "irrevocable" was explained to the policyholder at the time that the proposal form was signed.

Policyholder entitled to dividends.

186. (1) Notwithstanding the designation of a beneficiary irrevocably under section 184(1), a policyholder is entitled, while living, to the dividends or bonuses declared on a contract of insurance, unless the contract otherwise provides.

(2) Unless the contract of insurance otherwise directs, an insurer may apply the dividends and bonuses declared on a contract of insurance to that contract for the purpose of keeping the contract in force.

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Circumstances in which insurance proceeds are not part of policyholder's estate.

187. Where the policyholder is the life insured and where the proceeds of an insurance policy are payable to a beneficiary, such proceeds shall not form part of the policyholder's estate and shall not, as from the date that the proceeds of the insurance policy become payable, be subject to the claim of any of the policyholder's creditors.

Presumption of trust negated.

188. Except in cases where the policyholder expressly provides for the creation of a trust, there shall be no presumption of a trust in a contract of insurance.

Appointment of trustee.

189. (1) A policyholder may, in a contract of insurance or by declaration, appoint a trustee for a beneficiary and may alter or revoke that appointment by declaration.

(2) Where an insurer makes a payment to a trustee for a beneficiary, the insurer shall be discharged from further liability to the extent of the payment.

Beneficiary predeceasing life insured.

190. Where a beneficiary predeceases the life insured and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract of insurance or by a declaration, the deceased beneficiary's share of the policy proceeds shall be payable as follows:

(a) to the surviving beneficiary;

(b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or

(c) if there is no surviving beneficiary, to the estate of the life insured.

Right to enforce payment of proceeds.

191. A beneficiary may, on the death of a life insured, enforce for his own benefit, and a trustee appointed pursuant to section 189 may enforce as trustee, the payment of the proceeds of an insurance policy made payable to him in the contract of insurance, or by a declaration, and in accordance with the provisions thereof.

Power of group life insured to sue insurer.

192. A life insured under a group policy may, in his own name, enforce a right given to him under the group policy.

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Payment of policy monies without production of grant of probate or letters of administration in certain cases.

193. (1) Notwithstanding section 183, where under a policy, money is payable by an insurer to the legal personal representative of a deceased person the insurer may, without requiring the production of any grant of probate or letters of administration, pay the money together with any bonuses, which have been added to the policy, to a person who satisfies the insurer that he is entitled—

(a) under the will or on the intestacy of the deceased person, to the property of such person; or

(b) to obtain probate of the will of the deceased person or to take out letters of administration of his estate,

but the insurer shall not in the aggregate pay to such person more than twenty-five thousand dollars, or such other amount determined by the Minister under section 279(4), and shall retain such percentage of the total sum due under the policy for payment as may be determined by the Board of Inland Revenue for the purposes of such duties as may be due on the estate of the deceased.

(2) Every person to whom money is paid pursuant to this section shall apply the money in administering the estate of the deceased and, if the insurer thinks fit, it may require those persons to give sufficient security by bond or otherwise that the money paid will be so applied.

(3) Notwithstanding section 183, where under a policy there is no named beneficiary, the insurer may pay a maximum sum of twenty-five thousand dollars, or such other amount determined by the Minister under section 279(4), to a funeral home to offset funeral expenses of the life insured without requiring the production of any grant of probate or letters of administration.

Insurer discharged from further liability in certain cases.

194. Where an insurer makes a payment pursuant to section 193, the insurer shall be discharged from all further liability with respect to—

(a) the money paid to the Board of Inland Revenue; and

(b) the application of the money paid under any policy issued by it.

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Death of policyholder who is not the life insured.

195. (1) Where the policyholder, not being the life insured, predeceases the life insured and a person satisfies the insurer that he is entitled—

(a) under the will or on the intestacy of the deceased policyholder, to the benefit of the policy; or

(b) to obtain probate of the will or to take out letters of administration of the estate of the deceased policyholder,

the insurer may, without requiring the production of any grant of probate or of letters of administration, endorse on the policy a declaration that the requirements of paragraph *(a)* or *(b)* have been satisfied and that the person has become the policyholder.

(2) Subsection (1) does not confer on a person who becomes the policyholder any beneficial interest in the policy which he would not otherwise have had.

(3) This section does not apply to—

(a) a policy, the surrender value of which at the date of the death of the deceased policyholder, exceeds ten thousand dollars; or

(b) a policy which is one of two or more policies held by the deceased policyholder and issued by the same insurer if the aggregate of the surrender values of those policies at the date of the death of the deceased policyholder exceeds ten thousand dollars.

(4) For the purposes of subsection (3), the surrender value of a policy is the amount, including any amount in respect of bonus additions, which would be paid by the insurer issuing the policy upon its surrender.

Insurer may pay money to the Central Bank.

196. (1) An insurer may pay to the Central Bank any money payable by it in respect of a policy for which, in the opinion of the insurer, no sufficient discharge can otherwise be obtained.

(2) The receipt of the Bank for any money paid under subsection (1) shall be a good and valid discharge to the insurer

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for the money so paid, and the money shall be dealt with according to an order made by the Court.

(3) The Central Bank shall pay into the Consolidated Fund any monies received under this section and there shall be paid from the Consolidated Fund such sums as are necessary to give effect to this section or any order granted under subsection (2).

(4) Upon the payment of monies to any person pursuant to an order made by the High Court under subsection (2), the Central Bank shall be discharged from all further liabilities, costs, claims, actions, or any liability in damages or any other remedy whatsoever including costs to such person or his heirs and assigns.

Unclaimed money. [3 of 2020].

197. (1) Every insurer shall, within forty business days after the end of its financial year, publish in the Gazette and in at least two daily newspapers circulated in Trinidad and Tobago, a statement showing all policies in respect of which there is unclaimed money and the statement shall be submitted to the Central Bank within five business days of publication.

(2) The insurer may deduct the cost of publication from any unclaimed money.

(3) Every statement published under subsection (1) shall require the person entitled to the amount payable or his legal personal representative to submit a claim to the insurer within sixty business days from the date of publication in the *Gazette* or daily newspapers, whichever is published later.

(4) Where any amount payable under a policy included in the statement published under subsection (1) remains unclaimed, the insurer shall pay such sum into the Central Bank within twenty business days after the expiration of the period stated in subsection (3).

(5) Every insurer shall, at the time of making the payment to the Central Bank referred to in subsection (4), submit a listing in respect of each policy which shall specify—

(a) the policy number and date of issue;

(b) the name and last known address of the policyholder; and

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(c) the amount due and the date on which it became due.

(6) The Central Bank shall pay into the Consolidated Fund any money received under subsection (4).

(7) Where unclaimed money is paid into the Central Bank and a person subsequently makes a claim on such money, the insurer, if it is satisfied that the person is entitled to the money shall request the Central Bank to pay over the money to the insurer.

(8) Where the Central Bank has received a request in accordance with subsection (7), the Central Bank shall release the money to the insurer and the insurer shall thereupon pay the money to the person.

(9) Where unclaimed money is paid into the Central Bank under subsection (4), and the insurer subsequently sells or disposes of that class of insurance business, the purchasing insurer shall be entitled to make the request under subsection (7) and the Central Bank shall release the money to that insurer which shall thereupon pay the money to the person.

(10) Where unclaimed money is paid into the Central Bank under subsection (4) and the insurer has ceased to carry on insurance business and has not sold or disposed of such business, a person may apply to the Central Bank for a release of the money and the person shall furnish the Central Bank with information and documents as may be specified by the Central Bank.

(11) The Central Bank, where it is satisfied that the person who applied for a release under subsection (10) would have been paid the unclaimed money by the insurer, may release the monies to the person.

(12) Where the insurer has paid into the Central Bank an amount in respect of a policy and the insurer satisfies the Central Bank that the amount paid exceeds the amount which would have been payable under the policy, the Central Bank shall refund to the insurer the amount of the excess.

(13) There shall be paid from the Consolidated Fund such sums as are necessary to give effect to this section.

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(14) In this section, "unclaimed money" means all sums of monies which become legally payable by an insurer in respect of policies and are not claimed within the time which proceedings may be taken for their recovery.

F. Provisions Relating to Industrial Life Insurance Business

Objection to policies.

198. (1) Where, within twenty business days of the delivery of an industrial policy by an insurer—

(a) to the policyholder; or

(b) at the place of abode of the policyholder, to some other person residing at that place and apparently not less than sixteen years of age, and by whom any premium in respect of the policy is paid on behalf of the policyholder,

the policyholder returns the policy to the insurer with an objection in writing to any term or condition of the policy, the insurer shall forthwith refund any premium paid in respect of the policy which shall thereupon be cancelled.

(2) Where an industrial policy is sent by post by an insurer to the person to whom it is issued, it shall, unless the contrary is proved, be deemed to have been delivered to him at the time at which it would reach him in the ordinary course of post.

(3) For the purposes of this section, a policy shall be deemed to have been returned to an insurer with an objection if the policy and the written objection are posted for transmission to the insurer by registered letter.

Return of industrial policy and premium receipt book after inspection.

199. Where an insurer carries on industrial life insurance business, or any person authorised by such insurer takes possession of an industrial policy or a premium receipt book or any other document issued in connection with the policy, a receipt for the policy, book or document shall be given to the person from whom it was received, and the policy, book or document shall be returned to that person on demand at any time

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after the expiration of twenty business days from the receipt thereof, unless—

(a) it is required for the purposes of evidence in legal proceedings;

(b) the policy has been terminated by reason of the satisfaction of all claims arising under it; or

(c) in the case of a policy, the insurer is entitled to retain the policy as security for money owing to the insurer by the policyholder.

Falsification.

200. A person who wilfully makes or orders or allows to be made any entry or erasure in, or omits any entry or orders or allows any entry to be omitted from a collecting book or a premium receipt book, with intent to falsify the book or to evade any of the provisions of this Act, commits an offence.

Voidance of policy.

201. (1) Where an agent or sales representative of an insurer writes or fills in any particulars in a proposal for an industrial policy with the insurer, then, notwithstanding any agreement to the contrary between the applicant and the insurer, a policy issued in pursuance of the proposal shall not be void by reason only of an incorrect or untrue statement contained in such particulars unless the incorrect or untrue statement was in fact made by the applicant to the agent or sales representative for the purposes of the proposal.

(2) The burden of proving that an incorrect or untrue statement was made by the applicant lies on the insurer.

(3) Nothing in this section shall allow the voidance of any policy for any reason or in any circumstances for, or in which the policy could not have been void apart from the provisions of this section.

Particulars to be specified on policies.

202. Every industrial policy issued by an insurer shall contain—

(a) an endorsement or a statement in distinctive type specifying whether the policy is, or is not a participating policy; and

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(b) a short statement in a form approved by the Central Bank setting out—

(i) the right of the policyholder to be granted a paid-up policy;

(ii) the right of the policyholder to surrender his policy and to receive in cash the surrender value of the policy; and

(iii) the conditions under which the policy may be forfeited.

Issue of premium receipt book.

203. (1) An insurer shall, in respect of each industrial policy issued by it, issue to the policyholder a premium receipt book.

(2) An insurer shall not issue or permit to be used one premium receipt book in respect of two or more policies held by different policyholders who are not members of the same household.

(3) Every premium receipt book issued by an insurer shall contain in respect of each policy to which it relates—

(a) an endorsement or a statement in distinctive type of the particulars referred to in section 202;

(b) an entry made by the insurer of the following matters:

(i) the surname and initials of the policyholder and, where the policy is issued in respect of the life of a person other than the policyholder, the surname and initials of that person;

(ii) the date and number of the policy;

(iii) the amount of the weekly or other periodical premium; and

(c) a notice stating that proof of age may be required before payment of the sum insured.

Premium receipt book to show date to which premiums have been paid.

204. (1) Every payment in respect of premiums under an industrial policy made to an agent, a sales representative or an employee of the insurer shall be recorded by the agent, sales

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representative or employee in the premium receipt book so as to clearly indicate the date to which premiums have been paid in respect of the policy or policies to which the premium receipt book relates, and the record shall—

(a) where it is the first entry on a page of the premium receipt book, be signed by the agent, sales representative or employee with his usual signature; and

(b) where it is not such an entry, be signed by the agent, sales representative or employee with his usual signature or be initialled by him.

(2) Where a premium receipt book relates to more than one policy and any payment for premiums on the policies is made which is less than the aggregate of the weekly or other periodical premiums in respect of all those policies, the person making the payment shall be required by the agent, sales representative or employee of the insurer to state the policy or policies in respect of which no payment or an insufficient payment is made, and the agent, sales representative or employee shall clearly record the fact stated in the premium receipt book.

(3) The insurer shall, unless the amount of the deficiency referred to in subsection (2) is paid before any further premiums are paid—

(a) cause a separate premium receipt book to be issued in accordance with section 203 in respect of any policy in relation to which the deficiency exists; and

(b) cause to be cancelled the particulars and entry relating to any such policy in the premium receipt book.

Guarantor not liable to refund commission on lapsed policies.

205. Any provision in an agreement whereby the guarantor of an agent of any insurer is, or may be required to pay to the insurer the amount of any commissions repayable by the agent on account of lapsed industrial policies shall be void.

Certificate of indebtedness not conclusive evidence.

206. Any provision in an agreement, whereby the production in any legal proceedings of a certificate signed by an officer of

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an insurer may be deemed to be conclusive evidence of the indebtedness or the amount of the indebtedness to the insurer of any agent or of any guarantor of an agent, shall be void.

Non-forfeiture of industrial policy in certain cases of non-payment of premiums.

207. (1) An industrial policy on which less than one year's premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than four weeks after it became due.

(2) An industrial policy on which at least one year's but less than two years' premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than eight weeks after it became due.

(3) An industrial policy on which at least two years' premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than twelve weeks after it became due.

(4) Where an industrial policy on which at least three years' premiums have been paid has been forfeited by reason of the non-payment of any premium, the insurer shall, without requiring any application from the policyholder, issue a paid-up policy for an amount not less than that specified in the table included in the policy.

(5) Where a paid-up policy is issued pursuant to subsection (4) and the contingency occurs which would have rendered the insurer liable under the original policy, the insurer shall thereupon be liable under the paid-up policy.

(6) The insurer shall notify the policyholder in writing of the fact that the paid-up policy has been granted and shall specify the amount of the policy and the contingency upon which the policy is payable.

(7) An industrial policy shall not be forfeited by reason only of the non-payment of any premium where the non-payment is as a result of non-collection by the insurer.

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G. *Miscellaneous*

Lost policy.

208. (1) Where—

(a) the policyholder; or

(b) a person claiming the benefit of the provisions of section 191, 193 or 195 in respect of a policy,

alleges that the policy is lost, defaced or has been destroyed, the insurer liable under the policy may, subject to this section, on written application by the holder of the policy or by the person referred to in paragraph *(b)* and upon such evidence as to the loss, defacement or destruction of the policy as the insurer considers sufficient, issue to the applicant a special policy in substitution for the policy.

(2) Where an application is made under subsection (1)*(b)*, the insurer shall not issue a special policy to such person unless it is satisfied that the provisions of section 193 or 195 should be applied in favour of the applicant.

(3) A special policy shall—

(a) be a copy, as nearly as can be ascertained, of the policy in substitution for which it is issued;

(b) contain copies of every endorsement on the original policy registered by the insurer; and

(c) state the reason for the issue of such a policy.

(4) Before issuing a special policy, the insurer shall give at least twenty business days' notice of its intention to do so in the *Gazette* and in at least two daily newspapers circulated in Trinidad and Tobago.

(5) The costs of the advertisement and all other costs incurred in the issue of a special policy shall be paid by the applicant at the time when the application is made.

(6) The fact that a special policy has been issued and the reason for its issue shall be recorded by the insurer in the appropriate register.

(7) Where an insurer fails to issue a special policy within six months after the receipt of a written application under

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subsection (1) the High Court may, on an application by the policyholder, beneficiary or any person claiming the benefit pursuant to section 191, 193 or 195 and upon such evidence as to the loss or destruction of the original policy as it deems sufficient, order the insurer, upon such terms and within such time as the High Court thinks fit, to issue a special policy to the applicant.

(8) Where the holder of a special policy or a person claiming the benefit of the provisions of section 193 or 195 in respect of a special policy claims that the special policy is lost or has been destroyed, the provisions of this section shall apply as if the special policy were an original policy issued by the insurer.

Effect of capital punishment or suicide on policy.

209. A policy shall not be avoided merely on the ground that the person whose life is insured suffered capital punishment or died by his own hand or act, whether or not at the time of his death he was mentally ill, where, upon the true construction of the policy, the insurer thereby agreed to pay the sum insured on the happening of either of those events.

Conditions as to war risk void.

210. Any term or condition of a policy which limits, to an amount less than the sum insured, the amount payable under the policy in the event of the death of the life insured occurring as a result of war, shall not have any force or effect unless the person who effected the policy agreed in writing to the insertion in the policy of that term or condition.

PART VIII

GENERAL INSURANCE

Application of this Part.

211. Except as explicitly provided otherwise, this Part shall apply to all insurers carrying on general insurance business.

Computation of insurance liabilities.

212. (1) Every insurer shall include in its financial statements and returns adequate provisions for its policy liabilities including unexpired risks and outstanding claims determined in accordance with financial reporting standards.

(2) Every insurer shall furnish to the Inspector details of the methods and assumptions used in calculating the liabilities

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required under subsection (1) at the time of submission of its financial statements and returns.

(3) The Inspector may disallow any methods or assumptions used in calculating the liabilities referred to in subsection (1) where, in the opinion of the Inspector, they do not result in adequate provision for liabilities and the Inspector may—

(a) direct an insurer to adopt any method or assumption as he considers necessary; and

(b) reject the financial statements and returns and the provisions of section 148(3) shall apply *mutatis mutandis* to this section.

(4) For the purposes of this Part—

(a) "provisions for outstanding claims" means the amount set aside by an insurer at the end of its financial year for the purpose of meeting its unsettled claims, (including claims in respect of which the amounts have not been determined and claims arising out of incidents which have not been notified to the insurer) under contracts of insurance, in respect of incidents occurring before the end of that year and for the purpose of meeting expenses likely to be incurred in connection with the settlement of such claims; and

(b) "provision for unexpired risk" means the amount set aside by an insurer at the end of its financial year, in respect of risk to be borne by the insurer after the end of its financial year under contracts of insurance entered into before the end of that year and includes the unearned premium less any deferred acquisition cost plus any additional provision for unexpired risk, required as a result of the liability adequacy test in the financial reporting standards.

Average provision.

213. (1) An insurer may not rely on an average provision included in a general insurance contract in respect of property unless, before the contract was entered into—

(a) the insurer clearly informed the insured; or

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(b) in the case of a policy covering a group insurance scheme, the insurer clearly informed the insured group policy provider; or

(c) in the case of a policy insuring residential developments, the insurer clearly informed the homeowners' association,

in writing of the nature and effect of the provision including whether the provision is based on indemnity or on replacement value of the property that is the subject matter of the contract.

(2) For the purposes of this section, "average provision" means a provision in a general insurance contract in respect of property which allows an insurer to pro rate the value of a claim by a policyholder, where the sum insured under the contract is less than the insurable value of the property, using the following formula:

C x (S/I)

Where—

"C" is the value of the claim;

"S" is the sum insured at the date the contract was issued; and

"I" is the insurable value of the property at the date the contract was issued.

Reports for general insurance business.

214. (1) The appointed actuary of an insurer carrying on general insurance business shall investigate the financial condition of the insurer and submit a report in accordance with section 159, and the provisions of that section shall apply *mutatis mutandis* to this section.

(2) Notwithstanding subsection (1), within three years of the commencement of this Act, the report required to be submitted under this section may be prepared by the chief financial officer of an insurer where an actuary has not yet been appointed.

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Inspector may require actuarial reports. [3 of 2020].

215. (1) Subject to subsection (5), every insurer carrying on general insurance business shall—

(a) cause its appointed actuary to make a valuation each financial year, of its policy liabilities including provisions for unexpired risks and provisions for outstanding claims and to prepare a report of the valuation; and

(b) submit the actuarial report referred to in paragraph *(a)* to the Inspector within sixty business days after the end of its financial year.

(2) The appointed actuary shall apply the standards of accepted actuarial practice with respect to the work required under this Act and the Regulations.

(3) The actuarial report required under subsection (1) shall include a description of any matters for which the actuary was unable to obtain information or for which he was not satisfied with the information provided.

(4) Where an insurer causes its appointed actuary to make an investigation and the results of the investigation are made public, the insurer shall cause a copy of the actuarial report to be submitted to the Inspector within five business days of making the results of such report public.

(5) Notwithstanding subsection (1), within three years of the commencement of this Act, the actuarial valuation and report required to be submitted under this section may be limited to the accident and sickness class of business only.

PART IX

PENSION FUND PLANS

Plan to be registered.

216. (1) No person may establish or operate a privately administered pension fund plan (hereinafter referred to as "a plan") in Trinidad and Tobago unless the plan is registered under this Part.

(2) A plan which was registered under the former Act or the Insurance Act, 1966 shall be deemed to be registered under this Part.

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Qualifications for registration of plan.

217. (1) Subject to the provisions of this Part, where a plan establishes a fund under trusts which is subject to the laws of Trinidad and Tobago, in connection with an undertaking or a combination of undertakings carried on wholly or partly in Trinidad and Tobago, and the main purpose of that fund is—

(a) the provision of superannuation allowances on retirement to persons employed in the undertaking or in the combination of undertakings in connection with which the fund is established;

(b) the provision of pensions to the spouses of persons who are or have been so employed and of periodical allowances to, or in respect of the children of such persons; or

(c) the assurance of capital sums on the death of persons who were so employed,

such a plan shall be qualified for registration under this Part if the Rules of the plan comply with the requirements set out in Part I of Schedule 4.

(2) Where a plan establishing a fund for any of the purposes set out in subsection (1)*(a)*, *(b)* or *(c)* is in operation before the commencement of this Act, that plan shall, subject to such directions as to the amendment of its Rules as the Central Bank may give, be treated as qualified for registration under this Part although—

(a) the fund created under the plan is not established under trusts; or

(b) the plan does not comply with the requirements set out in Part I of Schedule 4.

Registration. [3 of 2020].

218. (1) An application for the registration of a plan under this Part shall be addressed to the Central Bank and shall—

(a) be in the form as specified by the Central Bank;

(b) be signed by the trustees of the plan;

(c) specify the address at which communications concerning the plan shall be received (hereinafter referred to as "the address of the plan"); and

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(d) be accompanied by—

(i) two copies of the trust deed and of the Rules of the plan;

(ii) a copy of the actuarial report on which the plan is based;

(iii) a list of the names and addresses of the trustees of the plan;

(iv) in the case of an insured plan, a copy of the policy of insurance related to benefits provided by the plan; and

(v) such other documents or further information as may be required by the Central Bank.

(2) Where an application is made in accordance with the provisions of this Part for the registration of a plan, the Central Bank shall register the plan and the Rules thereof where it is satisfied that the plan has qualified for registration.

(3) The Central Bank shall on registering a plan under this Part, enter in the register the address of the plan and the names and addresses of the trustees.

(4) Where—

(a) the trust deed or the Rules, or both, of a plan registered under this Part (hereinafter referred to as "a registered plan") are amended; or

(b) there is any change in the address of the plan or in the names or addresses of the trustees thereof,

the trustees shall, within fifteen business days of the amendment or the change, apply for the registration of the amendment or for the correction of the register in respect of the change.

(5) An application for an amendment or for the correction of the register in respect of a change shall be addressed to the Central Bank and shall—

(a) be in the form as specified by the Central Bank;

(b) be signed by one of the trustees of the plan; and

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(c) be accompanied—

(i) in the case of an amendment, by two copies thereof signed by one of the trustees; or

(ii) in the case of a change, by such particulars as may be necessary for the correction of the register.

Amendment not valid until registered. Ch. 32:01.

219. (1) An amendment to a trust deed or Rules, or both, of a registered plan shall not be valid unless the amendment is registered.

(2) Where an application for the registration of an amendment is made in accordance with section 218(5), the Central Bank shall register the amendment, where it is satisfied—

(a) that the trust deed or the Rules, or both, as amended, would not have disqualified the plan from registration under this Part; or

(b) in the case of a plan which should be harmonised with the system of national insurance established under the National Insurance Act, that the plan otherwise complies with the requirements of any Regulations made under that Act for the purpose of harmonisation.

Certificate of registration.

220. (1) The Central Bank shall, on registering any plan or any amendment to the trust deed or the Rules, or both, of a registered plan under this Part, issue to the applicant a certificate of registration.

(2) Any document purporting to be a certificate of registration issued by the Central Bank under subsection (1), shall be received in evidence and be deemed to be so issued without further proof, unless the contrary is shown, and shall be conclusive evidence of the fact certified.

Cancellation of registration.

221. (1) The registration of a registered plan shall not be cancelled unless the plan has been wound up.

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(2) The decision to wind-up a pension plan shall be recorded by board resolution.

(3) The Central Bank, trustees and the management committee shall be informed of a person's intention to wind-up a plan, in writing, within twenty business days of the board resolution and such notification to the Central Bank, trustees and the management committee shall be done simultaneously and accompanied by a copy of the relevant board resolution.

(4) The written notice shall specify the wind-up date and the reasons for the wind-up.

(5) Notwithstanding subsection (1), (2) or (3), the registration of a registered pension plan shall not be cancelled unless the plan has been wound up.

(6) The trustees of a registered plan shall, within ten business days of the completion of the winding up of the plan, notify the Central Bank in writing that the winding up has been completed.

(7) On receiving notice in writing that a registered plan has been wound up, the Central Bank shall cancel the registration of the plan where it is satisfied that—

(a) the plan has been wound up; and

(b) the assets of the plan have been applied in accordance with the Rules of the plan.

Fees to be prescribed.

222. (1) The fees payable in respect of—

(a) the registration of a plan;

(b) the registration of any amendment to the trust deed or the Rules, or both of the registered plan; or

(c) the correction of the register occasioned by a change in the name or address of a trustee or a change in the address of a registered plan,

shall be such as may be prescribed in the Regulations.

(2) Notwithstanding the provisions of subsection (1), no fees shall be payable in respect of the registration of any

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amendment to the Rules of a registered plan where the amendment is solely for the purpose of complying with the requirements of any Regulations made under the National Insurance Act, for the purpose of harmonisation.

Power to delete provisions for avoiding the rule against perpetuities.

223. (1) Where an application is made under this Part for the registration of a plan, the Rules of which were made before the commencement of this Act, and the Central Bank is satisfied that the Rules of the plan contain provisions which were embodied only for the purpose of avoiding the application to the trusts of the plan of the rule of law relating to perpetuities, the Central Bank may, at the request of the trustees who made the application—

(a) amend the Rules by deleting those provisions; and

(b) make any further amendments which are, in the opinion of the Bank, necessary as a result of the deletion.

(2) Where the Rules of a plan are amended by the Central Bank pursuant to subsection (1), the Rules shall, when registered, have effect subject to the amendments.

Supplementary provisions as to powers of Central Bank.

224. (1) The Central Bank may require any person who is an employer, an insurer, a trustee or an officer of a plan for the registration of which application has been made under this Part, or of any registered plan, to furnish either by statutory declaration or otherwise, any information or explanation which may be necessary for the proper exercise and performance of the powers and duties of the Central Bank under this Part.

(2) Where the trustees of a registered plan commit a breach of trust by making an unauthorised investment or by violating any rule of the plan, which is necessary for registration under this Part, the Central Bank shall have the same remedies in all respects for the breach of trust as if it were a person beneficially interested in the plan.

(3) The Central Bank or any person authorised by the Central Bank in writing may, at any reasonable time, inspect

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or examine any books, records or other documents relating to a registered plan or any plan in respect of which an application for registration is made under this Part, or any securities or obligations in which pension fund monies of any such plan are invested.

Penalties for default.

225. (1) Every trustee and the secretary of a registered plan commit an offence where in respect of that plan, there is default in complying with any of the requirements of this Part relating to—

(a) accounts and reports;

(b) the making of applications for the registration of any amendment to the trust deed or to the Rules, or both, of the plan or, the correction of the register in respect of a change in the address of the plan or in the names and addresses of the trustees thereof; or

(c) the giving of notice to the Central Bank of the winding up of the plan.

(2) It is a defence to any proceedings instituted under subsection (1) against the trustees and the secretary of a registered plan to prove that the default occurred without their consent or connivance and was not facilitated by any neglect on their part.

(3) A person who is lawfully required under this Part by the Central Bank to furnish any information or explanation which could with reasonable diligence, be furnished by him and who fails to comply with any such requirement within ten business days after written notice thereof has been delivered to him, commits an offence.

(4) A person who commits an offence under this Part is liable on summary conviction to a fine of twenty thousand dollars and in the case of a continuing offence to a fine of two thousand dollars for every day during which the offence is committed after conviction thereof.

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Annual accounts and balance sheet to be submitted. [3 of 2020].

226. (1) The trustees of each plan registered under this Part shall—

(a) submit annually to the Central Bank a balance sheet and statement of accounts for each accounting year within six months of the expiration of that accounting year; and

(b) file with the Central Bank annually or at such periods and in such form as may be specified by the Central Bank any information or return relating to such plan.

(2) The balance sheet and statement of accounts referred to in subsection (1) shall—

(a) before they are submitted to the Central Bank, be audited by an auditor approved by the Central Bank; and

(b) be prepared in accordance with the forms set out as Forms A and B respectively, of Part II of Schedule 4.

Schedule 4.

Actuarial investigation.

227. (1) The trustees of each registered plan shall appoint an actuary or a consulting actuary to make an investigation into the financial condition of the plan and to report on his findings.

(2) An investigation under subsection (1) shall be made every three years or at such shorter intervals as the Central Bank may specify.

(3) A copy of the report prepared in accordance with Part III of Schedule 4 and signed by the actuary shall be furnished to the Central Bank within nine months after the date of the investigation.

(4) The provisions of subsections (1) and (3) shall not apply to a plan insured with an insurer, but the trustees of such a plan shall obtain from the insurer a certificate to the effect that the plan has been valued by an actuary.

(5) The certificate required under subsection (4) together with the Tables set out in Part III of Schedule 4 shall be deposited by the trustees with the Central Bank.

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Investments.

228. (1) The trustees of a registered plan shall not invest the assets of the plan except—

(a) in such securities as may be allowed in Schedule 7; and

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(b) in any other manner as prescribed by the Regulations.

(2) No trustee may invest the assets of a pension fund in the equity, debentures or other evidence of indebtedness of the employer or any subsidiary or associate of the employer or of any company of which the employer is a subsidiary or an associate.

(3) The Minister may, on the recommendation of the Central Bank, prescribe by Order, subject to negative resolution of Parliament, the percentage which a plan's assets originating in Trinidad and Tobago shall bear to the total of its assets.

Rules of law against perpetuities not to apply.

229. The rule of law relating to perpetuities shall not apply and shall be deemed never to have applied to the trusts of a registered plan.

PART X

ASSOCIATION OF UNDERWRITERS

Registration of association of underwriters.

230. (1) No association of underwriters may carry on insurance business in Trinidad and Tobago unless it is registered under this Part and the provisions of section 23(1), (4) and (5) shall apply *mutatis mutandis*.

(2) An application for registration of an association of underwriters shall be accompanied by—

(a) a copy of its statute or deed of association;

(b) a certificate stating, in the case of an association of underwriters established outside of Trinidad and Tobago that—

(i) the association of underwriters has been established for at least five years;

(ii) the law of the country in which it was established provides for the regulation of associations of underwriters; and

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(iii) the association of underwriters is operating in accordance with that law;

(c) a list of the names and addresses of its members operating in Trinidad and Tobago and persons appointed as its agents or brokers in Trinidad and Tobago;

(d) evidence of payment to the Central Bank of the application fee prescribed in Schedule 2; and

(e) any further information the Central Bank may require.

(3) The Central Bank may register an association of underwriters where it is satisfied that the association of underwriters complies with the provisions of this Part.

(4) An association of underwriters may be registered to carry on any class of general insurance business listed in Schedule 1 and the accident and sickness class of insurance business.

(5) An association of underwriters constituted outside of Trinidad and Tobago shall authorise a person resident in Trinidad and Tobago as its principal representative, to accept on behalf of the members of the association of underwriters, service of process in any legal proceedings and any notices or other correspondence from the Central Bank and such person shall meet the criteria set out in Schedule 5.

(6) Upon the commencement of this Act, the Central Bank shall issue to every association of underwriters carrying on insurance business in Trinidad and Tobago immediately before the commencement of this Act, a certificate of registration specifying the classes of insurance business for which it is registered.

(7) An association of underwriters that contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Applicant to be informed of Central Bank's decision with respect to application.

231. (1) The Central Bank shall upon approval of an application made under section 230 notify the applicant in writing of its approval and the requirement to make the deposit under section 233.

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(2) Upon receipt of evidence by the applicant that the deposit has been made in accordance with section 233 and that the application fee has been paid, the Central Bank shall issue a certificate of registration to the association of underwriters signed by the Governor which shall specify the classes of general insurance business and the accident and sickness class of insurance business in respect of which the association of underwriters is registered and which shall be *prima facie* evidence of its registration.

(3) Where the decision is made to reject an application, the Central Bank shall notify the applicant in writing of its rejection and shall give reasons to the applicant within ten business days of the date of rejection.

Restriction on registration.

232. An association of underwriters may carry on its insurance business through brokerages registered under this Act.

Deposit by association of underwriters.

233. (1) An association of underwriters shall not be registered under this Part to carry on any class of general insurance business unless it has deposited with the Central Bank the greater of an amount equal to—

(a) the minimum stated capital that would be required of an insurer that is carrying on the class or classes of business it intends to carry on; or

(b) forty per cent of the premium income of its members, with respect to Trinidad and Tobago insurance business during the financial year last preceding the date of the deposit.

(2) Where an association of underwriters has made a deposit as required by subsection (1), it shall at the end of each financial year, deposit an amount equal to the difference between the last preceding deposit and the amount required by subsection (1).

(3) A deposit made in pursuance of this section may be either in the form of cash or in the form of approved securities or partly in the form of cash and partly in the form of approved securities.

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Deposits form part of assets.

234. (1) All deposits made by an association of underwriters pursuant to this Act shall form part of the assets of the association of underwriters.

(2) All interest and dividends accruing due on any approved securities shall be paid to the association of underwriters.

(3) A deposit made in respect of any type of insurance business shall be retained by the Central Bank until the association of underwriters ceases to be registered in respect of that class of insurance business or the deposit is required in the winding up of the association of underwriters.

Maturity of assets in the deposit.

235. (1) An association of underwriters shall notify the Inspector, in writing, of the maturity of an asset held in the deposit at least ten business days prior to the maturity date of such asset.

(2) Where an asset in the deposit has matured, the Central Bank shall continue to hold the cash equivalent of the asset and such cash shall form part of the deposit.

Release of deposit upon revocation.

236. (1) An association of underwriters whose registration has been revoked and is not under liability to its policyholders may apply in writing to the Central Bank for a release of its deposit.

(2) On making an application under subsection (1), the association of underwriters shall—

(a) file with the Central Bank a list of its policyholders whose risks have not been provided for and who have not surrendered their policies; and

(b) publish at least once a week for twelve consecutive weeks in the *Gazette* and in at least two daily newspapers circulated in Trinidad and Tobago a notice—

(i) of its intention to apply to the Central Bank for the release of its deposit on a

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date specified in the notice being a day not less than four months after the date of the publication of the first notice; and

(ii) requesting any policyholder who is opposed to the release of the deposit to file his opposition in respect of any outstanding liabilities with the Central Bank on or before the date specified in the notice.

(3) Where no opposition is filed with the Central Bank in accordance with subsection (2)*(b)*(ii), the Central Bank may release the deposit to the association of underwriters.

(4) Where the Central Bank has received any opposition under subsection (2)*(b)*(ii), the Central Bank may—

(a) apply to the High Court for a winding up order in accordance with section 34(11); or

(b) apply to the High Court for an order to make payment from the deposit to those policyholders and to release any remaining funds to the association of underwriters.

Release of deposit where an insurer is still a going concern.

237. (1) Notwithstanding section 234(3), an association of underwriters may apply in writing to the Inspector for a partial release of its deposit where it is in excess of the requirements of this Act.

(2) The Inspector, where he is satisfied that the deposit retained by the Central Bank is in excess of the requirements of section 233 in respect of continuing policyholders, may release to the association of underwriters such portion of the excess in the deposit as the Inspector considers appropriate in the circumstances.

Central Bank may release deposit to liquidator.

238. Notwithstanding the provisions of section 234 where an association of underwriters is in liquidation, the Central Bank shall pay to the liquidator all monies and securities held as a deposit under section 233 in respect of that association of underwriters and the liquidator shall, in accordance with the provisions of this Act,

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apply such monies and securities towards discharging the liabilities under Trinidad and Tobago policies for—

(a) accident and sickness class of insurance business; and

(b) general insurance business.

Inspector to furnish certificate of deposit.

239. The Inspector shall, where an association of underwriters so demands, furnish it with a certificate setting out the nature and extent of any deposit held by the Central Bank under this Act in respect of the association of underwriters together with particulars of any approved securities forming the whole or part of the deposit.

Deposit to be increased where in deficit.

240. (1) Where the Inspector is satisfied that by reason of depreciation in the value of securities or for any other cause, the value of approved securities deposited by an association of underwriters under section 233 falls short of the value required by this Act, the Inspector shall by notice in writing require the association of underwriters to deposit within five business days with the Central Bank monies or approved securities, or both, to a value which the Inspector considers sufficient to bring the amount of the deposit up to the value required by this Act.

(2) An association of underwriters which fails to deposit with the Central Bank monies or approved securities, or both, when required to do so by notice under subsection (1) commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Responsibility for lost securities.

241. Where any monies or approved securities, or both, retained by the Central Bank as, or as part of the deposit required to be made by an association of underwriters under section 233 are, while so retained, lost, stolen, destroyed or damaged, the loss suffered by all persons interested in the monies or the approved securities shall be remedied by the payment of monies by the Central Bank for that purpose.

Substitution of statutory deposit.

242. An association of underwriters may at any time substitute for any monies or approved securities retained by the

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Central Bank as, or as part of the deposit required to be made under section 233, any other monies or approved securities where the total amount then deposited is not less than the amount required to be deposited under this Act and the monies or approved securities so substituted shall be subject to the same charge or liability as the monies or approved securities for which they were substituted.

Maintenance of deposit.

243. (1) An association of underwriters shall at all times maintain the deposit required under section 233 and shall fund the deposit as follows:

(a) annually, based on its audited financial returns; and

(b) quarterly, based on its quarterly return,

within five business days after the submission of its returns.

(2) An association of underwriters that contravenes subsection (1) commits an offence and is liable on conviction on indictment to a fine of five million dollars.

Documents and information relating to insurance business to be furnished to Inspector. [3 of 2020].

244. (1) An association of underwriters established in Trinidad and Tobago and registered under this Part, shall, within six months of the end of its financial year, furnish to the Inspector such documents and information as he may require.

(2) An association of underwriters established outside of Trinidad and Tobago and registered under this Part shall, within six months of the end of each financial year, furnish to the Inspector—

(a) a certified copy of such returns relating to the insurance business of its members during the preceding year as are required to be made to the supervisory authority or other public authority in the country in which the association of underwriters is established;

(b) a certificate, signed by the Chairman or other presiding officer of the association of underwriters and signed by, or on behalf of, the supervisory authority or other public authority stating whether

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the association of underwriters has complied with the requirements of the law governing the regulation of associations of underwriters in the country in which it is established;

(c) the latest annual list of the names of its members and the names of the members of its committee or other governing body;

(d) a list of the names and addresses of its members operating in Trinidad and Tobago and persons appointed as its agents and brokers in Trinidad and Tobago;

(e) a statement of income and expenses of its members in Trinidad and Tobago during the preceding year; and

(f) any other documents and information as required by the Inspector.

(3) In addition to the annual submission under subsections (1) and (2), an association of underwriters shall submit—

(a) a statement of income and expenses of its members in Trinidad and Tobago during the preceding quarter; and

(b) a calculation of its assets and liabilities in respect of its Trinidad and Tobago business,

within twenty business days after the end of each quarter.

(4) Every association of underwriters shall, within six months of the end of its financial year publish in at least two daily newspapers circulated in Trinidad and Tobago the statement referred to in subsection (2)*(e)*.

Additional powers of the Inspector. [3 of 2020].

245. (1) The Inspector may make or cause to be made an examination and inquiry into the affairs or business of each association of underwriters for the purpose of satisfying itself that the provisions of this Act are being observed and that the association of underwriters is in a sound financial condition, and the Inspector shall specify the frequency, form and content of any such reporting requirement.

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(2) The Inspector may impose any reporting requirement on associations of underwriters that he considers necessary for the purpose of satisfying itself that the provisions of this Act are being observed and that the association of underwriters is in a sound financial condition, and the Inspector shall specify the frequency, form and content of any such reporting requirement.

(3) The Inspector may require an association of underwriters to cause an actuary to make an investigation into its financial condition, including a valuation of its liabilities in respect of every class of insurance business and to furnish the Inspector with a report of the result of the investigation.

(4) The Inspector may, by notice, require any association of underwriters registered under this Part—

(a) to furnish him at such time and in such manner as he may determine with such information in connection with association of underwriters' insurance business as he may specify;

(b) to produce at such time and place as he may determine such books or papers in connection with the association of underwriters' insurance business as he may specify; or

(c) to produce forthwith to any person authorised in writing by the Central Bank or Inspector such books or papers as the Central Bank or Inspector may specify.

(5) The Inspector may issue compliance directions to an association of underwriters and section 155 shall apply *mutatis mutandis* to this Part.

Registered association of underwriters may be prohibited from writing business.

246. (1) The Central Bank shall prohibit a registered association of underwriters from writing new policies in any class of insurance business where the Central Bank is satisfied that it is in the interest of the policyholders or prospective policyholders to do so.

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(2) Where the Central Bank exercises its power under subsection (1), it shall notify the registered association of underwriters in writing of its decision and shall state the reasons therefore.

Product approval.

247. An association of underwriters shall not offer a new or amended product to policyholders or potential policyholders in Trinidad and Tobago without first furnishing the Inspector with the information required under section 33 or 164 and the provisions of those sections shall apply *mutatis mutandis* to this Part.

Revocation of registration.

248. (1) The Board may revoke the registration of an association of underwriters, if at any time it is satisfied that the circumstances specified in subsection (2) so warrant and shall give written notice to the registered association of underwriters stating that it has revoked the registration of the association of underwriters giving reasons for doing so.

(2) The circumstances referred to in subsection (1) are that the Board is satisfied that—

(a) the registration was procured as a result of any misleading or false representation or in consequence of any incorrect information, whether such representation was made or information was supplied wilfully or otherwise;

(b) the association of underwriters or any of its members is insolvent;

(c) the association of underwriters has committed, is committing, or is about to commit an act, or is pursuing, or is about to pursue any course of conduct, that is an unsafe and unsound practice;

(d) the association of underwriters has contravened any of the provisions of this Act or of the Regulations or any condition, direction or requirement imposed under this Act;

(e) the association of underwriters has unreasonably delayed the payment or

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settlement of any claim arising under any policy issued or effected in Trinidad and Tobago by it, or on its behalf;

(f) the persons who manage the association of underwriters are not fit and proper persons to manage the association of underwriters; or

(g) the employees of the association of underwriters are incapable of carrying on the relevant class of insurance business in an efficient manner.

(3) Notwithstanding subsection (1), the Central Bank shall at any time revoke the registration under this Part of a registered association of underwriters if requested to do so by the association of underwriters or if it is satisfied that the members of the association of underwriters have not commenced business within one year of registration or have ceased to carry on business in Trinidad and Tobago.

(4) Where the Central Bank revokes the registration of an association of underwriters, it shall state in writing its reasons.

Policies issued before rejection of application or revocation of registration.

249. An association of underwriters, the registration of which has been revoked shall continue to carry on business relating to policies issued by it before the date on which it was notified of the revocation unless the Central Bank is satisfied that it has made suitable arrangements for its obligations under such policies.

PART XI

JURISDICTION OF COURTS, APPEALS AND OFFENCES

Jurisdiction of local courts. [3 of 2020].

250. Every policy issued in Trinidad and Tobago through a person or an office in Trinidad and Tobago shall, notwithstanding any agreement to the contrary, be governed by the laws of Trinidad and Tobago and shall be subject to the jurisdiction of the courts of Trinidad and Tobago.

Alternate dispute resolution scheme. [3 of 2020].

250A. An insurer shall, no later than sixty business days after the commencement of this Act, enroll in an alternate dispute resolution scheme approved by the Central Bank.

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Jurisdiction and limitation. [3 of 2020].

251. (1) Summary proceedings for an offence under this Act may, without prejudice to any jurisdiction exercisable apart from this subsection, be taken against a person or entity in any place at which it has a place of business, and against an individual in any place at which he is for the time being located.

(2) Notwithstanding anything in any other law to the contrary, any complaint relating to an offence under this Act which is triable by a Magistrate's Court in Trinidad and Tobago may be so tried if it is laid at any time within seven years after the commission of the offence or within eighteen months after the relevant date.

(3) In this section, the "relevant date" means the date on which evidence sufficient in the opinion of the Central Bank of Trinidad and Tobago to justify the institution of summary proceedings comes to its knowledge.

(4) For the purpose of subsection (3), a certificate as to the date on which evidence referred to in subsection (3) came to the knowledge of the Central Bank of Trinidad and Tobago shall be conclusive evidence of that fact.

Documents to be received in evidence. [3 of 2020].

252. In any proceedings where a certificate signed by the Governor, a true copy of, or extract from a document certified as such by the Governor or a Deputy Governor or a copy of the *Gazette* or daily newspaper purporting to contain the document certifies—

(a) that a particular person is, or is not a registrant or insurance consultant or was or was not registered at a particular time;

(b) the date on which a particular registrant or insurance consultant became or ceased to be registered;

(c) whether or not a particular registrant's or insurance consultant's registration is, or was restricted;

(d) the date on which a restricted registration expires or expired; or

(e) the date on which a particular registered pension fund plan became or ceased to be registered,

such certificate or document shall be admissible in evidence.

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Appeals. [3 of 2020].

253. (1) Except where otherwise provided by this Act or the Regulations, an appeal shall lie to a Judge of the High Court from any decision, direction, refusal, ruling or order of the Minister, the Central Bank or the Inspector given or made under this Act.

(2) An appellant may, within fifteen business days of the receipt of the notification of the decision, direction, refusal, ruling or order of the Minister, the Central Bank or the Inspector, file with the Registrar of the Supreme Court, an appeal against such decision, direction, refusal, ruling or order, setting forth the ground of appeal.

(3) Notwithstanding that an appeal lies under this Act or under the Regulations from any decision, direction, refusal, ruling or order of the Minister, the Central Bank or the Inspector, such decision, direction, refusal, ruling or order shall be binding upon the appellant unless, on an *inter partes* application made to the High Court for the grant of an injunction before the determination of the appeal, the High Court is satisfied that circumstances exist that warrant the stay of the particular decision, direction, refusal, ruling, order or any further action by the Minister, the Central Bank or the Inspector and grants an injunction to the appellant on such terms and conditions as the High Court may direct.

(4) Where a Judge grants an injunction under subsection (3)—

(a) no further action may be taken by the Minister, the Central Bank or the Inspector in respect of any decision, direction, refusal, ruling or order to which the injunction relates; and

(b) the injunction shall have effect—

(i) unless otherwise revoked, varied or suspended by the High Court, before any proceedings to which the appeal relates, are concluded; or

(ii) until the High Court determines the appeal,

whichever is earlier.

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(5) On an appeal, the appellant and the Minister, the Central Bank or the Inspector as respondent may appear personally or be represented by an Attorney-at-law or any other person.

(6) On an appeal, a Judge or the Court of Appeal, as the case may be, may confirm, reverse or vary any decision, direction, refusal, ruling or order made or given by the Minister, the Central Bank or the Inspector.

(7) Subject to this Part, the procedure for determining appeals shall be in accordance with the Civil Proceeding Rules of the Supreme Court of Judicature.

Offences.

254. (1) Any person who, in purported compliance with any requirement under this Act or the Regulations, furnishes any information, provides any explanation or makes any statement which he knows or has reasonable cause to believe to be false or misleading commits an offence.

(2) A person who knowingly or recklessly contravenes—

(a) any provision of this Act or any Regulations or Order made hereunder; or

(b) any direction, requirement or measure given or made by the Central Bank, the Board or the Inspector,

commits an offence and the offence shall be deemed to be continued so long as the default continues.

(3) Any person who contravenes this Act or the Regulations for which no other penalty is expressly provided, commits an offence and is liable—

(a) on conviction on indictment to a fine of six hundred thousand dollars and to imprisonment for two years and in the case of a continuous offence, to a fine of sixty thousand dollars for each day the offence continues; or

(b) on summary conviction to a fine of three hundred and fifty thousand dollars and to imprisonment for one year and in the case of a continuous offence, to a fine of thirty thousand dollars for each day the offence continues.

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(4) Where a person is convicted of an offence under this Act, the Court may, in addition to any punishment it may impose, order that person to comply with the provisions of this Act or any Regulations or Order made hereunder or any direction, requirement or measure given or made by the Central Bank, the Board or the Inspector, in respect of which the person was convicted.

(5) In any proceedings for an offence under this Act or the Regulations, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by any person under his control.

(6) In any proceedings for an offence under this Act or the Regulations, where it is proved that the person charged intended to deceive, defraud or profit from the offence, the penalty shall be a fine ten times the amount stipulated for that offence and to imprisonment for twenty years.

(7) The Court may, in addition to any other punishment it may otherwise impose under subsection (6)—

(a) order the person to comply with the requirement in respect of which the person was convicted;

(b) where it is satisfied that as a result of the commission of the offence the convicted person acquired any monetary benefits or that monetary benefits accrued to the convicted person's spouse or other dependant, order the convicted person to pay restitution to the party deceived or defrauded, in an amount equal to the Court's estimation of those monetary benefits.

(8) Where a person commits an offence under this Act and such offence is proved to have been—

(a) committed with the acquiescence, consent or connivance of—

(i) any director or officer of the company;

(ii) any person purporting to act in a capacity referred to in subparagraph (i); or

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(iii) an actuary or auditor of the insurer or financial holding company; or

(b) attributable to any neglect on the part of—

(i) any director or officer of the company;

(ii) any person purporting to act in a capacity referred to in subparagraph (i); or

(iii) an actuary or auditor of the insurer or financial holding company,

the persons referred to in paragraph *(a)* or *(b)* shall be presumed to have also committed the offence.

Financial fraud on policyholders. [3 of 2020].

255. (1) A person who perpetrates a financial fraud on policyholders commits an offence.

(2) Any director or officer of an insurer, financial holding company, brokerage or agency who—

(a) falsifies the accounts of the insurer, brokerage or agency which leads to a loss of policyholders' funds;

(b) uses policyholders' funds for his own benefit or for the benefit of his relatives and a connected party which leads to a loss of policyholders' funds; or

(c) provides to the Central Bank or Inspector false or misleading financial data or other relevant information with the intent to conceal the true financial position of an insurer, brokerage or agency,

perpetrates a financial fraud on policyholders.

(3) Any sales representative, agent or broker who uses policyholders' funds for his own benefit or for the benefit of a connected party which leads to a loss of policyholders' funds perpetrates a financial fraud on policyholders.

(4) Any person who commits an offence under this section is liable on conviction on indictment to a fine of ten million dollars and to imprisonment for ten years.

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Offence to induce person to enter into contract of insurance by means of a false statement.

256. A person who by—

(a) knowingly making a false, misleading or deceptive statement;

(b) recklessly making, dishonestly or otherwise, any statement which is false, misleading or deceptive; or

(c) dishonestly concealing material facts,

induces or attempts to induce another person to enter into or cancel or offer to enter into or cancel any contract of insurance commits an offence and is liable on conviction on indictment to a fine of five million dollars and to imprisonment for five years.

Restriction on issuing insurance advertisement.

257. (1) A person other than a registrant shall not issue or cause to be issued any advertisement inviting the public to enter into contracts of insurance with that person or with some other person.

(2) For the purpose of this section—

(a) an advertisement issued by a registrant by way of display or exhibition in a public place shall be treated as issued by the registrant on every day on which it causes or permits the advertisement to be displayed or exhibited;

(b) an advertisement issued by any person on behalf of, or to the order of a registrant shall be treated as an advertisement issued by that registrant; and

(c) an advertisement inviting the entering into of contracts of insurance with an insurer specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by the insurer.

(3) Any person who contravenes this section commits an offence.

(4) In any proceedings for an offence under this section it shall be a defence for the person charged to prove that he is a person whose business it is to publish or to arrange for the

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publication of advertisements and that he received the advertisement in the ordinary course of business and did not know and had no reason to suspect that the publication would constitute such an offence.

Advertisement.

258. (1) Where a person alleges that or where in the opinion of the Inspector, a registrant has issued or caused to be issued any advertisement which is misleading or objectionable, the Inspector may require the correction or withdrawal of the advertisement or any part thereof.

(2) A registrant that does not correct or withdraw the advertisement or any part thereof as required by the Inspector, commits an offence.

Information not to be disclosed.

259. (1) No registrant, financial holding company, controlling shareholder, significant shareholder or affiliate of a registrant, and no director, officer, employee or agent of a registrant, financial holding company or other controlling shareholder or affiliate who receives information in the course of his duties relating to the business or other affairs of a policyholder, consumer of the insurer or of any other person shall disclose the information unless—

(a) the disclosure is required under compulsion of law; or

(b) the policyholder, consumer or other person concerned expressly consents to the disclosure.

(2) Notwithstanding subsection (1), a registrant or a person authorised by the registrant may, with the consent of the policyholder, consumer or other person concerned, exchange information with another registrant.

(3) This section does not apply to—

(a) information disclosed in good faith in the course of the performance of duties or responsibilities imposed by this Act or in the implementation of measures countering money laundering and terrorist financing; and

(b) the provision of information necessary to combat fraud against insurers.

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(4) This section does not apply to information which at the time of disclosure is, or has already been made available to the public from other sources or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

Administrative fines.

Schedule 6.

260. (1) The Central Bank may issue to any person who, there is reasonable cause to believe, has committed an offence referred to in Schedule 6, a notice offering the person the opportunity to dispense with any liability to conviction in respect of that offence by payment of the administrative fine specified for the offence in Schedule 6.

(2) Where a person is given a notice under this section, criminal proceedings shall not be taken against him for the offence specified in the notice until the expiration of fifteen business days commencing from the day after which the notice was served.

(3) Where a person fails to pay the administrative fine referred to in subsection (1), or where he pays the administrative fine but continues to commit the offence after the expiration of fifteen business days following the date of receipt of the notice referred to in subsection (1), that person is liable on summary conviction for the offence committed.

(4) Where a person paid an administrative fine under subsection (1), but continues to commit the offence and is convicted under subsection (3), he is liable to the criminal penalty prescribed in Schedule 6 from the date after which he made the payment.

(5) Payment of an administrative fine under this section shall be made to the Central Bank and a certificate that payment of the penalty was made to the Central Bank by the specified date shall, if the certificate purports to be signed by an authorised officer of the Central Bank, be admissible as evidence of the facts stated therein.

(6) All monies received under this section shall be paid into the Central Bank and credited to the Consolidated Fund.

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(7) A notice under subsection (1) shall—

(a) specify the offence alleged;

(b) give such particulars of the offence as are necessary for giving reasonable information of the allegation; and

(c) state—

(i) that criminal proceedings shall not be laid until the expiration of fifteen days from the date of receipt of the notice where payment of the administrative fine is made and the commission of the offence is discontinued;

(ii) the amount of the administrative fine and the fact that it is to be paid to the Central Bank; and

(iii) that the Central Bank shall not accept any payments in respect of a notice under subsection (1) after the expiration of the fifteen business days.

(8) In any proceedings for an offence to which this section applies, no reference shall be made to the giving of any notice under this section or to the payment or non-payment of an administrative fine thereunder unless in the course of the proceedings or in some document which is before the court in connection with the proceedings, reference has been made by, or on behalf of the accused to the giving of such a notice, or, as the case may be, to such payment.

(9) Administrative fines under this section in respect of insurers shall be calculated with reference to the insurer's proportion of the industry's new gross annualized premium income.

(10) Where an insurer's proportion of the industry's new gross annualized premium income is two and a half per cent or less, it shall pay fifty per cent of the administrative fine prescribed in Schedule 6.

(11) The Minister, after consultation with the Central Bank may by Order, vary the percentage of the insurer's

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proportion of the industry's new gross annualized premium income stated in respect of subsection (10).

Offence to suppress information.

261. (1) A person who without reasonable excuse alters, suppresses, conceals or destroys or refuses to produce any document which he is liable to produce or has been so required to produce commits an offence.

(2) A person shall not, with intent to defeat the purposes of this Act or with intent to delay or obstruct the carrying out of an investigation under this Act send, cause to be sent, or conspire with another person to send out of Trinidad and Tobago a book, other document or any money or property belonging to, or under the control of an insurer or a financial holding company.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction on indictment to a fine of ten million dollars and to imprisonment for ten years.

PART XII

FACILITATION OF TRANSFERS AND UNDERTAKINGS

Definitions.

262. In this Part—

"the appointed day" means such day as is appointed by a Vesting Order for the coming into force of that Order;

"existing" means existing or in force, as the case may require, immediately before the appointed day;

"insurer" includes a foreign insurer under section 281;

"security" includes a mortgage or charge, whether legal or equitable, debenture, guarantee, lien, pledge whether actual or constructive, hypothecation, indemnity, undertaking or other means of securing payment or discharge of a debt or liability or obligation whether present or future, actual or contingent;

"undertaking" means the insurance business and business of a financial nature carried on by an insurer or any part of the business so carried on;

"will" includes a codicil and any other testamentary writing.

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Vesting Order. [3 of 2020].

263. (1) Where the Central Bank has confirmed a scheme of transfer or where an exemption is granted by the Central Bank from the provisions of sections 57 to 64 pursuant to section 48A(2) or 281(4), and an agreement has been entered into for the acquisition by a person (hereinafter referred to as the "transferee"), of the undertaking of an insurer (hereinafter referred to as the "transferor"), the transferee may, for the purpose of effecting the transfer to and the vesting in the transferee of the undertaking, make a written application to the Minister, notice of which shall be published in the *Gazette* and in at least two daily newspapers published and circulated in Trinidad and Tobago.

(2) Upon the making of such an application, the Minister may, if he thinks fit, make an order under this Part called a "Vesting Order", transferring to and vesting in the transferee the undertaking, as from the appointed day, and thereupon all such existing property, rights, liabilities and obligations as are intended by the agreement to be transferred and vested shall, by virtue of this Act, and without further assurance be transferred to, and shall vest in the transferee, to the intent that the transferee shall succeed to the whole or such part of the undertaking of the transferor as is contemplated by the agreement.

(3) For the avoidance of doubt a Vesting Order shall take effect on the appointed day specified in the Order, whether or not the Vesting Order is published in the *Gazette* and in at least two daily newspapers published and circulated in Trinidad and Tobago, after the appointed day.

(4) No transfer or vesting effected by a Vesting Order shall—

(a) operate as a breach of covenant or condition against alienation;

(b) give rise to any forfeiture; or

(c) invalidate or discharge any contract or security.

(5) Notwithstanding any other law, a Vesting Order may in the discretion of the Minister, provide for the carrying forward

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by the transferee and setting off for corporation tax purposes of such of the losses of the transferor as may be specified, as if the undertaking of the transferor had not been permanently discontinued on the appointed day and a new undertaking had been set up and commenced by the transferee.

Supplementary provisions as to transfers.

264. (1) Without prejudice to the generality of section 265, the effect of a Vesting Order as regards the undertaking thereby transferred shall be that on and from the appointed day—

(a) every existing contract to which the transferor was a party, including a contract of insurance, whether in writing or not, shall be construed and have effect as if—

(i) the transferee had been a party thereto instead of the transferor;

(ii) for any reference however worded and whether express or implied, to the transferor there were substituted, as respects anything falling to be done on, or after the appointed day, a reference to the transferee; and

(iii) for any reference however worded and whether express or implied, to the directors or to any director, officer, clerk or servant of the transferor were, as respects anything falling to be done on, or after the appointed day, a reference as the case may require to the directors of the transferee or to such director, officer, clerk or servant of the transferee as the transferee may appoint or, in default of appointment, to the director, officer, clerk or servant of the transferee who corresponds as nearly as possible to the first mentioned director, officer, clerk or servant;

(b) any contract between the transferor and policyholder or person claiming through a

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policy shall become a contract between the transferee and that policyholder or person claiming through a policy;

(c) any existing instruction, direction, mandate, power of attorney or consent given to the transferor shall have effect as if given to the transferee;

(d) any security transferred to the transferee by a Vesting Order that immediately before the appointed day was held by the transferor as security for the payment or discharge of any debt or liability or obligation, whether present or future, actual or contingent, shall be held by, and be available to, the transferee as security for the payment or discharge of such debt or liability or obligation; and any such security which extends to future advances or liabilities shall, on and from the appointed day, be held by, and be available to, the transferee as security for future advances by and future liabilities to, the transferee in the same manner and in all respects as future advances by, or liabilities to, the transferor were secured thereby immediately before the appointed day;

(e) any judgment or award obtained by, or against the transferor and not fully satisfied before the appointed day shall be enforceable by, or against the transferee; and

(f) unless the agreement provides to the contrary, any officer, clerk or servant employed by the transferor immediately before the appointed day shall become an officer, clerk or servant, as the case may be, of the transferee on terms and conditions not less favourable than those on which he was so employed immediately before the appointed day, and such employment with the transferor and transferee respectively, shall

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be deemed for all purposes to be a single continuing employment, except that no director, officer, secretary or auditor of the transferor shall by virtue only of a Vesting Order become a director, officer, secretary or auditor, as the case may be, of the transferee.

(2) Subsection (1)*(a)*(ii) and (iii) shall apply to any statutory provision, to any provision of any existing contract to which the transferor was not a party and to any provision of any other existing document, not being a contract but including in particular a will, as they apply in relation to a contract to which subsection (1)*(a)* applies.

(3) Any property or rights transferred to, and vested in, the transferee which immediately before the appointed day were held by the transferor, whether alone or jointly with any other person—

(a) as trustee or custodian trustee of any trust, deed, settlement, covenant, agreement or will, and whether originally so appointed or not, and whether appointed under hand or seal, or by order of any Judge;

(b) as executor of the will of a deceased person;

(c) as administrator of the estate of a deceased person;

(d) as judicial trustee appointed by order of any Judge; or

(e) in any other fiduciary capacity whatsoever,

shall, on and from the appointed day be held by the transferee, whether alone or jointly with such other person, in the same capacity, upon the trusts, and with the powers and subject to the provisions, liabilities and obligations applicable thereto, respectively.

Transfers subject to stamp duty. [3 of 2020].

265. (1) The transfer of and vesting in the transferee of an undertaking by a Vesting Order shall, unless exempted, either generally or in some particular case, by the Order, be subject to the provisions of the Stamp Duty Act, as if the Order was, in each

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of the cases in which the duty is imposed on the several instruments specified in the Schedule to that Act, an instrument between party and party within the contemplation of the Act.

(2) Notwithstanding subsection (1), the transfer of and vesting in the transferee of an undertaking by a Vesting Order as a result of a restructuring described in sections 47, 48 and 281(2) of this Act shall not be subject to the provisions of the Stamp Duty Act.

PART XIII

MISCELLANEOUS

Standards of market conduct. Schedule 11.

266. Registrants and insurance consultants shall comply with the standards on market conduct as prescribed in Schedule 11.

Settlement of judgment claims.

267. An insurer shall fully settle all judgment claims within forty business days of a judgment order, unless there is a stay of execution.

Proof of policy.

268. (1) In the case of an individual life policy, upon acceptance of the risk, an insurer shall issue a policy within twenty business days of acceptance of the risk.

(2) In the case of a group policy, the insurer shall issue a certificate to the insured within twenty business days of acceptance of the risk.

(3) In the case of a general insurance policy, upon first acceptance of the risk, the insurer shall issue a policy to the insured and upon each renewal date thereafter, the insurer shall issue a certificate to the insured, within twenty business days of receipt of all relevant documentation pertaining to the risk.

Issue of capital by company.

269. (1) A person shall not publish in respect of an insurer or in respect of a company proposed to be formed to carry on insurance business a prospectus, notice, circular, advertisement or other invitation offering to the public for subscription any shares in the insurer or proposed company unless the prospectus,

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notice, circular, advertisement or other invitation is first approved by the regulatory authority under the Securities Act and copies of the approved documents are submitted to the Central Bank. Ch. 83:02.

(2) A person who is acting as the promoter of any such proposed company shall not accept any office of profit in the company or any payment or pecuniary advantage other than as provided in the prospectus, notice, circular, advertisement or other invitation.

Register to be kept.

270. (1) An insurer shall keep in accordance with this section—

(a) a register of its Trinidad and Tobago policies; and

(b) a register of its foreign policies.

(2) An insurer shall appoint an officer in charge of the registers referred to in subsection (1).

(3) The Inspector shall be notified in writing of the name of the officer in charge of the registers referred to in subsection (1) and of any change of the officer in charge of the registers within five business days of such appointment.

(4) Upon request by a person having a beneficial interest in a Trinidad and Tobago policy, an insurer shall search its register of Trinidad and Tobago policies for evidence of the existence of a Trinidad and Tobago policy.

(5) An officer designated by the insurer shall issue a report of the results of the search within forty business days of receipt of the request to the person making the request.

(6) Where it is subsequently discovered that a Trinidad and Tobago policy existed at the date of the request and the person was not so informed, the insurer shall compensate any person having a beneficial interest in that policy with interest at the weighted average of the prime rate of interest on any amount claimed and due to such person under the policy calculated from the date on which the person would have been entitled to such payment until full payment is made.

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Registration of policy.

271. (1) Every Trinidad and Tobago policy and foreign policy existing at the date of the commencement of this Act shall as at that date be registered by the insurer in the register required to be kept under section 270.

(2) An insurer shall specify the address of its registered office on every Trinidad and Tobago policy issued by it.

(3) Every policy issued by an insurer shall immediately after issue be registered by the insurer in the register.

(4) All money payable in respect of a Trinidad and Tobago policy shall, unless the insurer and the policyholder otherwise agree, be payable at the registered office.

Serving of notice.

272. (1) Where a notice is required or permitted by this Act to be given to, or served upon a person, the notice shall be in writing and may be given or served—

(a) where the notice is addressed to a person other than a company, by serving it upon him personally or by sending it by registered post addressed to him at his usual or last known place of abode or business; and

(b) where the notice is addressed to a company, by serving it personally upon the person last known to the Central Bank or the Inspector as being a director or the principal representative or an officer of the company or by sending it by registered post addressed to such person at his address last known to the Central Bank or the Inspector.

(2) Where a notice is sent by registered post, it shall be deemed to have been given or served on the date on which it would have been delivered in the ordinary course of post.

(3) In this section, "company" includes a body corporate which has ceased carrying on insurance business in Trinidad and Tobago.

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Authority to sign documents.

273. Any document required by, or under this Act to be signed by a director, may be signed by any other officer of the company where—

(a) the officer is authorised to do so by the board of directors; and

(b) the board of directors has notified the Central Bank or the Inspector in writing of the authorisation.

Printing of documents.

274. Where a document is by this Act required to be printed, the Central Bank may permit it to be typewritten or to be reproduced by such means as the Central Bank may approve.

Policy not invalidated in certain cases.

275. Failure on the part of an insurer to comply with any provision of this Act shall not in any way invalidate a policy issued by the insurer.

Currency.

276. Notwithstanding any other written law, for the purpose of this Act, insurance business may be carried on in any currency.

Consultations. [3 of 2020].

277. (1) Before making or amending Regulations under this Act, the Central Bank shall consult with the registrants and other persons who may be affected by the draft regulations or amendment.

(2) Before making or amending Guidelines referred to in section 278, the Central Bank shall issue draft Guidelines or draft amendments thereof and shall consult for a period not exceeding sixty business days with the registrants who may be affected by the draft Guidelines or amendments.

(3) Where, in the opinion of the Minister, any matter to be dealt with in Regulations has become urgent, the Minister may proceed to make such Regulations without the consultation referred to in subsection (1), and may subsequently consult within sixty business days with the registrants and other persons who may have been affected by the Regulation or amendment.

(4) Where, in the opinion of the Governor after consultation with the Inspector, any matter proposed to be dealt with in Guidelines or by an amendment thereof has

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become urgent, the Central Bank shall proceed to issue the Guidelines or amendments thereof without following the process referred to in subsection (2), and shall subsequently consult with the registrants who may have been affected by the Guidelines or amendments.

Guidelines. [12 of 2019].

278. (1) The Central Bank may issue Guidelines to—

(a) facilitate compliance with this Act and Regulations;

(b) enable the Central Bank to meet its objectives; or

(c) aid compliance with the Proceeds of Crime Act, the Anti-Terrorism Act, the Economic Sanctions Act and any Orders made thereunder as they relate to proliferation financing, or any other written law in relation to the prevention of money laundering, the combating of the financing of terrorism and proliferation financing which may be in force from time to time.

(2) Guidelines issued under this section shall not be regarded as a statutory instrument.

(3) Contravention of a Guideline although not an offence, shall not prevent the Central Bank or the Inspector from taking action under section 155.

Central Bank to issue Guidelines for declared agreements.

278A. (1) The Central Bank may issue Guidelines on any matter it considers necessary to give effect to a declared agreement.

Act No. 4 of 2017.

(2) Where Guidelines are issued under subsection (1), a declared agreement shall have the meaning assigned to it under section 3 of the Tax Information Exchange Agreements (United States of America) Act, 2017.

(3) Where a person has failed to comply with Guidelines issued by the Central Bank under subsection (1), the Central Bank shall direct that person to—

(a) cease and or refrain from committing the act, pursuing the course of conduct, or committing a violation; or

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(b) perform such acts as in the opinion of the Central Bank are necessary to remedy the situation; and

(c) perform such acts as are required to give effect to a declared agreement.

(4) Guidelines under this section shall be subject to the approval of the Minister and laid in Parliament at the earliest opportunity.

Regulations and amendment of Schedules. [3 of 2020].

279. (1) The Minister may, after receiving recommendations from the Central Bank, make Regulations for—

(a) reinsurance business;

(b) the conduct of examinations for persons applying to be registered as an intermediary and the exemption of persons from such examinations;

(c) the appointment of approved educational institutions and their functions;

(d) prudential criteria;

(e) contracts of insurance of the classes under Type B– Long-Term Insurance Business in the First Schedule;

(f) maintaining reserves;

(g) controlling, restricting or prohibiting the making of linked long-term contracts of insurance by a company which is registered in Trinidad and Tobago to carry on insurance business in that country;

(h) any other thing which is required or authorised to be prescribed by this Act; and

(i) generally giving effect to the provisions of this Act.

(2) Regulations made under subsection (1) shall be subject to a negative resolution of Parliament.

(3) Regulations made under subsection (1)*(d)* may include, but shall not be limited to—

(a) capital adequacy and solvency requirements and capital ratios in relation to registrants,

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financial holding companies and members of financial groups;

(b) liquidity requirements and ratios;

(c) treatment of redit exposures;

(d) treatment of assets and investments;

(e) transactions with connected parties and connected party groups;

(f) risks relating to self-dealing;

(g) profiting from insider information;

(h) risks relating to foreign exchange transactions, sectoral and business risks, and off balance sheet transactions;

(i) reporting requirements for transactions referred to in paragraph *(e)*;

(j) other reporting requirements;

(k) information required in published financial statements;

(l) new financial instruments;

(m) relationships with holding companies, controlling shareholders, significant shareholders, subsidiaries and other affiliates as they may affect the capital position of the registrant; and

(n) any other matter related to prudential criteria.

(4) Regulations made under subsection (1) may authorise the Central Bank—

(a) to exempt from the provisions of this Act any class of insurance business where the Central Bank considers such exemption necessary having regard to the class of insurance business and to the provisions of this Act; or

(b) to approve, in relation to any company, the use of any prescribed form with such modifications as the Central Bank thinks fit, where the Central Bank is satisfied that the modification would not substantially affect the purpose of the form.

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(5) Regulations made under subsection (1)*(g)* shall be limited to the contracts specified in that paragraph which—

(a) are entered into by insurance companies to which Part III of this Act applies; and

(b) are contracts under which the benefits payable to the policyholder are wholly or partly to be determined by reference to the value of or the income from property of any description, or by reference to fluctuations in or in an index of the value of property of any description, whether or not specified in the contract.

(6) Regulations made under subsection (1)*(g)* may make different provisions in relation to different cases or circumstances, and the Minister may, on the application of any insurer alter the provisions of any such Regulations so as to adapt those provisions to the special circumstances of an insurer or to any particular kind of contract entered into or proposed to be entered into by that insurer.

(7) Regulations made under subsection (1)*(g)* may make provision—

(a) restricting the descriptions of property or the indices of the value of property by reference to which benefits under the contracts may be determined;

(b) regulating the manner in which and the frequency with which property of any description is to be valued for the purpose of determining the benefits referred to in paragraph *(a)*;

(c) requiring insurers under the contracts to appoint valuers to carry out valuations of property of any description in order to determine the benefits referred to in paragraph *(a)*;

(d) prescribing the qualifications of a valuer and his relationship with the insurer;

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(e) requiring insurers under the contracts to furnish in such manner and at such times as may be specified in the Regulations, such information relating to the value of the benefits under the contracts as may be specified in the Regulations;

(f) requiring insurers under the contracts to furnish to the Central Bank, in such manner and at such times as may be specified in the Regulations, such information as may be specified therein relating to the contracts or with any class or description of the contracts;

(g) enabling the Central Bank to publish the information referred to in paragraph *(f)* in such ways as the Bank thinks fit.

(8) Regulations requiring insurers to furnish information as required by subsection (7)*(e)* may, in relation to notices which are required to be sent to policyholders, impose requirements which would ensure that the notices are easily legible.

(9) The Minister may, by Order, upon recommendation by the Central Bank, amend the Schedules.

(10) The Minister may, by Order, upon recommendation by the Central Bank, vary the amount specified—

(a) in the definition of "insolvent" in section 4(2);

(b) in section 193(1) and (3); and

(c) in section 195(3) and (4).

(11) Any amendment to Schedule 6 shall be subject to affirmative resolution of Parliament.

Ch. 84:01 repealed.

280. The Insurance Act is repealed.

Transitional and savings provisions. [3 of 2020].

281. (1) Notwithstanding section 280, the former Act, save for sections 84 to 87 of that Act, and the Regulations made thereunder shall apply to a foreign insurer for a period of eighteen months ("reorganisation period") from the commencement of this Act in order to facilitate a

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reorganisation of the foreign insurer's business such that the foreign insurer can comply with the requirements of section 21(1) of this Act.

(2) A foreign insurer shall reorganise its business pursuant to subsection (1) within a period of eighteen months from the commencement of this Act or within such shorter period as the Central Bank may direct.

(3) For the purposes of this section, "foreign insurer" means a branch of a foreign insurance company, which is registered under the former Act to carry on insurance business in Trinidad and Tobago.

(4) Where a foreign insurer engages in a reorganisation of its business pursuant to subsection (1) and (2) by way of a transfer of a class of business or part thereof, the Central Bank may exempt such transfer from the requirements of sections 57 to 64 of this Act, where pursuant to such reorganisation, a newly established insurer which is not under liability to policyholders or any other creditor, proposes to acquire a class of business or part thereof of the foreign insurer.

(5) A foreign insurer shall not transfer its business or any part thereof to a local company unless such company is first registered as an insurer in accordance with Part III.

(6) Where a foreign insurer fails to comply with the requirements of subsection (2) within the time specified thereunder, the foreign insurer shall be in contravention of section 21 of this Act.

(7) Notwithstanding subsection (1), this section, sections 57 to 64 and sections 262 to 265 of this Act apply *mutatis mutandis* to a foreign insurer during and after the reorganisation period.

Consequential amendments. [3 of 2020]. Schedule 12.

282. The Proceeds of Crime Act, the Central Bank Act and the Financial Institutions Act are amended to the extent as specified in Schedule 12.

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(Sections 4, 24 and 230).
[3 of 2020].

SCHEDULE 1

TYPES AND CLASSES OF INSURANCE BUSINESS

For the purposes of this Act, "insurance business" shall be categorised according to types of insurance business and each type of insurance business will be subdivided into classes as follows:

TYPE A—GENERAL INSURANCE BUSINESS

(1) "Liability Insurance Business" means the business of effecting and carrying out contracts of insurance against risks of the persons insured incurring liabilities to third parties, not being risks arising out of, or in connection with the use of, motor vehicles or out of, or in connection with the use of, vessels or aircraft or risks incidental to the construction, repair or docking of vessels or aircraft, or policies insuring employers against liability to pay compensation or damages to workers in their employment.

(2) "Marine, Aviation and Transport Business" means the business of effecting and carrying out contracts of insurance where the policyholder has a residential or business connection to Trinidad and Tobago—

(a) upon vessels or aircraft or upon the machinery, tackle, furniture or equipment of vessels or aircraft;

(b) upon goods, merchandise or property of any description whatever on board of vessels or aircraft;

(c) upon the freight of, or any other interest in, or relating to vessels or aircraft;

(d) against damage arising out of, or in connection with, the use of vessels, or aircraft, including third-party risks;

(e) against risks incidental to the construction, repair or docking of vessels including third-party risks;

(f) against transit risks (whether the transit is by sea, inland water, land or air, or partly one and partly another), including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance; or

(g) against any other risks insurance against which is customarily undertaken in conjunction with, or as falls within the definition by virtue of any of the foregoing paragraphs.

(3) "Motor Vehicle Insurance Business" means the business of effecting and carrying out contracts of insurance against loss of, or damage to, or loss or damage arising out of, or in connection with the use of, motor vehicles, inclusive of third-party risk but exclusive of transit risks.

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(4) "Pecuniary Loss Insurance Business" means the business of effecting and carrying out contracts of insurance against any of the following risks:

(a) of loss to the persons insured arising from the insolvency of their debtors or from the failure (otherwise than through insolvency) of their debtors to pay their debts when due;

(b) of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them;

(c) of loss to the persons insured attributable to their incurring unforeseen expenses; or

(d) neither falling within any of the foregoing paragraphs nor being a kind such that the carrying on of the business of effecting and carrying out contracts of insurance against them constitutes the carrying on of insurance business of some other class,

and excludes risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reductions of the scope of business so carried on.

(5) "Personal Accident Short-Term Insurance Business" means the business of effecting and carrying out contracts of insurance—

(a) in the case of accident—

(i) insurance against loss resulting from bodily injury to, or the death of, a person caused by an accident; or

(ii) insurance whereby an insurer undertakes to pay a certain sum or sums of insurance monies in the event of bodily injury to, or the death of, a person caused by an accident; or

(b) in the case of sickness—

(i) insurance against loss resulting from the sickness or disability of a person other than loss resulting from an accident or death;

(ii) insurance whereby an insurer undertakes to pay a certain sum or sums of insurance monies in the event of the sickness or disability of a person other than as a result of an accident; or

(iii) insurance whereby an insurer undertakes to pay a certain sum or sums of insurance monies to reimburse expenses incurred for the health care, including the preventive care of a person other than as a result of an accident.

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Contracts of insurance referred to in paragraph (5) under "Personal Accident Short-Term Insurance Business" are required to be—

(a) attached as riders or additional benefits to other General Insurance contracts and meet all of the following criteria:

(i) have a policy period no longer than one year;

(ii) have a period for which benefits may be payable following a sickness or accident of no longer than five years;

(iii) have no provision for guaranteed renewability or guaranteed extension of cover;

(iv) provide indemnity only if an event indemnified by the General Insurance contract to which it is attached occurs prior to, or simultaneous with accident or sickness; and

(v) have a premium no more than twenty-five per cent of the premium of the General Insurance contract to which they are attached; or

(b) standalone contracts of insurance and meet all of the following criteria:

(i) have a policy period no longer than one year;

(ii) have a period for which benefits may be payable following a sickness or accident of no longer than five years;

(iii) have no provision for guaranteed renewability or guaranteed extension of cover;

(iv) to the extent that the policy provides benefits on death, that this component of the policy is a minor component and the benefits relate only to specific causes of death; and

(v) to the extent that the policy provides cover for medical and/or hospital expenses, that this cover is incidental to other coverage under the policy and is not the main component of the policy.

(6) "Property Insurance Business" means the business of effecting and carrying out contracts of insurance against risks of loss of, or damage to, real or personal property, not being risks of a kind such that the business of effecting and carrying out contracts of insurance against them constitutes marine, aviation and transport insurance business or motor vehicle insurance business and includes risks of loss to the persons insured attributable to interruption of the carrying on of business carried on by them or to reduction of the scope of business so carried on.

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(7) "Workers Compensation Insurance Business" means the business of effecting and carrying out contracts of insurance against the liability of an employer to pay compensation to workers, whether under statute or negligence, for accident or injury related to the employment.

Incidental Business

If a single policy covers risks that would fall into more than one class, the insurer may classify it into the class that represents the predominant risk. All other risks on the policy would be included in the dominant class and may be referred to as incidental business.

For example, a Home policy may include a legal liability cover, but the entire policy can be classified as Property.

This provision does not prohibit an insurer from allocating a policy to more than one class if it wishes to do so. An insurer should consider allocating a policy to more than one class if each of the components is significant in its own right, the insurer determines the premium separately for each component and the insurer is able to separate claims into the relevant classes.

Market Practice

In determining the appropriate class for any policy, the insurer may consider normal market practice in making such determinations, in addition to the definitions in this schedule. For example, major risks in the petroleum industry or insurance of certain construction projects may conventionally be regarded as Marine business, even though the definitions in this Schedule may classify the policy as Property.

If an insurer uses market practice in determining the appropriate class it must do so on a consistent basis.

TYPE B—LONG-TERM INSURANCE BUSINESS

(1) "Accident and Sickness Insurance Business" means the business of effecting and carrying out contracts of insurance—

(a) in the case of accident—

(i) insurance against loss resulting from bodily injury to, or the death of, a person caused by an accident; or

(ii) insurance whereby an insurer undertakes to pay a certain sum or sums of insurance monies in the event of bodily injury to, or the death of, a person caused by an accident; and

(b) in the case of sickness—

(i) insurance against loss resulting from the sickness or disability of a person other than loss resulting from an accident or death;

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(ii) insurance whereby an insurer undertakes to pay a certain sum or sums of insurance monies in the event of the sickness or disability of a person other than as a result of an accident; or

(iii) insurance whereby an insurer undertakes to pay a certain sum or sums of insurance monies to reimburse expenses incurred for the health care, including the preventive care of a person other than as a result of an accident,

and is not Personal Accident Short-Term Insurance Business.

(2) "disability income insurance" means insurance whereby an insurer undertakes to pay a certain sum of monies in the event of—

(a) bodily injury to a person caused by an accident; or

(b) sickness or disability of a person other than as a result of an accident.

(3) "Industrial Life Insurance Business" means the business of effecting and carrying out contracts of insurance upon human life, premiums in respect of which are contracted to be paid at intervals of less than forty business days and which are usually received by means of collectors.

(4) "Life Insurance Business" means the business of effecting and carrying out contracts of insurance that are payable—

(a) on the death of a person;

(b) on the happening of an event or contingency dependent on human life; or

(c) at a fixed or determinable future time,

for a term dependent on human life, and without restricting the generality of the foregoing includes—

(i) insurance whereby an insurer, as part of a contract of life insurance undertakes to pay an additional amount of insurance monies in the event of the death by accident of the person whose life is insured;

(ii) insurance whereby an insurer as part of a contract of life insurance undertakes to pay insurance monies or to provide other benefits in the event that the person whose life is insured becomes disabled as a result of bodily injury or disease; or

(iii) an undertaking to provide an annuity contract.

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SCHEDULE 2

(Sections 18, 24, 26, 27, 51, 111 and 230). [3 of 2020].

APPLICATION AND ANNUAL FEES

PART A

The following fees shall be payable by insurance companies in accordance with the provisions of this Act:

Section	Matters in Respect of which Fee is Payable	Application Fee Payable in Trinidad and Tobago Dollars	Annual Fee Payable in Trinidad and Tobago Dollars
24	Application by a company to the Central Bank for registration under this Act to carry on insurance business	10,000	100,000 payable no later than the thirty-first day of January in each year or such later date as may be specified by the Central Bank
26	Application by a foreign insurance company for the approval in writing of the Central Bank to establish, acquire or open a representative office in Trinidad and Tobago	10,000	25,000 payable no later than the thirty-first day of January in each year or such later date as may be specified by the Central Bank
27(1)	Application by a local insurer for the prior approval of the Central Bank to establish, close or relocate a branch outside Trinidad and Tobago	10,000	NIL

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APPLICATION AND ANNUAL FEES

PART A

Section	Matters in Respect of which Fee is Payable	Application Fee Payable in Trinidad and Tobago Dollars	Annual Fee Payable in Trinidad and Tobago Dollars
51	Application for a permit to carry on the business of a financial holding company	10,000	100,000 payable no later than the thirty-first day of January in each year or such later date as may be specified by the Central Bank
230	Application to be registered as an association of underwriters	10,000	100,000 payable no later than the thirty-first day of January in each year or such later date as may be specified by the Central Bank

The annual Fees within this Part shall be calculated on a *pro rata* basis, where a certificate of registration, approval or permit is issued or granted for the first time.

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PART B

1. The following fees shall be payable by intermediaries in accordance with the provisions of this Act:

Section	Matters in Respect of which Fee is Payable	Registration Fee Payable in Trinidad and Tobago Dollars
111	Application to be registered as a sales representative	$1,000 Per annum
111	Application to be registered as an agent	$1,000 Per annum
111	Application to be registered as a broker	$3,500 Per annum
111	Application to be registered as an adjuster (individual)	$3,500 Per annum
111	Application to be registered as an agency	$3,500 Per annum
111	Application to be registered as a brokerage	$6,500 Per annum
111	Application to be registered as an adjuster (company)	$6,500 Per annum
111	Application to be registered as an insurance consultant	$6,500 Per annum

2. Fees within this part may be calculated on a *pro rata* basis, where applicable.

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(Section 170).

SCHEDULE 3

FORM A

ABSOLUTE ASSIGNMENT

Policy Number ..... on the life of .....

.....

Policy Owner (if not the above) .....

Assignee: (Name) .....

(Address) .....

.....

In consideration of .....

the undersigned hereby assigns and transfers all rights, title, and interest in the above-mentioned policy, issued by ..... unto the above-named assignee, his executors, administrators, successors and assigns including the right to surrender the same for the surrender value and to receive any dividends and other amounts payable thereunder, whose receipt or acquittance for all amounts payable shall be a full discharge of all claims thereunder.

Dated at ..... this ..... day of ..... 20.....

Signed in the presence of:

....
Witness Policy Owner

.....

.....

NOTE: Additional lines are provided for signature of persons with beneficial interests.

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FORM B (Section 170).

ASSIGNMENT AS SECURITY

Policy Number ..... on the life of .....

.....

Policy Owner (if not the above) .....

Assignee: (Name) .....

(Address) .....

.....

In consideration of .....

the undersigned, hereby assigns and transfers as security all rights, title and interest in .....

and to the above-mentioned policy issued by .....

.....

unto the above-named assignee, his executors, administrators, successors and assigns whose receipt or acquittance for all the amounts payable under the said policy shall be a full discharge of all claims thereunder.

This assignment does not confer on the assignee the right to surrender the policy for the surrender value.

Dated at ..... this ..... day of ..... 20.....

Signed in the presence of:

....
Witness Policy Owner

.....

.....

NOTE: Additional lines are provided for signature of persons with beneficial interests.

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(Section 174). **FORM C**

MEMORANDUM OF DISCHARGE

Policy Number ..... Life Assured .....

.....

Policy Owner (if not above) .....

In consideration of .....

all the rights, title and interest in and to the above-mentioned policy assigned to the undersigned on .....

..... as security .....

for securing .....

are hereby relinquished and the policy discharged.

Dated at ..... this ..... day of ..... 20.....

....
Witness Signature of Assignee

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SCHEDULE 4

(Sections 217, 226 and 227).

PART I

Requirements as to the Trust Deed and Rules of Registered Pension Fund Plans

1. The Trust Deed and Rules of a plan qualified for registration under this Act shall make provision for the following matters:

(a) the whole of the objects for which the plan is established;

(b) the appointment and removal of trustees;

(c) the vesting in the trustees of all property belonging to the plan;

(d) the investment in the names of the trustees of all capital money belonging to the plan and for authorising the investments, if any, in addition to those authorised by law, in which the trustees may invest such moneys; but the Rules of a plan may provide for the deposit of such moneys with an institution licensed under the Financial Institutions Act;

(e) the making of contributions to the plan by the employers of persons employed in the undertaking or combination of undertakings in connection with which the plan is established;

(f) the contributions payable to, and the rates of benefits payable from the fund, or the method of calculating benefits so payable;

(g) the conditions on which persons may become and may cease to be contributors to and entitled to benefits from the fund;

(h) the protection of the vested rights of contributors to the plan;

(i) the preparation of all statements of accounts, balance sheets and reports required by this Act to be prepared;

(j) the supply (on demand) to every person having any rights in the plan, being a person who is, or has been employed in the undertaking in connection with which the plan is established, of a copy of the Rules of the plan and of all amendments thereof, and of the latest statements of accounts, balance sheets and report prepared in accordance with the requirements of this Act;

(k) the circumstances in which the plan may be wound up and in the event of winding up, the use of the plan to purchase immediate annuities for contingent pensioners; and

(l) the method by which the Rules may be amended.

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PART II

FORMS

FORM A

PENSION FUND PLAN

Revenue Account for the period .....

to .....

Revenue	$	Expenditure	$
1. Amount of the Fund at the beginning of the period* 2. Contributions by employees 3. Contributions by employer 4. Any additional contribution by employer to meet deficiency or back service liabilities 5. Interest dividend and rents 6. Other income (to be specified)		1. Superannuation Benefits— *(a)* pension to retired employees; *(b)* widows' pensions; *(c)* orphans' pensions; *(d)* retirement gratuities 2. Death grants 3. Return on contributions on withdrawal 4. Other expenditure (to be specified) 5. Amount of the Fund at the end of the period*	

*May be omitted for an insured pension fund plan.

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FORM A

PENSION FUND PLAN

Balance Sheet as at ..... 20.... for .....

.....

Liabilities	$	Assets	$
Amount of fund as at Pensions due but not yet paid Other benefits (to be specified) due but not yet paid		Mortgage Stock Exchange Securities Other assets (to be specified)	

(Note to be completed for an insured pension fund plan)

Details of Mortgages

Name of borrower	Nature of security	Original amount of loan	Method of repayment	Rate of interest	Amount outstanding on the valuation date	Date or outstanding period of repayment

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Details of Stock Exchange Securities

Security	Date of redemption	Nominal Amount	Rate of Interest or Dividend	Market value as at the valuation date	Book value	Value used in valuation

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PART III

[Section 277(3) and (5)].

ACTUARIAL VALUATION

The first part of the report shall contain statistics as at the valuation date in respect of the following:

(a) Changes in the membership of the fund during the intervaluation period as well as the membership of the fund on the valuation date as follows:

Age Group	Number of members at beginning of period	Number of new entrants	Number of Cessations of Membership				Number of members at the end of the period
			Transfer or on deferred pensions	Withdrawal	Death	Retirement	
Under 25							
25-30							
30-35							
35-40							
40-45							
45-50							
50-55							
55-60							
60-65							
TOTAL							

(b) Changes in the number of pensioners of the fund during the intervaluation period as follows:

Number Age Group	Number of pensioners at beginning of period		Number of pensioners at pension during		Number of pensioners died during		Number of pensioners ceasing to receive pensions for other causes		Number of pensioners at end of period	
	Ill Health	Age	Ill Health	Age	Ill Health	Age	Ill Health	Age	Ill Health	Age
Under 35										
35-45										
45-55										
55-65										
65-75										
75 and Over										
TOTAL										

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2. The second part of the report shall contain the following information:

(a) general observations regarding mortality, withdrawal and retirement from service and progression of salary during intervaluation period and general observations on any other factors entering into the valuation;

(b) a description of the mortality and all other rates used (specimen rates to be shown in an appendix to the report);

(c) average rates of interest realised by the assets of the fund whether invested or not during each year in the intervaluation period;

(d) the rate of interest assumed in the calculations for purpose of the valuation;

(e) a statement indicating—

(i) whether and how it has been secured that the estimated net liability in respect of any employer is not negative; and

(ii) the amount of and the reason for any special reserves which have been set up.

3. The final part of the report shall contain information about the results of the valuation, an analysis of the surplus or deficiency shown and a recommendation as to how much of the surplus can be regarded as disposable, or, if a deficiency, the manner in which the deficiency can be liquidated.

4. The report shall close with any further observations the actuary may wish to offer on the valuation.

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SCHEDULE 5

(Sections 11, 24, 26, 28, 29, 34, 36, 40, 51, 52, 53, 54, 61, 65, 78, 93, 113, 114, 121, 230 and 248).

MINIMUM CRITERIA FOR REGISTRATION

Where the provisions of the Act require a person to be fit and proper or to meet the criteria of Schedule 5, the following will be considered:

A. INDIVIDUALS TO BE FIT AND PROPER PERSONS

1. Every person who is, or is to be, a director, officer, actuary, controlling shareholder, significant shareholder or acquirer, of a registrant or financial holding company, principal representative of an association of underwriters, agent, broker, sales representative, adjuster or principal representative of an foreign insurance company must be a fit and proper person to hold the particular position.

2. In determining whether an individual is a fit and proper person to hold any particular position, regard shall be had to his good character and probity, competence and soundness of judgment for fulfilling the responsibilities of that position, the diligence with which he is fulfilling or likely to fulfill those responsibilities and whether the interests of policyholders or potential policyholders of the registrant or financial holding company are, or are likely to be, in any way threatened by his holding that position.

3. In addition to the criteria in paragraph 2, regard may be had to the previous conduct and activities in business or financial matters of the individual in question and, in particular, to any evidence that he has—

(a) been convicted of an offence involving fraud, insider trading, money laundering, terrorist financing or other dishonesty or violence;

(b) contravened any provision of this Act or any other written law appearing to the Central Bank to be designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts;

(c) engaged in any business practices that are deceitful, oppressive, unsafe, unsound or otherwise improper, whether unlawful or not, or which otherwise discredit his method of conducting business;

(d) an employment record which leads the Central Bank to believe that the person carried out an act of impropriety in the handling of his employer's business;

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(e) engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment;

(f) not met the criteria under subhead B, paragraph 3; and

(g) any other matter which the Central Bank may specify.

B. SHAREHOLDERS TO BE FIT AND PROPER

1. In determining whether a company is a fit and proper person to be a controlling shareholder, significant shareholder or acquirer, regard shall be had to, but not limited by, the following criteria, whether:

(a) the directors and officers of the company have satisfied the fit and proper criteria set out in subhead A;

(b) the company has been found guilty of insider trading or fraud involving trading in securities by local or foreign authorities;

(c) the company has been convicted of an offence;

(d) the company has contravened any provisions of this Act or any other law;

(e) in the opinion of the Central Bank the company has not carried on its business in a prudent manner;

(f) in the opinion of the Central Bank the company is insolvent or is likely to become insolvent;

(g) the company has suspended, or is about to suspend payment, or is unable to meet its obligations as they fall due;

(h) in the opinion of the Central Bank the affairs of the company or any associated person are being conducted in a manner prejudicial to the soundness of the company in question or the financial system of Trinidad and Tobago;

(i) the composition of the board of directors meets the requirements of subhead C, paragraph 3; and

(j) any other matter which the Central Bank may specify.

2. In determining whether a company has carried on its business in a prudent manner under paragraph 1*(e)*, the Central Bank shall take into consideration—

(a) the capital of the company in relation to the size and nature of the business or proposed business of the insurer or financial holding company;

(b) credit concentration or proposed credit concentration and risk exposures or proposed risk exposures in the company and the insurer or financial holding company;

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(c) separation of the business or proposed business of the company and the insurer or financial holding company from other business and from other interests of any controlling shareholder or significant shareholder of the company;

(d) internal controls and accounting systems or proposed internal controls and accounting systems of the company;

(e) risk management systems and policies or proposed risk management systems and policies of the company and the insurer or financial holding company;

(f) arrangements for any business, or functions relating to any business, of the company or the insurer or financial holding company to be carried on by any person other than the company or the insurer or financial holding company; and

(g) such other matters as the Central Bank may specify.

3. The following criteria shall also be considered in determining whether a controlling shareholder is fit and proper under this paragraph:

(a) the nature and sufficiency of the financial resources of the controlling shareholder as a source of continuing financial support for the insurer or financial holding company;

(b) the soundness and feasibility of the controlling shareholder for the future conduct and development of the insurer's or financial holding company's business; and

(c) the business record and experience of the controlling shareholder.

C. Insurer, Financial Holding Company, Agency and Brokerage to be fit and proper

1. In determining whether an insurer, financial holding company, agency and brokerage is a fit and proper person, regard shall be had to the criteria listed in subhead B, paragraph 1 and to the criteria listed in this subhead.

2. At least two individuals with sufficient experience and knowledge of the business to direct effectively the business of the registrant or financial holding company.

3. In the case of a local insurer, financial holding company, agency or brokerage—

(a) such number of directors without executive responsibility for the management of its business as the Central Bank considers appropriate having regard to the circumstances of the company and the nature and scale of its operations; and

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UPDATED TO OCTOBER 31ST 2020

(b) the directors shall be selected from amongst persons drawn from diverse occupations, and the overall composition of the board should reflect a reasonable mix of skills and experience, in matters relating to finance, economics, accountancy, industry, commerce, law or administration.

4. An insurer, financial holding company, agency or brokerage shall not be regarded as conducting its business in a prudent manner unless it maintains or, as the case may be, will maintain net assets which, together with other financial resources available to the company of such nature and amount as are considered appropriate by the Central Bank, to be—

(a) commensurate with the nature and scale of the company's operations;

(b) the classes and types of insurance business in which the company is involved;

(c) sufficient to safeguard the interests of its policyholders and potential policyholders;

(d) the risks inherent in its operations and in the operation of any affiliate so far as is capable of affecting the company; and

(e) any other factors appearing to the Central Bank to be relevant.

5. An insurer, financial holding company, agency or brokerage shall not be regarded as conducting its business in a prudent manner unless it maintains or, as the case may be, will maintain adequate liquidity.

6. For the purposes of paragraph 5, the Central Bank may, to such extent as it thinks appropriate, take into account as liquid assets, assets of the company and facilities available to it which are capable of providing liquidity within a reasonable period.

7. An insurer, financial holding company, agency or brokerage shall not be regarded as conducting its business in a prudent manner unless it makes or, as the case may be, will make adequate provision for depreciation or diminution in the value of its assets.

8. An insurer shall not be considered as having met its obligations to policyholders unless it has made adequate provision in respect of policyholder liabilities and claims reserving.

9. Where payment of principal or interest which is due and payable on any credit exposure granted by an insurer or financial holding company has not been made or effected for a period of sixty days, such credit exposure shall be considered non-performing unless it is fully secured and is in the process of collection.

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10. An insurer, financial holding company, agency or brokerage shall not be regarded as conducting its business in a prudent manner unless it maintains or, as the case may be, will maintain adequate systems of internal control of its business and records.

11. Records and systems shall not be regarded as adequate unless they are such as to enable the business of the insurer, financial holding company, agency or brokerage to be prudently managed and the company to comply with the duties imposed on it by, or under this Act.

12. For the purposes of paragraph 4, "net assets", in relation to a company, means stated capital and reserves.

D. TRUSTEE TO BE FIT AND PROPER

In determining whether a trustee is a fit and proper person, the Central Bank shall have regard to matters listed in subhead C where appropriate to the function of trustee.

E. INTEGRITY AND SKILLS

The business of an insurer, financial holding company, agency, brokerage or trustee or in the case of a company which has applied for registration or a permit, will be carried out with integrity and professional skills appropriate to the nature and scale of its activities.

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(Sections 260 and 279).
[3 of 2020].

SCHEDULE 6

ADMINISTRATIVE FINES

PART A

INSURERS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
18(2)	Failure to pay annual fees not later than the 31st day of January in each year or such later date as may be specified by the Central Bank	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
26(1)	Failure of a foreign insurance company to obtain prior approval of the Central Bank before establishing, acquiring or opening a representative office in Trinidad and Tobago or failure of a foreign insurance company to give notice in writing to the Central Bank before closing or relocating a representative office in Trinidad and Tobago	$300,000 plus $30,000 for each day the offence continues	$75,000
27(1)	Failure of an insurer to obtain the prior approval of the Central Bank in writing before establishing, closing or relocating a branch outside Trinidad and Tobago	$500,000 plus $50,000 for each day the offence continues	$125,000
27(3)	Failure of an insurer to notify the Central Bank in writing before establishing, acquiring, opening, closing or relocating a representative office outside Trinidad and Tobago	$300,000 plus $30,000 for each day the offence continues	$75,000

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SCHEDULE 6

ADMINISTRATIVE FINES

PART A

INSURERS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
31	Failure of company to notify Central Bank of any change in particulars specified in the company's application	$500,000 plus $50,000 for each day the offence continues	$125,000
32(1)	Making an alteration to articles of incorporation or continuance, by-laws or other constituent documents without notifying and receiving the approval of the Inspector	$500,000 plus $50,000 for each day the offence continues	$125,000
32(4)	Failure of an insurer to submit to the Inspector copies of altered articles of incorporation or continuance, by-laws or other constituent documents	$500,000 plus $50,000 for each day the offence continues	$125,000
66	Director of an insurer or financial holding company being present or voting at a meeting of the board of directors or a committee of the board of directors of that insurer or financial holding company on a contract which would result in a direct or indirect financial benefit	$500,000	$125,000
67(3)	Failure of a director of an insurer or of a financial holding company to notify the Inspector of material adverse effects on the financial condition of the insurer or financial holding company	$600,000 plus $60,000 for each day the offence continues	$10,000 for each day the offence continues

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SCHEDULE 6—*Continued*

ADMINISTRATIVE FINES

PART A

INSURERS—*Continued*

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
67(4)	Failure of a director of an insurer to submit within five business days to the Inspector reasons for resignation, removal or departure from office or the reasons why he opposes his removal or departure from office	$600,000 plus $60,000 for each day the offence continues	$10,000 for each day the offence continues
67(5)	Failure of a director of an insurer or of a financial holding company to establish and maintain procedure for remuneration	$600,000 plus $60,000 for each day the offence continues	$10,000 for each day the offence continues
67(6)	Failure of an insurer or of a financial holding company to submit to its audit committee an annual report regarding total remuneration paid to directors and officers within twenty business days after the end of the financial years	$600,000 plus $60,000 for each day the offence continues	$10,000 for each day the offence continues
67(7)	An insurer awarding or paying any bonus to its directors or officers where its assets are insufficient to meet the requirements under the Regulations or the bonus would reduce the assets of the insurer below such requirements	$600,000 plus $60,000 for each day the offence continues	$10,000
68(1)	Failure of an insurer to appoint an audit committee as constituted under this section	$500,000 plus $50,000 for each day the offence continues	$125,000

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SCHEDULE 6

ADMINISTRATIVE FINES

PART A

INSURERS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
68(2)	Failure of an insurer to appoint an independent director and financial expert as chair of the audit committee	$500,000 plus $50,000 for each day the offence continues	$125,000
69	Failure of an insurer or financial holding company to submit to the Inspector reports as described under this section within sixty business days after the end of its financial year or when required by the Inspector	$400,000 plus $40,000 for each day the offence continues	$8,000 for each day the offence continues
73(2)	Failure of the board of an insurer to provide the Inspector with the policies and documentation when requested, and the results of the compliance reviews within sixty business days after the end of its financial year	$500,000 plus $50,000 for each day the offence continues	$125,000
73(3)	Failure of an insurer to change policies and documentation as specified by the Inspector within sixty business days	$500,000 plus $50,000 for each day the offence continues	$125,000
73(4)	Failure of an insurer to take such action to establish policies and documentation within the period specified by the Inspector	$500,000 plus $50,000 for each day the offence continues	$125,000

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SCHEDULE 6—*Continued*

ADMINISTRATIVE FINES

PART A

INSURERS—*Continued*

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
75(4)*(a)*	Failure of an insurer or financial holding company to serve on the Central Bank a written notice of intention to appoint an audit entity to act as an auditor	$300,000 plus $30,000 for each day the offence continues	$75,000
76(1)	Failure of a local insurer or financial holding company to give written notice and reasons to the Inspector of the removal or replacement of an auditor, or where a person ceases to be an auditor	$300,000 plus $30,000 for each day the offence continues	$75,000
76(2)	Failure of an auditor of an insurer or financial holding company to forthwith give written notice and reasons to the Inspector of the removal or replacement of an auditor before the expiration of his engagement, and where a person ceases to be an auditor	$300,000 plus $30,000 for each day the offence continues	$75,000
78(1)	Failure to appoint an actuary as specified under this section	$500,000 plus $50,000 for each day the offence continues	$125,000
78(3)	Failure of insurer to notify the Inspector as required under this section	$300,000 plus $30,000 for each day the offence continues	$75,000

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SCHEDULE 6

ADMINISTRATIVE FINES

PART A

INSURERS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
79(1)	Failure of an insurer to give written notice to the Inspector of the removal or replacement of an appointed actuary, and where the person ceases to be an appointed actuary, and failure to give reasons to the Inspector for such removal or replacement	$300,000 plus $30,000 for each day the offence continues	$75,000
79(2)	Failure of the appointed actuary to give written notice to the Inspector and insurer if he resigns or does not seek reappointment and failure to give reasons to the Inspector for such resignation or decision	$300,000 plus $30,000 for each day the offence continues	$5,000 for each day the offence continues
79(4)	Failure of the appointed actuary to submit a written statement to the Inspector and the insurer setting out the nature of any disagreement	$300,000 plus $30,000 for each day the offence continues	$75,000
87(6)	Failure of an insurer to notify the Inspector of shares held in a company providing necessary support service and shares and ownership interests held in excess of any limit imposed by this section	$500,000 plus $50,000 for each day the offence continues	$125,000
88	Failure of an insurer to obtain the necessary approvals of the Central Bank under this section	$500,000 plus $50,000 for each day the offence continues	$125,000

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SCHEDULE 6—*Continued*

ADMINISTRATIVE FINES

PART A

INSURERS—*Continued*

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
89(1)	Incurring of a credit exposure by an insurer to a person in an aggregate amount that exceeds twenty-five per cent of its capital base except as prescribed by this section	$500,000 plus $50,000 for each day the offence continues	$125,000
89(1A)	Incurring of a credit exposure by an insurer to a person, borrower group or related group in an aggregate amount that exceeds the amount approved by the Inspector or as prescribed by this section	$500,000 plus $50,000 per day for each day the offence continues	$125,000
89(2)	Incurring by an insurer of any large exposure to a person, including a borrower group or related group, where the aggregate principal amount of all large exposures will exceed eight hundred per cent of the capital base of the insurer	$500,000 plus $50,000 for each day the offence continues	$125,000
89(4)	Failure of an insurer to reduce credit exposure, increase capital, or make adequate provision for potential losses as prescribed by this section	$500,000 plus $50,000 for each day the offence continues	$125,000
89(5)	Failure of an insurer to notify the Inspector of all credit exposures to persons which are in excess of the limits under section 89 and of the measures that shall be taken to reduce the credit exposures that are in excess of those fixed limits or to increase capital	$500,000 plus $50,000 for each day the offence continues	$125,000
90(1)	Failure of an insurer to comply with the general limit on credit exposures to connected parties or connected party groups	$500,000 plus $50,000 for each day the offence continues	$125,000

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SCHEDULE 6

ADMINISTRATIVE FINES

PART A

INSURERS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
90(4)	Incurring of a credit exposure by an insurer to a director or officer or their relatives in an amount greater than the limit specified in this section	$500,000 plus $50,000 for each day the offence continues	$125,000
90(6)	Incurring a credit exposure by an insurer to a connected party or connected party group on terms and conditions not similar to the terms and conditions on which such credit exposure is offered to the public, or without the approval of the board of directors	$500,000 plus $50,000 for each day the offence continues	$125,000
90(7)	Failure of an insurer to notify the Inspector of all credit exposures to connected parties and connected party groups which are in excess of the limits prescribed under this section	$500,000 plus $50,000 for each day the offence continues	$125,000
90(10)	Failure of an insurer to comply with the requirement of the Inspector to set aside, change, limit or reduce a credit exposure to a connected party or connected party group	$500,000 plus $50,000 for each day the offence continues	$125,000

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SCHEDULE 6—*Continued*

ADMINISTRATIVE FINES

PART A

INSURERS—*Continued*

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
92(1)*(a)*	The direct or indirect acquisition by an insurer of its own shares or the shares of its holding company or financial holding company	$500,000 plus $50,000 for each day the offence continues	$125,000
128(1)	Failure of an insurer to submit to the Central Bank a listing of its agencies or sales representatives within sixty business days after the end of the financial year	$300,000 plus $30,000 for each day the offence continues	$6,000 for each day the offence continues
144(1)	Failure of an insurer or financial holding company to submit to the Inspector financial statements in accordance with this section	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
144(3)	Failure of an insurer and financial holding company to submit audited financial statements on the request of the Inspector in respect of any— *(a)* subsidiary of the insurer; *(b)* financial holding company or company in which the insurer or financial holding company is a significant shareholder; or *(c)* member of the financial group which the financial holding company controls	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues

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SCHEDULE 6

ADMINISTRATIVE FINES

PART A

INSURERS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
144(4)	Failure of an insurer or financial holding company to submit financial statements signed by two directors of the relevant company	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
145(1)	Failure of an insurer or financial holding company to submit audited returns to the Inspector in accordance with this section	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
145(2)	Failure of an insurer carrying on long-term insurance business to submit to the Inspector a balance sheet with a certificate signed by the appointed actuary	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
145(3)	Failure of an insurer or financial holding company to submit quarterly returns to the Inspector	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
152(1)	Failure of an insurer or financial holding company to publish audited financial statements in accordance with this section	$400,000 plus $40,000 for each day the offence continues	$8,000 for each day the offence continues
152(2)	Failure of an insurer to keep at its offices and to make available for inspection certain information	$300,000 plus $30,000 for each day the offence continues	$75,000

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SCHEDULE 6—*Continued*

ADMINISTRATIVE FINES

PART A

INSURERS—*Continued*

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
158(1)	Failure of an insurer to submit actuarial reports within the prescribed time to the Inspector	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
158(3)	Failure of insurer to submit a copy of any actuarial reports, the results of which are made public, within the prescribed time to the Inspector	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
161(1)	Failure of an insurer to obtain approval of the pricing of its policy by an actuary before issuing the policy	$500,000 plus $50,000 for each day the offence continues	$125,000
161(2)	Failure of an insurer to furnish the Inspector with a report by its appointed actuary on the appropriateness of the pricing of a class of policy	$500,000 plus $50,000 for each day the offence continues	$125,000
162	Failure of an insurer to obtain approval of an actuary to amend commission or premium	$500,000 plus $50,000 for each day the offence continues	$125,000
197(1)	Failure of an insurer to publish a statement of unclaimed monies and to submit the statement to the Central Bank in accordance with this section	$400,000 plus $40,000 for each day the offence continues	$8,000 for each day the offence continues

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SCHEDULE 6

ADMINISTRATIVE FINES

PART A

INSURERS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
197(4)	Failure of an insurer to pay into the Central Bank such unclaimed money within the prescribed time period under this section	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
197(5)	Failure of an insurer to submit listing as required under this section	$300,000 plus $30,000 for each day the offence continues	$6,000 for each day the offence continues
212(1)	Failure of an insurer to include in its financial statements and returns a reserve for policy liabilities including unexpired risk and outstanding claims	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
212(2)	Failure of an insurer to submit to the Inspector details of the methods and assumptions used in calculating the reserve for outstanding unexpired risk and outstanding claims	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
244(1)	Failure of an association of underwriters established in Trinidad and Tobago to submit documents and information relating to its insurance business to the Inspector	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
244(2)	Failure of an association of underwriters established outside of Trinidad and Tobago to submit documents and information as required by this section	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day he offence continues

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SCHEDULE 6—*Continued*

ADMINISTRATIVE FINES

PART A

INSURERS—*Continued*

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
244(3)	Failure of an association of underwriters to submit documents and information relating to its insurance business as required under this section	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
244(4)	Failure of an association of underwriters to publish a statement of income and expenses	$400,000 plus $40,000 for each day the offence continues	$8,000 for each day the offence continues
245(4)	Failure of an association of underwriters to submit to the Inspector information as prescribed in this section	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
258(2)	Failure of a registrant to correct or withdraw a misleading or objectionable advertisement	$300,000 plus $30,000 for each day the offence continues	$75,000
269(1)	Failure by a person to obtain the approval of the regulatory authority under the Securities Act and submit to the Central Bank copies of the documents as required under this subsection	$300,000 plus $30,000 for each day the offence continues	$75,000
269(2)	Acceptance by a promoter of any office or profit or any payment or pecuniary advantage which is not provided in the prospectus notice, circular, advertisement or other invitation referred to in this section	$300,000 plus $30,000 for each day the offence continues	$75,000

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SCHEDULE 6

ADMINISTRATIVE FINES

PART A

INSURERS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
270(1)	Failure of insurer to maintain a register of policies in accordance with this section	$300,000 plus $30,000 for each day the offence continues	$75,000
270(3)	Failure to notify the Inspector in writing of the identity or change in identity of the person in charge of the register in accordance with this section	$300,000 plus $30,000 for each day the offence continues	$75,000
270(4)	Failure of an insurer to search its register of Trinidad and Tobago policies within the time prescribed in this section	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
270(5)	Failure of the officer designated by the insurer to submit reports as required under this section	$500,000 plus $50,000 for each day the offence continues	$10,000 for each day the offence continues
271(1)	Failure of an insurer to register a policy	$500,000 plus $50,000 for each day the offence continues	$125,000
271(2)	Failure of an insurer to enter the address of its registered office on every Trinidad and Tobago policy	$300,000 plus $30,000 for each day the offence continues	$75,000
271(3)	Failure of an insurer to register a policy immediately after its issue	$300,000 plus $30,000 for each day the offence continues	$75,000

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SCHEDULE 6—*Continued*

ADMINISTRATIVE FINES

PART B

AGENCIES AND BROKERAGES

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
115(2)	Failure of an agency or brokerage to disclose information to the consumer as required by this section	$20,000 plus $2,000 for each day the offence continues	$5,000
115(3)	Failure of an agency or brokerage to comply with reporting requirements as may be specified by the Central Bank	$20,000 plus $2,000 for each day the offence continues	$5,000
116(4)	Failure of a brokerage to submit a plan for the increase of its minimum stated capital as required under this section	$20,000 plus $2,000 for each day the offence continues	$5,000
117(4)	Failure of an agency or brokerage to prominently display a certificate of registration or a copy of a certificate of registration as required by this section	$10,000 plus $1,000 for each day the offence continues	$2,500
120	Failure to produce certificate upon request	$10,000 plus $1,000 for each day the offence continues	$2,500
123(1)	Failure of an agency or brokerage to give notice within five business days to the Central Bank where a contract has been terminated as required by this section	$10,000 plus $1,000 for each day the offence continues	$2,500
128(2)	Failure of an agency or brokerage to make return to the Central Bank on its agents, brokers and sales representatives as required by this section	$10,000 plus $1,000 for each day the offence continues	$2,500

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SCHEDULE 6

ADMINISTRATIVE FINES

PART B

AGENCIES AND BROKERAGES

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
132(2)	Failure of an agency or brokerage to issue a receipt to a consumer	$20,000 plus $2,000 for each day the offence continues	$5,000
133(7)	Failure to submit reports to the Central Bank on the consumer trust account within the specified time in this section	$20,000 plus $2,000 for each day the offence continues	$5,000
136	Failure of an agency or brokerage to submit financial statements within the time prescribed in this section	$20,000 plus $2,000 for each day the offence continues	$5,000

PART C

BROKERS, AGENTS, ADJUSTERS AND SALES REPRESENTATIVES

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
120	Failure of an agent, broker or sales representative to produce certificate upon request	$5,000 plus $500 for each day the offence continues	$1,250
132(2)	Failure of a sales representative to issue a receipt to a consumer	$8,500 plus $850 for each day the offence continues	$2,125

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SCHEDULE 6—*Continued*

PART D

TRUSTEES OF PENSION FUND PLANS

Section	General Description of Offence	Criminal Penalty (applicable only on summary conviction)	Administrative Fine
226(1)	Failure of trustees to submit annual accounts and balance sheets to the Central Bank	$20,000 plus $2,000 for each day the offence continues	$5,000
227(3)	Failure of trustees to submit report of actuarial investigation to the Central Bank	$20,000 plus $2,000 for each day the offence continues	$5,000

(Section 228).

SCHEDULE 7

ASSETS IN WHICH REGISTERED PLANS MAY BE INVESTED

The Trustees of a registered plan may invest the assets of the plan in the following:

1. *(a)* the bonds, debentures, stocks, or other evidences of indebtedness of, or guaranteed by the Government of—
   (i) Trinidad and Tobago;
   (ii) any Commonwealth country or dependency or the Republic of Ireland;
   (iii) any member country of the Organisation of Economic Co-operation and Development;
   (iv) the United States of America or a state thereof approved by the Inspector;
   (v) the country in which the head office of the company is situated or a province or state thereof; or
   (vi) any country approved by the Central Bank;
   (b) the bonds, debentures or other evidence of indebtedness of a corporation incorporated in Trinidad and Tobago which are fully secured by a statutory charge upon real estate or upon

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the plant or equipment or other tangible assets of the corporation used in the transaction of its business;

(c) the bonds, debentures or other evidence of indebtedness issued by an authority or other body without share capital established and empowered pursuant to a statute of Trinidad and Tobago to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway, tunnel, transportation, communication, sanitation, water, electricity, or gas services or facilities and for any of these purposes to levy, impose or make taxes, rates, fees or other charges which may be used only in carrying out the objects of the authority or other body and are sufficient to meet its operation, maintenance and debt service charges;

(d) the bonds, debentures or other securities of, or those guaranteed by international financial institution approved by the the Central Bank;

(e) guaranteed investment certificates issued by a trust company incorporated in any country listed in subparagraph *(a)* which at the date of vesting thereof in trust, complied with the requirements set out in subparagraph *(f)* in respect of the payment of dividends;

(f) the fully paid ordinary shares, preferred shares, bonds, debentures or other evidence of indebtedness of a company incorporated in any country listed in subparagraph *(a)* which during a period of five years ending less than one year before the date of purchase thereof has either paid a dividend in each such year upon its ordinary shares or had earnings in each such year available for the payment of a dividend upon such shares, of at least four per cent of the average value at which the shares were carried in the capital stock account of the company during the year in which the dividend was paid or in which the company had earnings available for the payment of dividends, as the case may be;

(g) ordinary shares, preferred shares, bonds or debentures of a company incorporated in Trinidad and Tobago and approved by the Minister;

(h) the units, certificates or other evidence of participation in a scheme for indebtedness of the Unit Trust Corporation of Trinidad and Tobago;

(i) unit certificates, shares or other evidence of participation in financial assets not exceeding ten per cent of the Statutory Fund Requirement and whose portfolio is regulated either by

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authorities in Trinidad and Tobago or in any—

(i) member country of the Organisation of Economic Co-operation and Development;

(ii) Commonwealth country; or

(iii) other country,

that the Minister may by Order declare an approved country; or

(j) the shares of a venture capital company registered under the Venture Capital Act.

2. Mortgages and other titles for repayment of loan secured by—

(a) real estate or leaseholds for a term of years or other estate or interest in real estate in Trinidad and Tobago where the amount of the loan together with the amount of indebtedness under any mortgage or other charge on the real estate or interest therein ranking equally with or superior to the loan does not exceed eighty per cent of the value of the real estate or interest therein, subject to the exception that a company—

(i) may upon the sale of real estate in which its funds are invested, accept a mortgage or other title for repayment on such real estate, as part payment and secured thereon for more than eighty per cent of the sale price of such real estate; or

(ii) may invest in a mortgage or other title for repayment on real estate where the amount of indebtedness under any mortgage or other charge on such real estate or interest therein ranking equally with or superior to the loan does not exceed ninety per cent of the value of the real estate as long as that portion of the indebtedness in excess of seventy-five per cent of the value of the real estate is guaranteed by the Housing Development Corporation by a company registered under this Act to carry on that class of insurance business;

(b) real estate or leaseholds in Trinidad and Tobago notwithstanding that the loan exceeded the amount which the company may otherwise invest in, if the excess is guaranteed or insured by the Government or through an agency of the Government of Trinidad and Tobago; or

(c) ground rents, mortgages or hypothecs on real estate or leaseholds in Trinidad and Tobago or in the country in which the head office of the company is situated, where the amount of the mortgage or hypothec together with the amount of

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indebtedness under any mortgage or hypothec on the real estate or leasehold ranking equally with or superior to the mortgage or hypothec which is invested in does not exceeding eighty per cent of the value of the real estate or leasehold covered thereby.

3. Real estate or leaseholds in Trinidad and Tobago for the production of income either alone or jointly with any other company transacting insurance business in Trinidad and Tobago or with any other company incorporated in Trinidad and Tobago where—

(a) a lease of the real estate or leasehold is made to, or guaranteed by the Government of Trinidad and Tobago or an agency of the Government or a municipality in Trinidad and Tobago and the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least eighty-five per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment; or

(b) the real estate or leasehold has produced in each of the three years immediately preceding the date of investing therein net revenue in an amount which if received in each year following the date of investment, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least eighty-five per cent of that amount within the portion of the economic lifetime of the improvements to the real estate or leasehold which remain at the date of investment but not exceeding forty years from that date.

4. Cash balances deposited with—

(a) any bank or other financial institution licensed under the Financial Institutions Act; or

(b) any building society which may be approved by the Central Bank.

5. (1) The total accepted value of the pension fund assets invested in ordinary shares shall not at any time exceed fifty per cent of the accepted value of the total of such assets in Trinidad and Tobago of the plan.

(2) Notwithstanding paragraph 5(1) and subject to any requirements as specified by the Central Bank by notice published in the *Gazette*, a registered pension fund plan which has a total accepted value of assets in

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excess of one hundred and fifty per cent of its total liabilities may invest in ordinary shares up to a limit of—

(a) fifty per cent in respect of that portion of the total accepted value of assets equivalent to one hundred and fifty per cent of the total liabilities; and

(b) one hundred per cent in respect of that portion of the total accepted value of assets in excess of one hundred and fifty per cent of the total liabilities in such manner that the aggregate value of the investment under this subparagraph and subparagraph *(a)* shall not exceed seventy per cent of the total accepted value of the assets of the plan.

(3) For the purposes of paragraph 5(2), total liabilities shall be determined based on the assumptions used in the latest actuarial investigation conducted pursuant to section 227 of the Act and details of the plan's membership used for the purpose of determining these liabilities shall comply with such requirements as specified by the Central Bank.

6. No single mortgage included as an asset in the plan may exceed ten per cent of the total assets of the plan.

7. A pension fund shall not invest in trust bonds, debentures or other evidence of indebtedness on which payment of principal or interest is in default.

8. A pension fund shall not purchase more than thirty per cent of the ordinary shares of any corporation.

9. The total accepted value of the assets of the plan invested in unit certificates, shares or other evidence of participation in financial assets shall not exceed ten per cent of the total accepted value of the assets of the plan.

10. The total accepted value of the assets of the plan invested in real estate or leaseholds shall not exceed twenty per cent of the total accepted value of the assets of the plan.

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SCHEDULE 8

(Section 82).
[3 of 2020].

TRANSITIONAL CAPITAL RATIOS

During a transition period no later than the insurer's fifth financial year end following commencement of the Regulations, the following transitional capital ratios shall be attained by the dates specified:

Date	Minimum Regulatory Capital Ratio	Minimum Net Tier 1 Ratio
As at the insurer's first financial year end following commencement of the Regulations	110%	77%
As at the insurer's second financial year end following commencement of the Regulations	120%	84%
As at the insurer's third financial year end following commencement of the Regulations	130%	91%
As at the insurer's fourth financial year end following commencement of the Regulations	140%	98%
As at the insurer's fifth financial year end following commencement of the Regulations	150%	105%

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(Section 42).

SCHEDULE 9

SEPARATE ACCOUNTING

Assets vested in trust in overseas jurisdictions shall not be held in the Trinidad and Tobago policy account.

(Section 4).

SCHEDULE 10

DETERMINATION OF CREDIT EXPOSURE

In determining Credit Exposure—

1. In the case of credit exposure arising from investment in an asset-backed security, if—

(a) the underlying assets are vested in a trustee on behalf of the participants or beneficial owners under a deed of trust constituting the asset-backed security;

(b) the underlying assets of the asset-backed security are transferred from the seller to the trustee by way of an executed instrument of transfer and such trustee is the registered owner of such assets;

(c) the trustee, without being compelled to take recourse to the seller, is empowered by the deed of trust constituting the asset-backed security to take enforcement action against the issuer of any securities including in the underlying assets;

(d) participants or beneficial owners under the deed of trust constituting the asset-backed security have a right of action against the trustee, where the trustee has acted negligently or committed a breach of trust; and

(e) the seller and trustee are financial institutions regulated by the Central Bank,

the credit exposure shall be determined using the look through method.

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SCHEDULE 11

(Section 266).

STANDARDS OF MARKET CONDUCT

Definitions

"charge" means any cost or fee which a policyholder must pay in connection with a product or service provided by an insurer;

"introductory interest rate" is an interest rate favourable to the consumer that applies for a specified period of time at the beginning of the contract;

"key information" means any information which is likely to influence a policyholder's actions with regard to a product or service;

"promotional documents" means any document used as a marketing or sales material. This may include printed, electronic or digital posters, cards, brochures, pamphlets, illustrations.

A. Sales and Marketing Materials

General Principles

Insurers should ensure their sales and marketing materials and procedures do not mislead consumers. Insurers should be legally responsible for all statements made in marketing and sales materials they produce related to their products. All marketing and sales materials should be easily readable and understandable by the general public.

1. Sales and Marketing Materials

An insurer shall ensure that all information it provides to a policyholder is clear, accurate and up to date. Key information shall be brought to the attention of the consumer. The method of presentation shall not disguise, diminish or obscure important information—

(a) An insurer must ensure that—

the design, presentation and content of promotional documents used as Sales and Marketing materials are clear, fair, accurate and not misleading;

(b) An insurer must ensure that promotional documents are not misleading in particular in relation to—

(i) the insurer's ability to provide the product or service being marketed or sold;

(ii) the scale of the insurer's activities;

(iii) the extent of the resources of the insurer;

(iv) the nature of the insurer's or any other person's involvement in the product or service;

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(v) the scarcity of the product or service; and

(vi) past performance or possible future performance of the product or service;

(c) An insurer must ensure that its name is clearly shown in all promotional documents;

(d) An insurer must ensure that—

small print or footnotes are only used to supplement or elaborate on the key information in the main body of the promotional document and must be of sufficient size and prominence to be clearly legible;

(e) An insurer must ensure that a promotional document that uses promotional or introductory interest rates clearly states the expiry date of that interest rate and provides an indication of the rate that will apply thereafter;

(f) An insurer must ensure that any assumptions or illustrations, on which a statement, promise or forecast contained in a promotional document is based, are clearly stated, reasonable and up to date;

(g) An insurer must ensure that a document that promotes more than one product sets out clearly the key information relating to each product in such a way that a consumer can distinguish between the products;

(h) Where an intermediary is tied to a single provider for a particular product or service, the intermediary must disclose this fact in all promotional documents for the advertised product or service;

(i) An insurer must ensure that comparisons or contrasts are based either on facts verified by the insurer, or on reasonable assumptions stated within the promotional document. They should be presented in a clear, fair and balanced way and not omit anything material to the comparison or contrast. Material differences between the products must be set out clearly; and

(j) An insurer must ensure that a promotional document only describes a product or service as free where the product or service in its entirety is available free of charge to the consumer.

2. Marketing Materials for Investment Products

(a) An insurer must ensure that a promotional document for a product where the consumer may not get back 100% of the initial capital invested contain a warning statement, which states that if you invest in the product, the consumer may lose some or all of the money invested; and

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(b) An insurer must ensure that where the product or service can fluctuate in price or value, the promotional document contains a warning statement, which states that your return on investment is subject to market conditions and as such may fluctuate.

B. Understanding Consumers' Needs

General Principles

The insurance intermediary or officer should be required to obtain sufficient information about the consumer to ensure an appropriate product is offered. Formal "fact finds" should be specified for long-term savings and investment products and they should be retained and be available for inspection for a reasonable number of years.

1. Knowing the Consumer

An insurer shall gather and record sufficient information from the consumer prior to offering, recommending, arranging or providing a product or service appropriate to that consumer. The level of information gathered should be appropriate to the nature and complexity of the product or service being sought by the consumer, but shall be to a level that allows the insurer to provide a professional service and shall include details of the consumer's—

(a) Needs and objectives including, where relevant—
- (i) the length of time for which the consumer wishes to hold a product;
- (ii) need for access to funds (including emergency funds); and
- (iii) need for accumulation of funds.

(b) Personal circumstances including, where relevant—
- (i) age;
- (ii) health;
- (iii) knowledge and experience of financial products;
- (iv) dependents;
- (v) employment status; and
- (vi) known future changes to his/her circumstances.

(c) Financial situation including, where relevant—
- (i) income;
- (ii) savings;
- (iii) financial products and other assets; and
- (iv) debts and financial commitments.

(d) An insurer shall endeavour to have the consumer certify the accuracy of the information it has provided to the insurer.

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2. Assessing suitability

When assessing the suitability of a product or service for a consumer, the insurer must, at a minimum, consider and document whether, on the basis of the information gathered under Provisions B1*(a)* to *(c)*—

(a) the product or service meets that consumer's needs and objectives;

(b) the consumer—

(i) is likely to be able to meet the financial commitment associated with the product on an ongoing basis;

(ii) is financially able to bear any risks attaching to the product or service; and

(c) the product or service is consistent with the consumer's attitude to risk.

An insurer must ensure that any product or service offered to a potential consumer is suitable to that potential consumer, having regard to the facts disclosed by the potential consumer and other relevant facts about that potential consumer of which the insurer is aware.

The following additional requirements apply:

(a) where an insurer offers a selection of product options to the consumer, the product options contained in the selection must represent the most suitable from the range available from the insurer; and

(b) where an insurer recommends a product to a consumer, the recommended product must be the most suitable product for that consumer.

C. Privacy and Data Protection

General Principles

Policyholders have a right to expect that their financial transactions are kept confidential. Insurers should protect the confidentiality and security of personal data against any anticipated threats, or hazards to the security or integrity of such information, and against unauthorised access.

1. Confidentiality and Security of Policyholders' Information

An insurer must ensure that, where it communicates with a policyholder, it has in place appropriate arrangements to ensure the security of information received from the policyholder and the secure transmission of information to the policyholder—

(a) electronic policyholder information should be stored on a secure server that is protected by passwords or other security protection. Servers should be kept in a physically secure area;

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(b) sensitive policyholder data should not be stored on computers accessible by an Internet connection. If sensitive data is stored on such computers, appropriate software and firewall protection and intrusion detection devices should be utilised;

(c) secure backup media should be maintained and archived data kept secure;

(d) all systems should be password protected and automatically locked once there has been no activity for a specified period of time. Passwords should be changed regularly and times of log on and off should be recorded;

(e) access to physical locations containing electronic policyholder information, such as buildings, computer facilities and records storage facilities should be restricted to authorised individuals only;

(f) procedures should be designed to ensure that modifications to policyholder records and information are monitored and recorded and that checks are in place to detect and/or prevent and deal with unauthorised modification;

(g) monitoring systems and procedures to detect actual and attempted attacks on, or intrusions into information systems should be in place;

(h) employees should be properly trained in maintaining the security, confidentiality and integrity of policyholder records and information. Training should be consistent with the user's function; and

(i) all new employees should be apprised of the security policies and procedures and should be trained in maintaining the security, confidentiality and integrity of policyholder records and information within two months of joining the insurer.

D. Agent Training

1. Insurers must develop, control and approve all illustrative and promotional documents used by agents in the solicitation of business.

2. Insurers must have a process in place to ensure that only authorised illustrative and promotional material are used by agents in the conduct of a sale.

3. Insurers must put a compliance programme in place to ensure that after the sale is made, no unauthorised promotional and illustrative material were used by agents to make the sale, and that a proper needs analysis was completed.

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4. Insurers must have documented training programs for agents and ensure all agents are put through this process.

E. POST-SALE-COMMUNICATION

General Principles

Insurers should ensure their post-sale documents and communications are clear, fair, complete and do not mislead policyholders. Insurers shall ensure that information contained in post-sale documents and other forms of communication is accurate and up to date, and clearly written. All appropriate and relevant information must be included on the communication. The method of presentation of the information shall not disguise, diminish or obscure important information.

1. An insurer must make adequate disclosure to the policyholders of all relevant information on the performance of their insurance policies.

2. Any and all options presented post-sale to policyholders must include information that is adequate enough to enable policyholders to make informed decisions.

(Section 282).
[3 of 2020].

SCHEDULE 12

CONSEQUENTIAL AMENDMENTS

First Column	Second Column
The Proceeds of Crime Act, Chap. 11:27	In section 2(1), in the definition of the term "financial institution", delete paragraph *(e)* and substitute the following paragraph: "*(e)* an insurance company or an agency or brokerage registered under the Insurance Act, 2015;".
The Central Bank Act, Chap. 79:02	A. In section 44D(1)*(c)*— *(a)* delete the full stop at the end of subparagraph (viii) and substitute a semicolon; and

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First Column	Second Column
	(b) insert after subparagraph (viii) the following new subparagraph: "(ix) in the case of an insurance company, to make an application to the High Court for an order to amend or suspend terms of contracts of insurance when a course of resolution action is pursued which involves a restructuring or transfer of business and, where in the opinion of the Central Bank, it is most advantageous to the general interests of the policyholders and the financial condition of the insurance company.". B. Section 56(1) is amended by inserting after the words "Financial Institutions Act", the words "and section 16 of the Insurance Act" and by inserting the words "or entity" after the word "person".
The Financial Institutions Act, Chap. 79:09	A. In section 2(1), insert before the definition of "acquirer", the following: " "abridged financial statements" means a summary of financial statements, the format and contents of which are agreed to in writing between the Central Bank and the Institute of Chartered Accountants of Trinidad and Tobago."; B. In section 5(3)— *(a)* in paragraph *(b)*, delete the word "and"; *(b)* in paragraph *(c)*, delete the full stop and substitute the words "; and"; and *(c)* insert after paragraph *(c)*, the following paragraph: "*(d)* ensure compliance of licensees with legislation to combat money laundering and terrorist financing.";

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SCHEDULE 12—*Continued*

First Column	Second Column
	C. In section 8— *(a)* in subsection (2)*(a)*, delete the words "for purposes related to that regulation" and substitute the words "for regulatory purposes"; *(b)* in subsection (2)*(c)*, delete the words "the designated authority under the Proceeds of Crime Act" and substitute the words "the Financial Intelligence Unit established under the Financial Intelligence Unit of Trinidad and Tobago Act"; *(c)* in subsection (3)— (i) delete the words "the designated authority" and substitute the words "the Financial Intelligence Unit"; and (ii) delete the words "regulatory authority" and substitute the word "person"; D. In section 23— *(a)* in subsection (1)*(b)*, insert after the word "Act", the words "or any other written law"; *(b)* in subsection (1)*(l)*, delete the full-stop and substitute the words "; and"; *(c)* after subsection (1)*(l)*, insert the following paragraph: "*(m)* the licensee has failed to comply with any obligation imposed on it by any written law for the prevention of money laundering or terrorist financing including the Proceeds of Crime Act, the Anti-Terrorism Act, the Financial Intelligence Unit of Trinidad and Tobago Act and any Regulations made thereunder, respectively.";

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First Column	Second Column
	(d) in subsection (11)— (i) delete the words "in Chambers"; (ii) delete the word "shall" and substitute the word "may"; E. Insert after section 51(4), the following section:
Inspector to approve product.	51. (4A) Notwithstanding that a licensee has offered a new or materially different product or service in accordance with subsection (4), the Inspector may subsequently prohibit the licensee from continuing to offer the new or materially different product or service, if in the opinion of the Inspector the continued use of the new or materially different product or service will be fraudulent, unjust, imprudent, or not in the public interest and the Inspector shall give written reasons for the prohibition."; F. In section 62, insert after subsection (18), the following subsection: " (19) Where the provisions of this Act require anything to be done within a specified period of time and the person who is required to comply with the time limit prescribed is unable to do so because of circumstances beyond his control, including but not limited to the occurrence of any hurricane, storm, fire, flood or any similar natural disaster or events such as industrial unrest, riot, public disorder or the like, the Inspector shall grant such extension of time as may be reasonably sufficient for the doing of the act or thing."; FA. In section 71(2), delete the words "prevail over this section" and substitute the words "also apply and for the avoidance of doubt, where approval is granted for an acquirer to become a controlling shareholder, a permit shall be issued under this section in addition to the permit issued under section 74".

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SCHEDULE 12—*Continued*

First Column	Second Column
	G. In section 72— *(a)* in subsection (2), delete the words "prevail over this section" and substitute the words "also apply and for the avoidance of doubt, where approval is granted for an acquirer to become a significant shareholder, a permit shall be issued under this section in addition to the permit issued under section 54."; and *(b)* repeal subsection (11) and substitute the following: "(11) Where the circumstances so warrant, the Central Bank may apply to the High Court for the disposal of shares on such terms and conditions as the High Court deems appropriate."; H. In section 78, delete the words ", by notice," wherever they occur; HA. In section 78(1)*(b)*, insert after the words "significant shareholder" the words, "acquirer" wherever they occur.". I. Insert after section 80(1), the following subsections: " (1A) The Central Bank may consult with licensees to create abridged financial statements for the purpose of publication. (1B) Every licensee and financial holding company may publish abridged financial statements instead of its financial statements in accordance with the requirement under section 80(1)."; J. In section 119(2), delete the words "three years" and substitute the words "seven years".

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SUBSIDIARY LEGISLATION

INSURANCE (APPROVED SECURITIES) REGULATIONS

373/2020.

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Approved Securities) Regulations.

Interpretation.

2. In these Regulations—

"Act" means the Insurance Act, 2018;

Act No. 4 of 2018.

"requirement" means the requirement for capital in excess of the minimum stated capital under section 22(7) of the Act, the requirement for minimum stated capital under section 116(2) of the Act or the deposit requirement under section 233(3) of the Act.

Approved Securities.

3. (1) Approved securities required for the purposes of sections 22(7), 116(2) and 233(3) of the Act, shall be the securities specified hereunder—

(a) securities of, or guaranteed by, the Government of Trinidad and Tobago payable in Trinidad and Tobago dollars and which said guarantee is explicit, unconditional, legally enforceable and irrevocable over the life of the security;

(b) securities of the Government of Trinidad and Tobago payable in a currency other than Trinidad and Tobago dollars, up to a limit of thirty per cent of the requirement;

(c) securities of the Government of the United States of America, up to a limit of thirty per cent of the requirement;

(d) securities of a Government other than Trinidad and Tobago and the United States of America, with an investment grade rating from a credit rating agency recognised by the Central Bank, up to a limit of thirty per cent of the requirement;

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(e) securities of the Inter-American Development Bank, up to a limit of thirty per cent of the requirement;

(f) securities of the Caribbean Development Bank, up to a limit of thirty per cent of the requirement;

(g) securities of the International Bank for Reconstruction and Development, up to a limit of thirty per cent of the requirement;

(h) bonds issued by the Trinidad and Tobago Home Mortgage Bank, up to a limit of twenty per cent of the requirement; or

(i) securities issued by a licensee registered under the Financial Institutions Act, where the underlying assets are securities of the Government of Trinidad and Tobago, up to a limit of thirty per cent of the requirement, provided that—

(i) the licensee issuing the security is fully compliant with capital adequacy requirements set out under the Financial Institutions Act and Regulations made thereunder; and

(ii) the total value of any instrument held by the insurer under paragraph *(b)* above, when added to the value of the underlying government securities referred to in this paragraph, does not exceed the limit set out at paragraph *(b)*.

(2) In order for a security to qualify as an approved security under regulation 3(1)*(i)*, the following criteria shall be met:

(a) the underlying asset shall be vested in a trustee on trust on behalf of the participants or holders of the security and the assets (and the proceeds of the assets) are bankruptcy remote;

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(b) the underlying asset shall be transferred from the issuer of the security to the trustee who then becomes the registered owner; and

(c) in the event of default on the underlying asset, the trustee may take enforcement action on behalf of the participants or holders of the security against the issuer of the underlying security.

Commencement.

4. These Regulations shall come into operation on 1st January 2021.

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INSURANCE (CAPITAL ADEQUACY) REGULATIONS

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INSURANCE (CAPITAL ADEQUACY) REGULATIONS

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Capital Adequacy) Regulations.

Interpretation.

2. (1) In these Regulations—

Act No. 4 of 2018.

"Act" means the Insurance Act, 2018;

"asset-backed security" has the meaning assigned to it in section 4 of the Securities Act;

Chap. 83:02.

"banking business" has the meaning assigned to it in section 2 of the Financial Institutions Act;

Ch. 79:09.

"bond fund" means a fund where not less than seventy per cent of the portfolio is invested in bonds, debentures, notes or similar instruments representing indebtedness, whether secured or unsecured, that have an original tenor of more than one year;

"business of a financial nature" has the meaning assigned to it in the Financial Institutions Act;

"capital adequacy returns" means returns in respect of capital adequacy required by the Inspector pursuant to section 145(1)*(d)* of the Act;

"credit rating" means an opinion or assessment of the creditworthiness of an entity, a credit commitment, a debt or debt-like security or an issuer of such obligations, expressed using the Standard and Poor's ratings or equivalent ratings as specified by the Central Bank;

"credit rating agency" means an external credit rating agency that is deemed to be eligible for the determination of risk charges by the Central Bank in accordance with a Guideline issued by the Central Bank under the Act;

"derivative" has the meaning assigned to it in section 4 of the Securities Act;

"equity fund" means a fund where not less than eighty per cent of the portfolio is invested in equities;

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"financial institution" means an institution licensed or registered by the Central Bank in accordance with the Financial Institutions Act or the Insurance Act or a financial holding company issued a permit under those Acts; Ch. 84:01.

"financial subsidiary" means a domestic or foreign subsidiary of an insurer which carries on insurance business, banking business or business of a financial nature which is subject to regulation in respect of the capital that it is required to hold by the Central Bank or an equivalent foreign regulatory body;

"fully collateralised" means, in respect of a transaction mentioned in paragraph 1 of Schedule 5, that such transaction meets the criteria in paragraphs 2 to 4 of Schedule 5;

"fund" means an investment fund and includes, without limitation, a collective investment scheme as defined in the Securities Act, an exchange traded fund or a hedge fund;

"investment linked policy" means a policy, the principal object of which by its policy terms is to provide insurance benefits based on the market value of a specific portfolio of assets maintained for the purpose of calculating such benefits, and "investment linked insurance business" shall be construed accordingly;

"money market fund" means a fund where not less than ninety per cent of the portfolio is invested in any or all of the following:

(a) cash;

(b) cash equivalents; or

(c) evidence of indebtedness, other than cash equivalents that have a remaining term to maturity of not more than one year;

"net tier 1 ratio" means the Net Tier 1 Capital determined under regulation 7 divided by the regulatory capital required determined under regulation 10;

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"non-financial subsidiary" means a subsidiary of an insurer that is not a financial subsidiary;

"non-permissible value" means, where applicable—

(a) the aggregate value of assets in excess of the limits prescribed in Schedule 1;

(b) the aggregate value of assets which do not comply with the criteria set out in Schedule 2; and

(c) the aggregate value of assets, credit exposures and reduction in liabilities prohibited by the Act or Regulations made thereunder, not including amounts in excess of the limits prescribed under section 85 of the Act;

"non-qualifying unrated asset-backed securities" means unrated asset-backed securities which do not meet the criteria in Schedule 4;

"public corporation" means a body incorporated by statute or under the Companies Act, in which the Government or a body controlled by the Government—

(a) exercises or is entitled to exercise control directly or indirectly over the affairs of the body;

(b) is entitled to appoint a majority of the directors of the Board of Directors of the body; or

(c) holds at least fifty per cent of the ordinary share capital of the body, as the case may be;

"qualifying unrated asset-backed securities" means unrated asset-backed securities which meet the criteria in Schedule 4;

"regulatory capital available" means an amount of capital available determined under regulation 6;

"regulatory capital ratio" means the regulatory capital available determined under regulation 6, divided by the regulatory capital required, determined under regulation 10;

"regulatory capital required" means an amount of capital required determined under regulation 10;

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"repurchase agreement" means the sale of a security with a commitment by the seller to buy the same or equivalent security back from the purchaser at a specified price and at a designated date in the future;

"reverse repo" means the purchase of a security with a commitment by the buyer to re-sell the security to the seller at a future date at a fixed price;

"segregated fund policy" means an investment linked policy in respect of which by its policy terms, the portfolio of assets is held in a separate and distinct fund from the funds of the insurer, such segregated fund is established and maintained under trust and the property and income of the fund are considered to be the property and income of the trust; and

(2) Under these Regulations, "real estate" includes all estates in land as defined in section 84(1) of the Interpretation Act.

Application.

3. These Regulations apply to an insurer in respect of business both in and outside of Trinidad and Tobago.

Risk Charges for Non-Financial Subsidiaries etc.

4. The risk charges on investments in and debts due from non-financial subsidiaries controlled by the insurer and affiliates and associates of the insurer shall be determined by looking through to the underlying securities or guarantees as if they were directly held or given.

Adequate Capital.

5. (1) Every insurer shall maintain adequate capital to support its risk profile and business plan and shall comply with sections 22, 82 and 83 of the Act and subregulation (2).

(2) The Inspector may direct an insurer to increase a risk charge or impose a risk charge to take account of its risk profile and business plan of the insurer to ensure that the insurer maintains adequate capital.

(3) The Inspector may require an insurer to vary the amounts in respect of reinsurance or other risk transfer arrangements in its capital adequacy return.

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(4) An insurer shall maintain the minimum ratios as follows:

(a) its net tier 1 ratio shall not be less than one hundred and five percent; and

(b) its regulatory capital ratio shall not be less than one hundred and fifty per cent.

Regulatory capital available.

6. Regulatory capital available shall be the sum of Net Tier 1 Capital and Tier 2 Capital, as calculated in accordance with regulations 7 and 8, minus the deductions stated in regulation 9.

Net Tier 1 Capital.

7. (1) For the purposes of these Regulations, Net Tier 1 Capital shall be the amount by which the value of Gross Tier 1 Capital exceeds the aggregate of the deductions stated in subregulation (3) and subregulation (4).

(2) Gross Tier 1 Capital shall consist of the following:

(a) in the case of an insurer carrying on long-term insurance business, the accumulation of its—

(i) ordinary shares and retained earnings;

(ii) preference shares that meet the criteria of Part A of Schedule 3; and

(iii) appropriated surplus on participating and non-participating business and other reserves included in net equity;

(b) in the case of an insurer carrying on general insurance business, the accumulation of its—

(i) ordinary shares and retained earnings;

(ii) preference shares that meet the criteria of Part A of Schedule 3;

(iii) Catastrophe Reserve Fund as described in section 44 of the Act; and

(iv) other reserves included in net equity; and

(c) in the case of an insurer that is carrying on both long-term and general insurance business, as prescribed in paragraphs *(a)* and *(b)*.

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(3) An insurer shall deduct from Gross Tier 1 Capital the accumulation of—

(a) goodwill and other intangibles net of any associated deferred tax liabilities that would be extinguished if the goodwill or intangible assets were to become impaired or otherwise derecognised;

(b) unrealised after-tax gains on real estate and unquoted equity included in Gross Tier 1 Capital; and

(c) in the case of an insurer carrying on long-term insurance business—

(i) the cash surrender value deficiencies calculated on an aggregate basis for each group of policies separately; and

(ii) the negative reserves calculated on a policy-by-policy basis.

(4) In addition to the deductions in subregulation (3), an insurer shall deduct any non-permissible value from Gross Tier 1 Capital.

Tier 2 Capital.

8. (1) Tier 2 Capital shall be the sum of Tiers 2A, 2B and 2C and shall not exceed one hundred per cent of Net Tier 1 Capital.

(2) Tier 2A Capital shall consist of the following:

(a) preference shares that meet the criteria in Part A of Schedule 3, except that their value exceed the limit in paragraph 1*(d)* of Part A of Schedule 3;

(b) preference shares that meet the criteria in Part A of Schedule 3, except that the holder is entitled to cumulative dividends;

(c) hybrid capital instruments that meet the requirements in Part B of Schedule 3; and

(d) unrealised after-tax gains on real estate excluded from Tier 1 Capital under subregulation 7(3)*(b)* which shall not exceed twenty per cent of Net Tier 1 Capital; and

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(e) unquoted equity excluded from Tier 1 Capital under subregulation 7(3)*(b)*.

(3) Tier 2B Capital shall consist of limited life instruments that meet the criteria in Part C of Schedule 3.

(4) Where the remaining term of the limited life instrument referred to in subregulation (4) is less than five years, the amount of the instrument included in Tier 2B Capital shall be amortised in the manner prescribed in Part D of Schedule 3.

(5) Tier 2B Capital shall not exceed fifty per cent of Net Tier 1 Capital.

(6) Tier 2C Capital shall consist of the following:

(a) seventy-five per cent of the amount deducted under regulation 7(3)*(c)*(i); and

(b) the amount deducted under regulation 7(3)*(c)*(ii).

Deductions.

9. (1) The sum of Net Tier 1 Capital and Tier 2 Capital for all insurers shall be reduced by the following:

(a) reciprocal cross holdings in capital instruments, whether arranged directly or indirectly, between financial institutions that artificially inflate the capital position of the insurer;

(b) deferred tax assets;

(c) pension plan assets net of any associated deferred tax liability, related to the insurer's own employees and beneficiaries under the pension plan;

(d) subrogation receivables aged more than one hundred and twenty business days;

(e) outstanding agent or broker debit balances aged more than sixty business days;

(f) residential mortgages that are overdue more than one hundred and twenty business days;

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(g) commercial mortgages that are overdue more than one hundred and twenty business days; and

(h) investments in financial subsidiaries.

(2) In addition to the deductions to be made under regulation 9(1), insurers carrying on long-term insurance business shall also reduce the sum of Net Tier 1 Capital and Tier 2 Capital by the amount of outstanding premiums aged more than sixty business days.

(3) The minimum value of each of the amounts required to be deducted in subregulation (1) shall be zero.

Regulatory capital required.

10. (1) The regulatory capital required shall be the sum of the risk charges in paragraph *(a)* and, where applicable, paragraphs *(b)* or *(c)*—

(a) the following risk charges in relation to all insurers:

(i) asset default risk charge;

(ii) investment volatility risk charge;

(iii) off balance sheet risk charge; and

(iv) foreign currency mismatch risk charge;

(b) the following risk charges in relation to all insurers carrying on long-term insurance business:

(i) asset liability mismatch risk charge;

(ii) mortality and morbidity risk charge;

(iii) lapse risk charge;

(iv) interest margin pricing risk charge;

(v) liquidity and operational risk charge; and

(vi) risk charge for guarantees;

(c) the following risk charges in relation to all insurers carrying on general insurance business:

(i) premium adequacy risk charge;

(ii) outstanding claims risk charge; and

(iii) catastrophe risk charge.

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(2) The Central Bank shall, from time to time, establish criteria and procedures to be used by an insurer for determining credit ratings to be used for these Regulations, by issuing a Guideline or through directions to an insurer.

(3) For the purposes of these Regulations, no risk charge shall be applied to items that are deducted from capital.

Asset default risk charge.

11. The asset default risk charge shall be the sum of the value of assets held for each type of asset multiplied by the appropriate risk factor determined in accordance with Schedule 4.

Investment volatility risk charge.

12. The investment volatility risk charge shall be the sum of the value of assets held for each type of asset multiplied by the appropriate risk factor determined in accordance with Schedule 6.

Off balance sheet risk charge.

13. (1) For the purposes of these Regulations, off balance sheet activities include guarantees, commitments, derivatives and similar contractual arrangements whose full notional principal amount may not be reflected on the balance sheet.

(2) Subject to subregulation (5), the off balance sheet risk charge shall be the sum of the exposure to risk with each counterparty multiplied by the appropriate risk factor for the counterparty determined in accordance with Schedule 7.

(3) For the purposes of subregulation (2), "counterparty" means the person guaranteed in the case of a guarantee or the party with whom the contract is made in the case of derivatives or other similar contractual arrangements.

(4) An insurer shall not invest in a derivative contract for trading or speculative purposes.

(5) The risk charge for guarantees stated in policies, including guarantees made under any off balance sheet policy arrangements, shall be determined in accordance with regulation 20.

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Foreign currency mismatch risk charge.

14. The foreign currency mismatch risk charge shall be determined in accordance with Schedule 8.

Asset liability mismatch risk charge.

15. The asset liability mismatch risk charge shall be determined in accordance with Schedule 9.

Mortality and Morbidity risk charge.

16. (1) The mortality risk charge for long-term insurance business shall be the sum of the exposure for each type of policy multiplied by the appropriate risk factor determined in accordance with Schedule 10.

(2) The morbidity risk charge for long-term insurance business shall be the sum of the exposure for each type of policy multiplied by the risk factor determined in accordance with Schedule 10.

Lapse risk charge.

17. (1) The lapse risk charge shall be calculated for all individual life business and includes participating and adjustable premium policies and all other product lines.

(2) The lapse risk charge shall be determined in accordance with Schedule 11.

Interest margin pricing risk charge.

18. (1) The interest margin pricing risk charge shall be the sum of the policy liabilities net of reinsurance multiplied by the appropriate risk factor for the type of policy in accordance with Schedule 12.

(2) The reasonable flexibility of the crediting features with respect to universal life policies shall be tested in pricing the policy or elsewhere, and shall demonstrate that the insurer may recoup at least half of any unexpected losses due to disintermediation risk.

Liquidity and operational risk charge.

19. The liquidity and operational risk charge shall be the value of the assets held by the insurer backing investment linked insurance business multiplied by the appropriate risk factor determined in accordance with Schedule 13.

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Risk charge for policy guarantees.

20. (1) An insurer shall maintain adequate reserves and capital for guarantees stated in policies, including guarantees made under any off balance sheet arrangements which includes segregated fund policies. The appointed actuary shall certify the adequacy of reserves held for such guarantees.

(2) Capital required to be held under subregulation (1) shall be no less than five per cent of the reserves held for the guarantees stated in policies and shall apply as at the insurer's first financial year end following commencement of the Regulations.

Premium adequacy risk charge.

21. For each class of general insurance business, the premium adequacy risk charge shall be the net written premium in the previous twelve months, multiplied by the appropriate risk factor for the class of insurance business in accordance with Schedule 14.

Outstanding claims risk charge.

22. (1) For each class of general insurance business, the outstanding claims risk charge shall be the provisions for outstanding claims, net of reinsurance recoveries, multiplied by the appropriate risk factor for the class of insurance business in accordance with Schedule 15.

(2) For the purposes of this subregulation (1), "provisions for outstanding claims" shall have the meaning the assigned to the term "provisions for outstanding claims" in section 212(4)*(a)* of the Act.

Catastrophe risk charge.

23. The catastrophe risk charge shall be determined in accordance with Schedule 16.

Returns, audits and declarations.

24. (1) An insurer shall submit to the Central Bank, audited capital adequacy returns in such form as the Inspector may, from time to time, specify in accordance with the provisions of section 145(1)*(d)* of the Act.

(2) In addition to the capital adequacy returns, an insurer shall provide a declaration by the chief financial officer, the appointed actuary and a director of the insurer in the form prescribed in Schedule 17.

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(3) Notwithstanding subregulation 24(2), where an appointed actuary has not yet been appointed by an insurer carrying on general insurance business within three years immediately following the commencement of the Act, a director shall provide the declaration in the form prescribed in Schedule 17.

Grand-fathering.

25. (1) Unrealised after-tax gains on real estate reported by the insurer in its financial statements prior to the commencement of these Regulations shall be treated as though they were realised as at the date of the commencement of these Regulations and shall not be subject to regulations 7(3)*(b)* and 8(2)*(d)*.

(2) The risk factors for unrated bonds in respect of asset default risk and for quoted common shares in respect of investment volatility risk that are acquired prior to the commencement of these Regulations shall be—

(a) ten per cent for unrated bonds or other evidence of indebtedness; and

(b) fifteen per cent for quoted common shares.

Capital adequacy returns.

26. The insurer shall submit unaudited capital adequacy returns quarterly. Notwithstanding section 145(3) of the Act, the first unaudited capital adequacy return shall be submitted within three months from the commencement of these Regulations for the end of the first quarter immediately preceding the commencement of the Act.

Transitional Capital Ratios.

27. Upon the commencement of these Regulations, where an insurer does not satisfy the requirements under regulation 5, the insurer shall—

(a) within two months from the submission of the first capital adequacy return referred to in regulation 26, submit a plan approved by the board of directors of the insurer, for attaining the capital ratios referred to in paragraph *(b)*; and

(b) attain the transitional regulatory capital ratios as specified in Schedule 8 of the Act.

Commencement.

28. These Regulations shall come into operation on 1st January 2021.

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SCHEDULE 1

NON-PERMISSIBLE VALUE: ASSET LIMITS

1. The total value of assets held in excess of the limits shown below shall be included in the non-permissible value.

Description	Limit
Maximum aggregate value of ordinary shares, not including ordinary shares in permissible real estate entities	40% of Adjusted Assets
Maximum aggregate value of mutual funds, including unit trusts and other collective investment schemes, not including money market funds	20% of Adjusted Assets
Maximum aggregate value of mortgages, charges or other titles for repayment of a loan secured by real estate, not including mortgages or debts due from permissible real estate entities	50% of Adjusted Assets
Maximum aggregate value of interests in real estate	30% of Adjusted Assets
Maximum aggregate value of mortgages, charges or other titles for repayment of a loan secured by real estate, not including mortgages or debts due from permissible real estate entities controlled by the insurer and the value of interests in real estate	50% of Adjusted Assets
Maximum aggregate value of securities rated below investment grade (credit rating BB and lower)	5% of Adjusted Assets
Maximum aggregate value of unrated securities	30% of Adjusted Assets

2. These requirements shall apply to an insurer on an individual basis.

3. For the purposes of this Schedule—

(a) Adjusted Assets in respect of an insurer, at a particular time, means the amount determined by the formula A minus B, where—

(i) A is the total value of assets reported on the capital adequacy returns submitted; and

(ii) B is the total of all deductions made under regulation 7(3) and regulation 9.

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(b) For the avoidance of doubt, "A" in the formula for calculating Adjusted Assets in subparagraph 3*(a)*(i) does not include assets backing liabilities of the investment linked insurance business if—

(i) the assets are identifiable and valued at market value;

(ii) transfers into and out of the portfolio of assets occur at market value; and

(iii) there is full pass through of investment returns due on the policies and credited returns are not based on the insurer's discretion.

4. The value of interests in real estate shall include—

(a) the gross book value of the real estate, less any accumulated depreciation;

(b) the book value of ownership interests in permissible real estate entities; and

(c) the book value of mortgages or other debts due from permissible real estate entities,

reported on a balance sheet of the insurer prepared in accordance with the Act.

SCHEDULE 2

NON-PERMISSIBLE VALUE: MORTGAGES, CHARGES AND OTHER TITLES FOR REPAYMENT OF A LOAN SECURED BY REAL ESTATE

1. The total value of a mortgage, charge and other titles for repayment of a loan secured by real estate in which the amount of the loan exceeds eighty per cent of the value of the property at the time of the origination of the mortgage, charge or other title for repayment on real estate shall be included as a non-permissible value.

2. Notwithstanding paragraph (1), the total value of a mortgage, charge and other title for repayment of a loan secured by real estate in which the amount of the loan exceeds eighty per cent of the value of the property at the time of the origination of the mortgage, charge or other title to repayment of loan secured by real estate shall not be included as a non-permissible value where the following criteria are met:

(a) the total value of the mortgage, charge or other title to repayment of a loan secured by real estate is guaranteed by

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SCHEDULE 2—*Continued*

the Government and said guarantee is explicit, unconditional, legally enforceable and irrevocable over the life of the mortgage, charge or other title to repayment secured on real estate in question or through an agency of the Government of Trinidad and Tobago; or

(b) that portion of the amount of the loan which exceeds eighty per cent of the value of the property is guaranteed by an insurer registered under the Act to carry on that class of insurance business.

SCHEDULE 3

PART A—PREFERENCE SHARES WHICH QUALIFY AS TIER 1 CAPITAL

1. Preference shares shall qualify as Tier 1 capital only where—
   (a) they are fully subordinated to the interests of policyholders and unsecured creditors;
   (b) they are of permanent and of perpetual duration;
   (c) they are free of mandatory payments or encumbrances;
   (d) their value does not exceed thirty-three per cent of X, where X equals Net Tier 1 Capital, excluding the entire value of the preference shares in regulation 7(2)*(a)*(ii); and
   (e) they meet the conditions in paragraphs 2 and 3 below.

2. Preference shares—
   (a) in respect of which there is an option for redemption at the request of the holder;
   (b) in respect of which there is obligation of the issuer to redeem the shares; or
   (c) are callable by the issuer within five years of issuance,

shall not qualify as being of permanent and perpetual duration under paragraph 1*(b)*.

3. Preference shares in respect of which—
   (a) cumulative dividends are payable to the holder;
   (b) payment of dividends is influenced by the credit rating of the issuer;

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(c) compensation other than a dividend is payable to holders; or

(d) the issuer is required to establish and maintain a sinking fund or purchase funds,

shall not qualify as being free of mandatory payments or encumbrances in accordance with paragraph 1*(c)* above.

PART B—HYBRID CAPITAL INSTRUMENTS IN TIER 2A CAPITAL

A hybrid capital instrument shall be included in Tier 2A Capital where the terms or conditions of the hybrid capital instrument provide for or meet the following criteria:

(a) they are of perpetual duration and fully paid up;

(b) there is no option for redemption at the request of the holder;

(c) they are unsecured and fully subordinated to the interests of policyholders and unsecured creditors;

(d) subject to Part E of this Schedule, they are callable by the issuer after a minimum of five years and with the prior consent of the Inspector;

(e) payment/declaration of dividends or interest are deferred by the issuer where the profitability of the issuer would not support payment; and

(f) they do not contain restrictive covenants or default clauses that would allow the holder to trigger acceleration of repayment in circumstances other than insolvency, bankruptcy or winding-up of the issuer.

PART C—LIMITED LIFE INSTRUMENTS IN TIER 2B CAPITAL

A limited life instrument shall be included in Tier 2B Capital where the terms or conditions of the limited life instrument provide for or meet the following criteria:

(a) the initial minimum term of the limited life instrument is greater than five years;

(b) the limited life instrument is fully subordinated to the interests of policyholders and other creditors;

(c) the limited life instrument is fully paid up in cash or, with the approval of the Inspector, in property; and

(d) subject to Part E of this Schedule, the limited life instrument may be callable by the issuer after a minimum of five years and with the prior consent of the Inspector.

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SCHEDULE 3—*Continued*

PART D—AMORTISATION OF TIER 2B CAPITAL INSTRUMENTS

Years to Maturity	Included in Capital
A remaining term of at least 4 years, but less than 5 years	80%
A remaining term of at least 3 years, but less than 4 years	60%
A remaining term of at least 2 years, but less than 3 years	40%
A remaining term of at least 1 year, but less than 2 years	20%
A remaining term of less than 1 year	0%

PART E—EXERCISING A CALL OPTION ON A CAPITAL INSTRUMENT

The call option for capital instruments referred to in paragraph 2*(c)* of Part A, paragraph *(d)* of Part B and paragraph *(d)* of Part C of this Schedule shall satisfy the following criteria:

(a) An issuer's actions or the terms of the capital instrument shall not create an expectation that the call will be exercised; and

(b) An issuer shall not exercise the call unless—

(i) it replaces the called capital instrument with capital of the same or better quality; or

(ii) the issuer demonstrates that its capital position would be above the minimum ratios in regulation 5(4) after the call option is exercised.

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SCHEDULE 4

(Regulation 11).

ASSET DEFAULT RISK CHARGE AND FACTORS

1. The value of assets referred to in regulation 11 used to calculate the asset default risk charge shall be—

(a) net of any depreciation or provision for diminution of value; and

(b) inclusive of any investment income due and accrued.

2. The appropriate risk factor for the asset default risk charge referred to in regulation 11 shall be determined in accordance with Table 1.

3. (1) Except for bonds and other evidence of indebtedness—

(a) issued by the Government of Trinidad and Tobago;

(b) guaranteed by the Government of Trinidad and Tobago; or

(c) issued by Multilateral Agencies,

the ratings for bonds and other evidence of indebtedness in Table 1 refer to the rating of the instrument.

(2) A risk factor of 0% shall be assigned to bonds and other evidence of indebtedness—

(a) issued by the Government of Trinidad and Tobago;

(b) guaranteed by the Government of Trinidad and Tobago; or

(c) issued by Multilateral Agencies.

(3) For the purposes of this Schedule, "Multilateral Agencies" means organisations that are jointly owned by a group of countries for the purpose of assisting with the social and economic growth and development in member countries and shall include the following:

(a) African Development Bank;

(b) Asian Development Bank;

(c) Bank for International Settlements;

(d) Caribbean Development Bank;

(e) Council of Europe Development Bank;

(f) European Bank for Reconstruction and Development;

(g) European Central Bank;

(h) European Community;

(i) European Economic Community;

(j) European Investment Bank;

(k) European Investment Fund;

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SCHEDULE 4—*Continued*

(l) Inter-American Development Bank;
(m) International Bank for Reconstruction and Development;
(n) International Finance Corporation;
(o) International Monetary Fund;
(p) Islamic Development Bank;
(q) Multilateral Investment Guarantee Agency;
(r) Nordic Investment Bank; and
(s) The International Finance Facility for Immunisation.

4. In the event that a bond or other evidence of indebtedness is not rated, the rating of the issuer applies. If neither the issuer nor the bond or other evidence of indebtedness is rated, the risk factor shall be the appropriate unrated categories in Table 1.

Table 1

Assets	Factor
Bank certificates of deposit	0.25%
Commercial paper, including bankers acceptances secured by bank deposit	0.25%
Commercial paper, including bankers acceptances secured by investment grade instrument	2.00%
Other commercial paper, including bankers acceptances	15.00%
Bonds and other evidence of indebtedness	
Rated "AA–" or higher	0.50%
Rated "A–" to "A+"	1.00%
Rated "BBB–" to "BBB+"	3.00%
Rated "BB–" to "BB+"	5.00%
Rated "B–" to "B+"	10.00%
Rated "CCC+" and below	15.00%
Unrated and fully collateralised	10.00%
Unrated	15.00%
Rated Asset Backed Securities	
Rated "AA–" or higher	0.50%

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Table 1—*Continued*

Assets	Factor
Rated "A–" to "A+"	2.00%
Rated "BBB–" to "BBB+"	3.00%
Rated "BB–" to "BB+"	10.00%
Rated "B–" to "B+"	15.00%
Rated "CCC+" and below	20.00%
Qualifying Unrated Asset-Backed Securities	2.00%
Non-Qualifying Unrated Asset-Backed Securities	20.00%
Receivables	
Agent or broker debit balances aged less than 60 business days	0.00%
Outstanding premiums aged less than 60 business days (for insurers carrying on long-term insurance business)	0.00%
Outstanding premiums aged less than 20 business days (for insurers carrying on general insurance business)	0.00%
Subrogation receivables aged less than 120 business days	0.00%
Policy Loans	0.00%
Other receivables	0.50%
Reinsurance Recoverables from Reinsurers Rated "AA–" or higher	0.50%
Reinsurance Recoverables from Reinsurers Rated "A–" to "A+"	2.00%
Reinsurance Recoverables from Reinsurers Rated "BBB–" to "BBB+"	3.00%
Reinsurance Recoverables from Reinsurers Rated "BB–" to "BB+"	10.00%
Reinsurance Recoverables from Reinsurers Rated "B–" to "B+"	1500%
Reinsurance Recoverables from Reinsurers Rated "CCC+" and below	15.00%
Reinsurance Recoverables from Unrated Reinsurers	20.00%
Mortgages	
Residential Mortgages that are less than 60 business days overdue	2.00%
Commercial Mortgages that are less than 60 business days overdue	4.00%

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SCHEDULE 4—*Continued*

Table 1—*Continued*

Assets	Factor
Residential Mortgages that are overdue between 60 and 120 business days	10.00%
Commercial Mortgages that are overdue between 60 and 120 business days	20.00%
Undeveloped Land	8.00%
Mutual Funds, Units and other Collective Investment Schemes	
Money market funds	2.00%
Bond funds	8.00%
Miscellaneous Items	
Cash	0.00%
Fixed Assets (excluding Real Estate)	10.00%
All Other Assets not described in either Schedule 4 or Schedule 6 and not required to be deducted pursuant to regulation 9	20.00%

5. Notwithstanding paragraph 2 of this Schedule, in the case of unrated bonds or other evidence of indebtedness acquired prior to the commencement of these Regulations, the risk factor shall be determined in accordance with subregulation 25(2)*(a)*.

6. In the case of bonds or other evidence of indebtedness guaranteed by the Government of Trinidad and Tobago referred to in Table 1 of this Schedule, such guarantees shall be explicit, unconditional, legally enforceable and irrevocable over the life of the bond or other evidence of indebtedness in question.

7. A security shall not be categorised as a qualifying unrated asset-backed security in Table 1 unless the following criteria are met:

(a) The underlying asset(s) must be equities, bonds, debentures, stocks or other evidence of indebtedness of—

(i) the Government of Trinidad and Tobago; or

(ii) any public corporation that is fully guaranteed by the Government of Trinidad and Tobago and which said

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guarantee is explicit, unconditional, legally enforceable and irrevocable over the life of the equity, bond, debenture, stock or other evidence of indebtedness in question;

(b) Such equities, bonds, debentures, stocks or other evidence of indebtedness must be vested in a trustee on behalf of the participants under a deed of trust constituting participation;

(c) Such equities, bonds, debentures, stocks or other evidence of indebtedness must be transferred from the seller to the trustee by way of an executed instrument of transfer and such trustee is constituted as the registered owner of such equities, bonds, debentures, stocks or other evidence of indebtedness;

(d) The trustee of the equities, bonds, debentures, stocks or other evidence of indebtedness is, without being compelled to take recourse to the seller, empowered by the deed of trust constituting the participation to take enforcement action against the issuer of such asset(s);

(e) Participants under the deed of trust constituting the participation have a right of action against the trustee, where the trustee has acted negligently or committed a breach of trust; and

(f) The seller and trustee are financial institutions regulated by the Central Bank.

8. In the case of subrogation receivables from another insurer or a third party contained in Table 1, the number of business days outstanding shall be measured from the date of acknowledgement and confirmation of the amount of the subrogation receivable due from that other insurer or third party.

9. (1) Notwithstanding paragraph 2 of this Schedule, in the case of repurchase agreements or reverse repos—

(a) if there is exposure to counterparty risk, the risk factor shall be the higher of the risk factor in Table 1 assigned to the securities to be repurchased or sold, or the risk factor assigned to the counterparty in accordance with Schedule 7; or

(b) if there is no exposure to counterparty risk, the risk factor shall be the risk factor in Table 1 assigned to the securities to be repurchased or sold.

(2) For the purposes of this paragraph 9, "counterparty" means the party with whom the repurchase agreement or reverse repo is made.

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SCHEDULE 4—*Continued*

10. (1) Notwithstanding paragraph 2 of this Schedule, in the case of leases—

(a) where an insurer is the lessee, the risk factor for the underlying leased asset in accordance with Table 1 in this Schedule or Table 2 in Schedule 6 shall apply;

(b) where an insurer is the lessor of a finance lease in respect of real estate, the risk factor for the counterparty in Schedule 7 shall apply, unless the lease is in arrears in which case a risk factor of twenty per cent shall apply; or

(c) where an insurer is the lessor of an operating lease in respect of real estate, the risk factor for the leased asset in accordance with Table 2 in Schedule 6 shall apply.

(2) "counterparty" for the purpose of this clause means the lessor in the case of a finance lease.

11. (1) Notwithstanding paragraph 2 of this Schedule, the risk factor applicable to non-performing assets shall be the risk factor assigned to those assets in Table 1 increased by an additional twenty per cent.

(2) For the purposes of this Schedule, "non-performing assets" mean assets for which the interest or installment of principal are overdue for more than sixty business days but does not include—

(a) assets required to be deducted under regulation 9; or

(b) the following assets in Table 1:

(i) subrogation receivables aged less than 120 business days;

(ii) residential mortgages that are overdue between 60 and 120 business days; and

(iii) commercial mortgages that are overdue between 60 and 120 business days.

12. The asset default risk charge does not apply to the portion of the assets backing the investment linked insurance business if—

(a) the assets are identifiable and valued at market value;

(b) transfers into and out of the portfolio of assets occur at market value; and

(c) there is full pass through of investment returns due on the policies and credited returns are not based on the insurer's discretion.

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SCHEDULE 5

COLLATERALISATION

1. This Schedule only applies to the following transactions:
   (a) transactions in which the credit exposure is an unrated bond or other evidence of indebtedness; or
   (b) transactions which are repurchase agreements, reverse repos, finance leases or off-balance sheet activities made between an insurer and an unrated counterparty.

2. Subject to paragraphs 3 and 4 of this Schedule, a transaction referred to in paragraph 1 of this Schedule shall qualify as being fully collateralised for the purposes of these Regulations where it meets the following criteria:
   (a) The collateral—
      (i) is posted by a counterparty or a third party on behalf of a counterparty in order to fully secure the exposure to risk in the transaction;
      (ii) is pledged, legally assigned, conveyed or transferred to the insurer for at least the life of the exposure; and
      (iii) meets the criteria in paragraph 4;
   (b) the fully collateralised transaction is binding on all parties and legally enforceable in all relevant jurisdictions;
   (c) the insurer has—
      (i) conducted a sufficient and reasoned legal review supported by legal opinions to verify the enforceability and legal nature of the transaction;
      (ii) undertaken such further review, as necessary, to ensure continuing enforceability;
      (iii) the right to liquidate or take legal possession of the collateral in a timely manner in the event of the default, insolvency or bankruptcy of the counterparty and, where applicable, of the custodian holding the collateral;
      (iv) taken all necessary steps to fulfill any requirements under the law applicable to the interest of the insurer in the collateral, for obtaining and maintaining an enforceable security interest or for exercising a right to net or set off in relation to title transfer collateral;
      (v) clear and robust procedures for the timely liquidation of collateral; and

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SCHEDULE 5—*Continued*

(vi) taken steps to ensure that any legal conditions required for declaring the default of the counterparty and liquidating the collateral are observed, and that collateral can be liquidated promptly; and

(d) Where collateral is held by a custodian, the insurer has taken reasonable steps to ensure that the custodian segregates the collateral from its own assets.

3. Notwithstanding paragraph 2 of this Schedule, where the value of the collateral has a positive correlation to the credit rating of the counterparty, including, but not limited to, transactions where the collateral posted is securities issued by the counterparty, that transaction shall not be recognised as a fully collateralised transaction.

4. The following collateral shall be recognised for fully collateralised transactions:

(a) Debt securities rated by a credit rating agency where these securities have a credit rating of—

(i) BB or better and have been issued or guaranteed by the Government of Trinidad and Tobago and such guarantees shall be explicit, unconditional, legally enforceable and irrevocable over the life of the debt security; or

(ii) BBB or better and have been issued by other entities (including banks, insurance companies, and securities firms);

(b) Unrated debt securities where—

(i) the securities are issued by a company whose equity is listed on a recognised exchange;

(ii) the securities are classified as senior debt;

(iii) all rated issues of the same seniority by the issuing company must be assigned a credit rating of at least BBB;

(c) Equities and convertible bonds which are included in a main index;

(d) Gold; and

(e) collective investment schemes where—

(i) a price for the units is publicly quoted daily; and

(ii) the collective investment scheme is limited to investing in the instruments listed in *(a)* to *(d)* of paragraph 4 of this Schedule.

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SCHEDULE 6

(Regulation 12).

INVESTMENT VOLATILITY RISK CHARGE AND FACTORS

1. The appropriate risk factor for the investment volatility risk charge referred to in regulation 12 shall be determined in accordance with Table 2 except that in the case of quoted common shares acquired prior to the commencement of these Regulations, the risk factor shall be determined in accordance with subregulation 25(2)*(b)*.

Table 2

Assets	Factor
Equity Investments	
Quoted Common Shares	20%
Unquoted Common Shares	25%
Quoted Preference Shares	10%
Unquoted Preference Shares	12%
Real Estate	
Income-producing Real Estate	10%
Owner-Occupied Real Estate	5%
Oil, gas and mining properties/rights	35%
Other	15%
Funds, Mutual Funds, Units and other Collective Investment Schemes	
Equity funds	20%
Other, including exchange traded funds	12%

2. *(a)* The risk factor for income-producing real estate shall be used only if the real estate earns an income yield of at least 4% of its carrying value;

(b) The 4% test in subparagraph (2)*(a)* should be calculated net of encumbrances, if any, and income should be calculated net of all real-estate expenses (including interest on encumbrances) and taxes (including property and other taxes, but excluding income taxes);

(c) The income amount used in the 4% test in subparagraph (2)*(a)* includes cash income only and does not include amortisation of the value of the property;

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SCHEDULE 6—*Continued*

(d) The risk factor for income-producing real estate shall not be used for properties currently under development and for which imputed interest is capitalised for financial reporting purposes; and

(e) For the avoidance of doubt, if income-producing real estate does not satisfy the criteria in subparagraphs *(a)* to *(d)*, a risk factor of 15% shall be applied.

3. The investment volatility risk charge does not apply to the portion of the assets backing the investment linked insurance business if—

(a) the assets are identifiable and valued at market value;

(b) transfers into and out of the portfolio of assets occur at market value; and

(c) there is full pass through of investment returns due on the policies and credited returns are not based on the insurer's discretion.

SCHEDULE 7

COUNTERPARTY RISK FACTORS

1. The appropriate risk factor for counterparty risk shall be determined in accordance with Table 3 in this Schedule.

Table 3

Counterparty Rating	Factor
Rated "AA–" or higher	0.5%
Rated "A+" to "A–"	1.0%
Rated "BBB+" to "BBB–"	3.0%
Rated "BB+"to "BB–"	5.0%
Rated "B–" to "B+"	10.0%
Rated "CCC+" and below	15.0%
Unrated counterparty where the transaction is fully collateralised	10.0%
Unrated	15.0%

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SCHEDULE 8

(Regulation14).

FOREIGN CURRENCY MISMATCH RISK CHARGE AND FACTORS

1. Subject to paragraphs 3 and 4 of this Schedule, the foreign currency mismatch risk charge shall be—

(a) two per cent of the total of the net open positions in any currency issued by countries with a credit rating of BBB and above expressed in Trinidad and Tobago dollars; and

(b) eight per cent of the total of the net open positions in any currency issued by countries with a credit rating of BBB minus and below, expressed in Trinidad and Tobago dollars.

2. For the purposes of these Regulations, the net open position shall be the absolute value of the assets denominated in a currency less the liabilities denominated in that currency and such value shall be converted to Trinidad and Tobago dollars using the prevailing selling rate as determined by the Central Bank at the valuation date.

3. Where the appointed actuary demonstrates that provisions for foreign currency mismatch risk have been established within the policy liabilities, such provisions may be offset against the foreign currency mismatch risk charge.

4. The foreign currency mismatch risk charge does not apply to the portion of the assets backing and the liabilities of the investment linked insurance business if—

(a) the assets are identifiable and valued at market value;

(b) transfers into and out of the portfolio of assets occur at market value; and

(c) there is full pass through of investment returns due on the policies and credited returns are not based on the insurer's discretion.

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(Regulation 15).

SCHEDULE 9

ASSET LIABILITY MISMATCH RISK CHARGE AND FACTORS

1. Subject to paragraphs 2 and 3 of this Schedule, the asset liability mismatch risk charge shall be ten per cent of the absolute change in the liabilities resulting from a one per cent parallel shift in the valuation interest rate.

2. Where the insurer has implemented an asset liability management policy in place and has the ability to stress test the assets supporting the liability segment, a one per cent parallel shift in the yield curve shall be determined and the asset liability mismatch risk charge shall be the lesser of—

(a) the absolute change in the liabilities minus the absolute change in the assets, when a one per cent parallel shift is applied; and

(b) the charge calculated under paragraph 1 of this Schedule.

3. The asset liability mismatch risk charge does not apply to the portion of the assets backing and the liabilities of the investment linked insurance business if—

(a) the assets are genuinely identifiable and valued at market value;

(b) transfers into and out of the portfolio of assets occur at market value; and

(c) there is full pass through of investment returns due on the policies and credited returns are not based on the insurer's discretion.

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SCHEDULE 10

(Regulation 16).

MORTALITY AND MORBIDITY RISK CHARGE AND FACTORS

1. The appropriate risk factor for the mortality risk charge referred to in subregulation 16(1) shall be determined in accordance with Table 4.

Table 4

Type of Policy	Measure of exposure	Factors
Individual life and Group life	Net amount at risk	.0005 (Less than 1 year guaranteed term remaining) .0010 (1–5 years guaranteed term remaining) .0020 (Over 5 years guaranteed term remaining)
Participating adjustable life & universal life where mortality costs are reasonably flexible	Net amount at risk	.0010 Where mortality costs are not reasonably flexible, use the factors for "All other policies"
Accidental death and dismemberment: Participating adjustable life and universal life	Net amount at risk	.0003
Accidental death and dismemberment: Individual life and Group life	Net amount at risk	.00015 (Less than 1 year guaranteed term remaining) .0003 (1–5 years guaranteed term remaining) .0006 (Over 5 years guaranteed term remaining)
All annuities involving life contingencies	Total policy liabilities	.01
All other policies	Net amount at risk	.0005 (Less than 1 year guaranteed term remaining) .0010 (1–5 years guaranteed term remaining) .0020 (Over 5 years guaranteed term remaining)

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SCHEDULE 10—*Continued*

2. The appropriate risk factor for the morbidity risk charge referred to in subregulation 16(2) shall be determined in accordance with Table 5.

Table 5

<table>
<tr><th>Type of Policy</th><th>Measure of exposure</th><th>Factors</th></tr>
<tr><td>Disability income and premium waiver with guaranteed terms—
Individual—
New claims</td><td>Annual net earned premium</td><td>.12 (Less than 1 year guaranteed term remaining)
.20 (1–5 years guaranteed term remaining)
.30 (over 5 years guaranteed term remaining)</td></tr>
<tr><td>Continuing claims</td><td>Reported and open claim reserves related to prior year claims incurred</td><td>
<table>
<tr><th colspan="3">Duration of disability (years)</th><th>Benefit period remaining (years)</th></tr>
<tr><td>2</td><td>>2≤ 5</td><td>>5</td><td></td></tr>
<tr><td>.040</td><td>.030</td><td>.020</td><td>≤ 1</td></tr>
<tr><td>.060</td><td>.045</td><td>.030</td><td>> 1≤ 2</td></tr>
<tr><td>.080</td><td>.060</td><td>.040</td><td>>2</td></tr>
</table>
</td></tr>
<tr><td>Disability income and premium waiver with guaranteed terms
Group—
New claims</td><td>Annual net earned premium</td><td>.12 (Less than 1 year guaranteed term remaining)
.25 (1–5 years guaranteed term remaining)
.40 (over 5 years guaranteed term remaining)</td></tr>
</table>

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<table>
<tr><th>Type of Policy</th><th>Measure of exposure</th><th>Factors</th></tr>
<tr><td>Continuing claims</td><td>Reported and open claim reserves related to prior year claims incurred</td><td>
<table>
<tr><th colspan="3">Duration of disability (years)</th><th>Benefit period remaining (years)</th></tr>
<tr><td>≤2</td><td>>2≤ 5</td><td>>5</td><td></td></tr>
<tr><td>.040</td><td>.030</td><td>.020</td><td>≤ 1</td></tr>
<tr><td>.060</td><td>.045</td><td>.030</td><td>> 1< 2</td></tr>
<tr><td>.080</td><td>.060</td><td>.040</td><td>>2</td></tr>
</table>
</td></tr>
<tr><td>Other accident and sickness, excluding accidental death and dismemberment—
New claims</td><td>Annual net earned premium</td><td>.12</td></tr>
<tr><td>Continuing claims</td><td>Reported and open claim reserves related to claims incurred</td><td>.10</td></tr>
<tr><td>Health insurance Individual and Group—
New claims</td><td>Annual net earned premium</td><td>.20</td></tr>
<tr><td>Continuing claims</td><td>Unreported and reported and open claim reserves related to claims incurred</td><td>.10</td></tr>
</table>

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SCHEDULE 10—*Continued*

3. Where current premium rates are significantly less than the maximum guaranteed premium rates, the term of the current premium rates shall be the guaranteed term for the purposes of calculating the mortality risk charge in accordance with paragraph 1 of this Schedule and the morbidity risk charge in accordance with paragraph 2 of this Schedule.

4. Where disability income and premium waiver benefits are attached to group life policies, the factors for individual coverage shall apply to these riders for the purposes of calculating the morbidity risk charge in accordance with paragraph 2 of this Schedule.

(Regulation 17).

SCHEDULE 11

LAPSE RISK CHARGE AND FACTORS

1. In order to calculate the lapse risk charge, the insurer shall ensure that—

(a) the total net policy liabilities are determined in accordance with the Insurance (Caribbean Policy Premium Method) Regulations, 2020;

(b) the total net policy liabilities are recalculated using increased lapse margins for adverse deviation in accordance with the following principles:

(i) for participating and adjustable premium policies, the lapse rate margin assumption shall be adjusted by seven point five per cent of the underlying lapse rate assumption;

(ii) for other policies, the lapse rate margin assumption shall be adjusted by fifteen per cent of the underlying lapse rate assumption; and

(iii) where at a particular duration a lower lapse rate assumption results in a higher reserve, the lapse rate assumption shall be adjusted by reducing the lapse rate, or where at a particular duration a higher lapse rate assumption results in a higher reserve, the lapse rate assumption is adjusted by increasing the lapse rate.

2. The lapse risk charge shall be the net policy liabilities calculated in paragraph 1*(b)* subtracted from the net policy liabilities calculated in paragraph 1*(a)* of this Schedule.

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SCHEDULE 12

(Regulation 18).

INTEREST MARGIN PRICING RISK CHARGE AND FACTORS

Type of Policy	Factor
Deferred annuities that are renewable at new business rates; policies with no repricing risk; policy liabilities that are not discounted for interest	.000
Adjustable premiums/adjustable interest credits; universal life where the crediting rates are reasonably flexible	.005
All other policies	.010

SCHEDULE 13

(Regulation 19).

LIQUIDITY AND OPERATIONAL RISK CHARGE AND FACTORS

The appropriate risk factor for the liquidity and operational risk charge applicable to investment linked insurance business shall be one per cent.

SCHEDULE 14

(Regulation 21).

PREMIUM ADEQUACY RISK CHARGE AND FACTORS

Class of Insurance Business	Factor
Property	.15
Motor Vehicle	.10
Marine, Aviation and Transport	.12
Workers Compensation	.20
Liability	.25
Pecuniary Loss	.15
Personal Accident	.18

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(Regulation 22).

SCHEDULE 15

OUTSTANDING CLAIMS RISK CHARGE AND FACTORS

Class of Insurance Business	Factor
Property	.10
Motor Vehicle	.10
Marine, Aviation and Transport	.12
Workers Compensation	.15
Liability	.15
Pecuniary Loss	.12
Personal Accident	.12

(Regulation 23).

SCHEDULE 16

CATASTROPHE RISK CHARGE AND FACTORS

1. The catastrophe risk charge shall be the cost to the insurer of a catastrophe event equal to the minimum acceptable upper limit divided by 1.5.

2. For the purposes of this Schedule, the cost to the insurer of a catastrophe event shall be net of all other applicable reinsurance arrangements and includes the retention of the insurer and reinstatement cost under the catastrophe reinsurance programme.

3. For the purposes of this Schedule, the minimum acceptable upper limit is an event which is expected to occur once in every two hundred and fifty years.

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SCHEDULE 17

(Regulation 24).

DECLARATIONS BY OFFICERS

Declaration by the Chief Financial Officer

I, (Name), Chief Financial Officer of (Company Name), (Address of Company) have reviewed the calculations of the regulatory capital ratio and net tier 1 ratio of (Company Name), as at (Date). In my opinion, the calculations have been determined in accordance with the Insurance (Capital Adequacy) Regulations, 2020 and any applicable instructions of the Inspector.

....
Signature of the Chief Financial Officer *Date*

Declaration by the Appointed Actuary

I, (Actuary Name), Appointed Actuary of (Company Name), (Address of Company) have reviewed the calculations of the regulatory capital ratio and net tier 1 ratio of (Company Name), as at (Date). In my opinion, the calculations have been determined in accordance with the Insurance (Capital Adequacy) Regulations, 2020 and any applicable instructions of the Inspector.

....
Signature of the Appointed Actuary *Date*

Declaration by a Director of the Company (pursuant to regulation 24(2))

I, (Director Name), Director of (Company Name), (Address of Company) certify that the annual audited capital adequacy returns have been tabled before the Board of Directors at the meeting of the Board dated

..... and that the Board is aware of their contents.

....
Signature of a Director *Date*

Declaration by a Director of the Company (where no appointed actuary exists in the transitional period pursuant to regulation 24(3))

I, (Director Name), Director of (Company Name), (Address of Company) have reviewed the calculations of the regulatory capital ratio and net tier 1 ratio of (Company Name), as at (Date). In my opinion, the calculations have been determined in accordance with the Insurance (Capital Adequacy) Regulations, 2020 and any applicable instructions of the Inspector.

....
Signature of a Director *Date*

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INSURANCE (CARIBBEAN POLICY PREMIUM METHOD) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

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INSURANCE (CARIBBEAN POLICY PREMIUM METHOD) REGULATIONS

375/2020.

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Caribbean Policy Premium Method) Regulations.

Interpretation.

2. (1) In these Regulations—

"Act" means the Insurance Act, 2018; Act No. 4 of 2018.

"actuarial report" means the report required under section 158 of the Act;

"actuarial work" means the work of an actuary within the field of actuarial practice and includes acquisition of knowledge of the circumstances of the case, obtaining sufficient and reliable data, selection of assumptions and methods, calculations and examination of the reasonableness of their result, use of other persons' work, formulation of opinion and advice, reporting, and documentation;

"Caribbean Policy Premium Method" means a method of computing policy benefit liabilities, which uses—

(a) the full amount of the policy premiums stipulated in the related insurance policies; and

(b) the policy payments, without arbitrary limitation on expenses,

such that the net present value of these aforesaid elements, after providing for adverse deviations, is the value of the policy benefit liability;

"claim liabilities" are the portion of insurance contract liabilities in respect of claims incurred on or before the valuation date;

"guaranteed benefits" means the following benefits which are guaranteed under the terms of a policy:

(a) death, endowment, annuity, disability and health care expense benefits;

(b) cash surrender and other non-forfeiture benefits;

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(c) conversion, renewal and option to purchase insurance rights;

(d) settlement options which are not fully self-supporting; and

(e) benefits of any other kind;

"insurance contract liabilities" means the liabilities at the valuation date arising by virtue of the insurer's contracts of insurance, including commitments, which are in force at that date or which were in force prior to that date;

"policyholder dividends" means all distributions to non-participating and participating policyholders including, but not limited to, experience refunds, excess interest credits or dividends according to the insurer's current dividend scale or another dividend scale if that other dividend scale in the opinion of the appointed actuary better reflects the dividend or bonus policy of the insurer and the projected operating environment;

"policy payments" means payments of—

(a) guaranteed benefits;

(b) policyholder dividends;

(c) non-guaranteed benefits;

(d) benefits which have become established concessions;

(e) issue, administrative and investment expenses;

(f) renewal commissions;

(g) taxes, where applicable; and

(h) all cash flows resulting from any reinsurance agreement in effect for the policy;

"premium liabilities" means the portions of insurance contract liabilities that are not claim liabilities;

"premiums" include income equivalent to premiums, such as management fees and cost of insurance charges;

"reinsurance recoverables" are the assets at the valuation date arising by virtue of reinsurance treaties, including

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commitments, which are in force at that date or which were in force prior to that date;

"standards of accepted actuarial practice" means the standards of the Caribbean Actuarial Association and any other actuarial standards, as specified by the Inspector in respect of the application of these Regulations; and

"valuation date" means the date at the end of the financial period in respect of which the actuarial report has been prepared.

(2) These Regulations apply to valuations of policy liabilities and other actuarial liabilities for returns filed pursuant to the Act by insurers carrying on long-term insurance business.

Application of standards.

3. The appointed actuary of an insurer shall apply the standards of accepted actuarial practice with respect to actuarial work required under the Act and these Regulations.

Verification of data.

4. (1) The appointed actuary shall—

(a) ensure that he is familiar with the procedures for the administration and accounting of the business of the insurer; and

(b) establish suitable control procedures to verify—

(i) that the valuation data for both assets and liabilities are consistent with the terms of the insurer's contracts of insurance and contracts for commission;

(ii) the validity of the deeds, contracts and documents of title that support the insurer's investments and other source data; and

(iii) the insurer's compliance with applicable accounting practices,

and make any appropriate adjustments.

(2) The appointed actuary may consider the work of the auditor for the accuracy of the data used in the valuation and if the appointed actuary has any doubts regarding the accuracy of the data, he shall disclose any reservations in the actuarial report.

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(3) The appointed actuary shall take such steps, as are necessary, to ensure—

(a) the reasonableness of the result of any calculation; and

(b) that any inconsistencies and errors in the valuation system are reported to the insurer and recommend appropriate measures to correct such inconsistencies and errors.

(4) The appointed actuary shall verify the consistency of the current valuation data and results with the previous valuation data and results, the financial statements and the reconciliation of the valuation data.

Appointed actuary's valuation.

5. (1) The appointed actuary shall value the insurer's policy liabilities and other actuarial liabilities for returns filed pursuant to the Act by an insurer carrying on long-term insurance business.

(2) The appointed actuary shall—

(a) ensure consistency with the financial reporting standards and the insurer's accounting policy, including classification;

(b) ensure that the policy liabilities and other actuarial liabilities, reinsurance recoverables and other items in the returns are consistent; and

(c) avoid omission and double counting.

(3) Where the term of a contract of insurance, is more than one year, the appointed actuary shall value the policy benefit liabilities using the Caribbean Policy Premium Method.

(4) The appointed actuary shall value liabilities, other than those valued in accordance with subregulation (3), in accordance with the financial reporting standards, the standards of accepted actuarial practice and this Regulation.

(5) The appointed actuary shall ensure fair presentation of the results of the valuation of policy liabilities and other

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actuarial liabilities and that the amount reported for reinsurance recoverables is appropriate taking all the circumstances into account.

Determination of assumptions.

6. (1) The appointed actuary shall select assumptions which are appropriate to the circumstances of the insurer as assessed by the appointed actuary at the valuation date, considering the expected experience, policies in force, the method of valuing assets, statutory constraints on the valuation of policy benefit liabilities and the release of surplus over the policy duration.

(2) The responsibility of the appointed actuary to select assumptions appropriate for the portfolio being valued shall not be affected by the capital and surplus requirements.

(3) The appointed actuary shall make an appropriate assumption about each contingency which materially affects the net income for the policies in force over their lifetime.

(4) The appointed actuary shall not make the same assumption for two policies unless it is expected that their experience for that assumption will be similar.

(5) The appointed actuary shall give more careful study to those assumptions to which liabilities are more sensitive.

(6) In selecting assumptions for the insurer's exercise of discretion in areas, including, but not limited to, the determination of policy dividends, retrospective commission adjustments, or the right to adjust premiums, the appointed actuary shall take policyholder reasonable expectations into account.

Change in assumptions.

7. (1) Assumptions shall be determined prospectively at each valuation date in the context of the current experience.

(2) In determining assumptions, the appointed actuary shall reflect improvements or deterioration in experience, if such changes are statistically significant and material.

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(3) Except as provided in subregulations (4) and (5), the effect of a change in assumption shall not be spread over more than one valuation period.

(4) Where a change in the environment or a change in emerging experience is occurring in an uncertain manner, the appointed actuary may conclude that, based on currently available data—

(a) only part of the observed change shall be reflected in the current valuation assumption; and

(b) the balance of the change shall be reflected in a future valuation to the extent that further data develops to confirm the observed change in experience or environment.

(5) The deferral of part of the change in a valuation assumption under subregulation (4) shall be appropriate only where the deferral does not result in lower liabilities for the current financial year.

Expected experience.

8. (1) The appointed actuary shall discuss with the responsible officers of the insurer, the current and projected strategy of the insurer for investments, underwriting, claims, marketing, pricing, policyholder dividends and administration.

(2) The appointed actuary shall, for each assumption, study the available recent experience of the in force business of the insurer and the most comparable recent published industry experience.

(3) If credible local industry experience data is not available, the appointed actuary shall take into account comparable experience data from another suitable jurisdiction, where available.

(4) The appointed actuary shall not assume that expected experience is more favourable than industry experience except to the extent that it is supported by statistical evidence.

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Anti-selection.

9. (1) Where a policy allows a policyholder to create, prolong or stop a policy benefit, the appointed actuary shall assume that policyholders who benefit from doing so will tend to act to the detriment of the insurer.

(2) Where the reinsurance arrangements between two companies allow insurance business to be recaptured by a ceding company, the appointed actuary shall assume that the ceding company which benefits from doing so will tend to act to the detriment of the accepting insurer.

(3) The appointed actuary shall determine the term of a policy's liability by taking into account any renewal of the policy or any adjustment equivalent to renewal of the policy, after the valuation date when—

(a) the discretion of the insurer at the renewal of the policy or adjustment equivalent to renewal of the policy is constrained or limited by the terms and conditions of the policy; and

(b) the policy's liability is larger as a result of taking account of the renewal of the policy or adjustment equivalent to renewal of the policy.

(4) If an element of a policy, which is a condition precedent to a pay-out or other action, operates independently of the other elements of that policy, then it should be treated as a separate policy with its own term of liability.

Provision for adverse deviations.

10. (1) For the purposes of providing for adverse deviations, the appointed actuary shall have regard to the fact that—

(a) it is not possible to determine expected experience with complete confidence; and

(b) actual experience may be better or worse than expected experience,

and accordingly, the appointed actuary shall define a margin for adverse deviation for each assumption in order to add a provision to the policy benefit liabilities.

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(2) The appointed actuary shall ensure that the provision made under subregulation (1) is appropriate for income statement purposes and appropriate to the circumstances of the insurer.

(3) For each assumption used, the margin referred to in subregulation (1) shall—

(a) be for the mis-estimation of the mean and for the possible deterioration thereof; and

(b) not cover statistical fluctuation or catastrophic or similar major unexpected events.

(4) For the purposes of determining the provision for adverse deviation, the appointed actuary shall take into account the following:

(a) the margin for adverse deviations shall increase the policy benefit liabilities;

(b) the margin shall be greater when there is—

(i) less confidence in the realisation of the expected experience; or

(ii) a stronger possibility of deterioration of the mean;

(c) the internal practices of the insurer such as underwriting, matching, immunisation and the characteristics of the policies;

(d) subject to paragraphs *(a)* to *(c)*, the margin shall be consistent among generations of policies and consistent among such policies; and

(e) the provision for adverse deviations for a participating policy may be less than the provision for a comparable non-participating policy by an amount which depends on—

(i) the size of the policyholder dividends; and

(ii) how readily the insurer will adapt its dividend scale to changing conditions.

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(5) The appointed actuary shall select a margin for adverse deviations between a low margin and a high margin, specified for each best estimate assumption as stated in subregulation (9) and of five per cent and twenty per cent (or minus five per cent and minus twenty per cent) respectively, of each other best estimate assumption.

(6) In circumstances where a margin for adverse deviations cannot be defined as a percentage of the best estimate assumption, the appointed actuary shall calculate the related provision for adverse deviations as the increase in policy benefit liabilities which results from the substitution of a conservative assumption for the best estimate assumption.

(7) The appointed actuary shall take into account other significant considerations, indicative of a potential deterioration of the best estimate assumption, when selecting a margin for adverse deviations, including—

(a) a significant concentration of risks or lack of diversification;

(b) operational risks which adversely impact the likelihood of continuing to obtain best estimate assumption; or

(c) past experience which may not be representative of future experience and where the experience may deteriorate.

(8) Where the margin for adverse deviations is expressed as a percentage and the best estimate assumption is unusually low, the appointed actuary may make a selection above the high margin for unusually high uncertainty or where the resulting provision for adverse deviations is very low.

(9) The low and high margins referred to in subregulation (5), which apply for the specified best estimate assumptions are as follows:

(a) the low and high margins for adverse deviations for the insurance mortality rate per one

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thousand are respectively an addition of three point seventy-five and fifteen, each divided by the best estimate curtate expectation of life at the projected attained age of the life insured;

(b) the low and high margins for adverse deviations for the annuity mortality rate are respectively a subtraction of five per cent and fifteen per cent of the best estimate mortality rate;

(c) the low and high margins for adverse deviations for morbidity are respectively an addition of five per cent and twenty per cent of the best estimate of morbidity incidence rates, and a subtraction of five per cent and twenty per cent of the best estimate of morbidity termination rates reflecting any expected correlation between incidence and termination rates;

(d) the low and high margins for adverse deviations for withdrawal and partial withdrawal are respectively an addition or subtraction, as appropriate, of five per cent and twenty per cent of the best estimate withdrawal rates and in order to ensure that the margin for adverse deviation increases liabilities, the choice between addition and subtraction may need to vary by interest scenario, age, policy duration, and other parameters; and

(e) the expense assumption shall provide for future inflation consistent with that in the interest rate scenario, and the low and high margins for adverse deviations are respectively two point five per cent and ten per cent of best estimate expense, including inflation.

Investment return.

11. (1) The appointed actuary shall base the investment rate of return on the—

(a) method of reporting investment return and valuing assets; and

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(b) assets supporting the policy benefit liabilities at the valuation date.

(2) The investment rate of return of a group of policies shall be determined by—

(a) the projected rate of return on assets supporting the liabilities of those policies at the valuation date;

(b) the expected new money rate of return on the assets of the insurer projected to be acquired after the valuation date, where cash flow is expected to be positive;

(c) the expected capital gains or losses on the assets of the insurer projected to be disposed of after the valuation date, where cash flow is expected to be negative;

(d) the expected investment tax rates of the assets supporting the liabilities of those policies;

(e) the expected investment expense rates of the assets supporting the liabilities of those policies;

(f) the expected losses from default of the assets supporting the liabilities of those policies; and

(g) provisions for adverse deviations.

(3) The appointed actuary shall ensure that the expected return from income producing real estate, including capital growth and maturity proceeds, for a consistent term includes an appropriate margin for adverse deviation.

(4) The appointed actuary shall ensure that the expected return on equities from the combination of dividend, capital growth and sales for a consistent term includes an appropriate margin for adverse deviation.

(5) For new money investment rates, the appointed actuary shall make a provision for adverse deviations which reflects the fact that no person is able with any confidence to predict new money investment rates beyond a short time following the valuation date.

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(6) In developing the valuation interest rate assumption, the appointed actuary shall ensure that the initial new money investment rate reflects a current yield curve with a straight line projection between the initial and ultimate new money investment rates taking into consideration the currency of the cash flows to be discounted.

(7) The appointed actuary shall ensure that the ultimate new money investment rate established represents an ultimate long term risk free reinvestment rate.

(8) The appointed actuary shall ensure that provision for adverse deviations reflects the ability and willingness of the insurer to compensate for an adverse deviation by a reduction in policyholder dividends.

(9) The appointed actuary shall assume that borrowers and policyholders who would benefit from exercising their contractual options to the detriment of the insurer will do so.

(10) Where the projection of cash flow requires new investments, the appointed actuary shall not, without an explicit reason, assume a change in its recent composition or rate of growth or reinvestment strategy or practice which reduces the liabilities.

Expenses.

12. (1) The appointed actuary shall make assumptions for the following:

(a) investment expense, which is the expense allocable to the investment and safekeeping of assets;

(b) issue expense, which is the expense incurred for the production of new insurance business, being the sum of—

(i) the expense payable at and after issue as a direct result of the issue of policies; and

(ii) the expense payable before issue, which directly results in the issue of policies; and

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(c) administrative expense, which is the expense allocable to the maintenance and servicing of policies, including claims handling expenses, premium taxes and charges for licences and government supervision, but excluding investment expense and issue expense.

(2) Only investment and administrative expenses which shall be incurred after the valuation date shall be recognised in the actuarial report.

(3) Renewal commissions shall include volume-based commissions such as financing costs, overrides and bonuses incurred after the valuation date.

(4) Issue expenses shall not be overstated to the extent that future administrative expenses shall thereby be understated.

(5) In making the investment and administrative expense assumptions, the appointed actuary shall assume—

(a) that an insurer which is open to new business continues as such; and

(b) that an insurer which is closed to new business continues as such in a run-off position until such time as it is desirable and practical to reinsure the policies in force, or to amalgamate the insurer into another insurer.

Mortality and morbidity assumptions.

13. (1) The appointed actuary shall make assumptions on mortality and morbidity where appropriate.

(2) For life and health insurance, the appointed actuary shall support mortality or morbidity rates lower than the base table before margins for adverse deviations with statistically valid company or inter-company experience studies.

(3) For annuity products, the appointed actuary shall support mortality rates higher than the base table before margins for adverse deviations with statistically valid company or inter-company experience.

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(4) The appointed actuary shall take into account any expected effects of anti-selection on mortality or morbidity before the application of a margin for adverse deviation.

(5) The appointed actuary shall not use mortality rates which reflect an assumption of improvement trends for life insurance products, but he may use annuitant mortality rates which reflect long-term mortality improvements, where appropriate.

Lapse and partial withdrawals.

14. (1) The appointed actuary shall make assumptions on lapse rates or partial withdrawals or both, where the insurer is exposed to risk from the fact that the policyholder has the option to withdraw or persist, or to select the timing or amount of withdrawal.

(2) The appointed actuary shall base the assumptions on—

(a) recent experience studies of the in force business;

(b) product features which are likely to affect the lapse; and

(c) external factors such as conditions of the insurance industry and the economy.

(3) For newer products where reliable experience data may not be available, the appointed actuary shall adopt a more conservative approach in selecting the expected assumptions.

Inflation and investment return rate.

15. For policies where the liabilities appear to be more sensitive to the inflation rate assumption than to the investment return rate assumption, the appointed actuary shall not assume that the new money investment rate is correlated with the inflation rate but he shall assume that inflation continues indefinitely.

Guarantees.

16. The appointed actuary shall make adequate provision for policy and other contract guarantees, including guarantees, made under any off balance sheet arrangements, including segregated fund policies.

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Reinsurance recoverables.

17. (1) Policy liabilities and other actuarial liabilities reported in the insurer's return shall not be net of the value of recoveries that are expected from reinsurance ceded.

(2) An insurer shall record the value of the reinsurance recoverables in the returns.

(3) The appointed actuary shall ensure that there is a fair presentation of the policy liabilities and other actuarial liabilities reported in the insurer's return and that the amount of the reinsurance recoverables is appropriate.

(4) The recovery on account of reinsurance ceded shall take account of—

(a) the reinsurer's share of claims;

(b) reinsurance commissions;

(c) allowances;

(d) retrospective premium adjustments; and

(e) the financial condition of the reinsurer.

Actuarial report and Actuarial Certificate.

18. The actuarial report and the actuarial certificate required under section 145(2) of the Act shall be in such format as specified by the Inspector from time to time.

Commencement.

19. These Regulations shall come into operation on 1st January 2021.

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INSURANCE (COMPANIES) REGISTRATION REGULATIONS

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Companies) Registration Regulations.

Interpretation.

2. In these Regulations—

Act No. 4 of 2018.

"Act" means the Insurance Act, 2018; and

"officer" has the meaning assigned in the Act.

Application for registration.

3. An application for registration under Part III of the Act shall be made in accordance with section 24 of the Act and these Regulations.

Business Plan.

4. The following information shall be included in the business plan required under section 24(2)*(g)* of the Act:

(a) the projected financial statements for each type and class of insurance business, which are to be prepared by an actuary and shall include—

(i) the sum expected to be spent on new premises, office equipment, motor vehicles and other capital expenditure;

(ii) the sum expected to be spent on advertising and other methods of business promotion;

(iii) the proposed pricing of policies before deduction of commission;

(iv) a certificate by an actuary stating that he considers that the pricing of policies is satisfactory in light of the information disclosed in the application and that the proposed amount of stated capital is adequate to support the volume of business;

(v) a list of investments categorised by type held by the company, the value of each

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investment at the end of the financial year immediately preceding the date of this application and the method of valuation;

(vi) the place at which it is proposed to hold the documents of title in respect of the present and future investments and particulars of any such documents which are or will be held outside Trinidad and Tobago; and

(vii) the names and addresses of the banks in which the company has accounts at present or intends to have accounts;

(b) details of any existing or proposed reinsurance arrangements in respect of each class of insurance business which the company proposes to carry on including—

(i) the nature and extent of the existing or proposed reinsurance arrangement indicating the amount of the company's retention, with supporting statements and treaties; and

(ii) the names of the insurers or associations of underwriters which will reinsure each class of the company's business and the amount which will be reinsured by each and if more than ten companies will reinsure a class of business, only the names of the principal insurers shall be stated;

(c) a marketing plan outlining—

(i) the methods by which the policies will be sold, whether by the company itself or by brokerages, agencies and sales representatives;

(ii) if more than one method is to be used, the expected proportions to be sold by each;

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(iii) the rates of commission which will be paid to brokers, sales representatives and agents;

(iv) the extent to which and the conditions under which any broker, brokerage, agent or agency will have binding authority to commit the company; and

(v) specimens of policies and standard forms of proposals, policies, endorsements and applications to be used and issued in Trinidad and Tobago;

(d) the proposed group structure of all companies which are members of this group;

(e) the organisational chart of the proposed company including—

(i) job descriptions for all officers; and

(ii) a brief summary of the roles of the employees at all other levels of the organisation;

(f) proposed board committees established under the Act and any other written law and their composition and charter;

(g) the type and classes of insurance business which the company proposes to carry on and the date on which it proposes to commence carrying on such business;

(h) a feasibility study which shall include a SWOT (strengths, weaknesses, opportunities, threats) assessment incorporating market analysis, assessment of risk, customer analysis, competitor analysis and strategic positioning;

(i) details of proposed policies and procedures for internal audit and compliance, anti-money laundering, combating terrorist financing, safeguarding of customer information, business

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continuity, risk management, information systems, human resources, investment, claims settlement and underwriting and all other policies and procedures required under the Act; and

(j) such further information as the Central Bank may require.

Currency.

5. All amounts shown in the application shall be in Trinidad and Tobago currency and where these amounts have been converted from other currencies, the rate of conversions shall be stated.

Commencement.

6. These Regulations shall come into operation on 1st January 2021.

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INSURANCE (FINANCIAL CONDITION REPORT) REGULATIONS

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INSURANCE (FINANCIAL CONDITION REPORT) REGULATIONS

377/2020.

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Financial Condition Report) Regulations.

Interpretation.

2. In these Regulations—

"Act" means the Insurance Act, 2018;

Act No. 4 of 2018.

"actuarial work" means the work of an actuary within the field of actuarial practice and includes acquisition of knowledge of the circumstances of the case, obtaining sufficient and reliable data, selection of assumptions and methods, calculations and examination of the reasonableness of their result, use of other persons' work, formulation of opinion and advice, reporting and documentation;

"adverse scenario" means a scenario of adverse, but plausible, assumptions about matters to which the financial condition of an insurer is sensitive;

"base scenario" means a realistic set of assumptions used to forecast the financial position of an insurer over a projection period;

"effective date" means the date of the annual balance sheet of an insurer submitted to the Inspector pursuant to section 145(1) of the Act, and such other date specified by the Inspector as the circumstances may require;

"financial condition" means the prospective ability of an insurer at a particular date to meet its future obligations to policyholders and those to whom it owes benefits;

"financial position" means the financial state of an insurer as reflected by the amount, nature and composition of its assets, liabilities and equity at a particular date.

"net tier 1 ratio" has the meaning assigned to it in the Insurance (Capital Adequacy) Regulations, 2020;

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"projection period" means—

(a) in the case of an insurer carrying on general insurance business, a period of no less than two years into the future from the effective date;

(b) in the case of an insurer carrying on long-term insurance business, a period of no less than four years into the future from the effective date.

"regulatory capital ratio" has the meaning assigned to it in the Insurance (Capital Adequacy) Regulations, 2020;

"regulatory capital required" has the meaning assigned to it in the Insurance (Capital Adequacy) Regulations, 2020;

"standards of accepted actuarial practice" means the standards of the Caribbean Actuarial Association and any other actuarial standards, as specified by the Inspector, in respect of the application of these Regulations; and

"unviable financial condition scenario" means scenarios and circumstances when, at any stage during the projection period, its regulatory capital ratio is less than one hundred per cent or its net tier 1 ratio is less than seventy per cent.

Application.

3. (1) Except where specifically provided otherwise, these Regulations apply to all insurers.

(2) The appointed actuary of an insurer shall apply the standards of accepted actuarial practice with respect to actuarial work required under the Act and these Regulations.

(3) For a period of three years immediately after the commencement of the Act, where an actuary has not yet been appointed by an insurer carrying on general insurance business, the requirements of these Regulations for the investigation and submission of a report of the financial condition shall apply to the Chief Financial Officer of that insurer for that period.

Annual investigation.

4. (1) The annual investigation of the financial condition of an insurer with respect to capital adequacy and liquidity by the appointed actuary shall—

(a) include a review of the operations and the financial position of the insurer for at least the

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three years immediately preceding the effective date including the regulatory capital required, regulatory capital ratio and net tier 1 ratio at the end of each of those years;

(b) for the projection period, include projections for the financial position of the insurer and the sensitivity of regulatory capital required, regulatory capital ratio and net tier 1 ratio to changes in various assumptions and management policies, such projections to consider in particular the financial position of the insurer as at the effective date;

(c) include projections of all of the insurance business of the insurer, including anticipated new insurance business; and

(d) identify—

(i) a base scenario;

(ii) plausible threats to the insurer, in the opinion of the appointed actuary;

(iii) a number of adverse scenarios designed to investigate the sensitivity of the insurer to threats identified under subparagraph (ii);

(iv) actions by the insurer which shall mitigate those threats; and

(v) any unviable financial condition scenario.

(2) The projections referred to in this regulation 4 may be performed through the use of stress or scenario testing.

(3) The appointed actuary may prepare projections as part of an insurer's business planning process prior to the effective date using a forecast of the position at the effective date.

(4) An insurer shall establish criteria for capital adequacy and liquidity appropriate to its insurance business in accordance with the Act and Regulations made thereunder and the investigation made under regulation 4 and the financial condition report shall be based on these criteria.

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(5) In the case of an insurer carrying on long-term insurance business, the appointed actuary shall determine valuation assumptions in accordance with the Insurance (Caribbean Policy Premium Method) Regulations, 2020 and shall be consistent with the most recent valuation and the adverse scenarios being tested for the insurer.

Projection Period.

5. (1) An insurer shall prepare a business plan in respect of the projection period.

(2) The term of the projection period shall be sufficient to enable the impact of adverse trends in assumptions in the various scenarios to be observed.

(3) In the case of an insurer carrying on long-term insurance business, the appointed actuary shall ensure that the valuation assumptions at the end of the projection period reflect the emerging experience within the scenario, and changes in valuation bases may be reflected at the end of the projection period or throughout the projection period as would best reflect the circumstances of the insurer in such scenario.

(4) In the case of an insurer carrying on general insurance business, the appointed actuary shall ensure that the claim liabilities at the end of the projection period reflect the emerging experience within the scenario.

Materiality.

6. (1) The appointed actuary shall take materiality into account when preparing the financial condition report.

(2) In determining the standard of materiality to be applied, the factors at the effective date that the appointed actuary shall consider shall include, but are not limited to—

(a) the size of the insurer;

(b) the risk profile of the insurance business of the insurer;

(c) the financial position of the insurer; and

(d) the regulatory capital ratio and net tier 1 ratio of the insurer.

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Base Scenario.

7. (1) The base scenario at the effective date in the financial condition report shall be consistent with the business plan and the appointed actuary shall include the marketing plans, sales objectives, investment policies, pricing philosophy and underwriting philosophy in determining the base scenario for the insurer.

(2) The appointed actuary shall disclose in the financial condition report any differences between the base scenario and the business plan of the insurer.

Initial Testing.

8. (1) The appointed actuary shall analyse the ability of the insurer to withstand adverse scenarios which would cause the insurer's capital ratios to fall below the minimum regulatory capital ratio and the net tier 1 ratio specified in the Insurance (Capital Adequacy) Regulations, 2020 and, in conducting such analysis, the appointed actuary shall—

(a) apply the adverse scenarios to the base scenario;

(b) consider, in selecting and testing the adverse scenarios, how far the associated assumption has to be changed in order to stress the financial condition adequately so as to identify unviable financial condition scenarios; and

(c) consider whether the number of adverse scenarios is sufficient to provide a thorough assessment of the risks to which an insurer is exposed.

(2) The appointed actuary shall, in addition to adverse scenarios referred to in regulation 4(1)*(d)*, test adverse scenarios that may be specified by the Inspector to the insurer from time to time and the Inspector may also specify to the insurer additional criteria for tests of capital adequacy and liquidity.

(3) The appointed actuary shall consider sensitivity tests to determine the risks to which an insurer is most sensitive when investigating adverse scenarios and these sensitivity tests shall include the scenarios specified by the Inspector.

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(4) The appointed actuary shall test adverse scenarios in a manner that is applicable to the circumstances of the insurer.

(5) The appointed actuary shall adjust specific rates of deterioration to produce a more meaningful test in instances where the adverse scenarios would not adequately stress the financial condition of the insurer.

(6) Where the appointed actuary is of the opinion that certain adverse scenarios will create an unviable financial condition scenario for the insurer and cause management to consider mitigating actions, he shall identify those adverse scenarios in the financial condition report.

Further Testing.

9. (1) Following the initial testing of adverse scenarios under regulation 8, the appointed actuary shall test other plausible adverse scenarios and shall investigate additional single-risk adverse scenarios, or integrated adverse scenarios resulting from a combination of single-risk adverse scenarios.

(2) When investigating the adverse scenarios under subregulation (1), the appointed actuary shall test risks that are either more likely to occur or to which the insurer is more sensitive.

(3) The appointed actuary shall identify plausible threats to the financial condition, actions that would lessen the likelihood of those threats, and actions that would mitigate threats, if they materialised, in testing other adverse scenarios under this regulation 9.

Modelling techniques and documentation.

10. (1) The appointed actuary shall—

(a) choose or develop a model for testing adverse scenarios that is applicable to the circumstances of the insurer; and

(b) validate the model annually, or at such other time as the circumstances may require, to ensure reliability.

(2) The appointed actuary may use the deterministic method, the stochastic method or a combination of deterministic and stochastic methods to model adverse scenarios.

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(3) The appointed actuary shall keep adequate documentation of the work performed, including documentation of—

(a) the methods and assumptions used, as well as the numerical results of all the adverse scenarios tested;

(b) the justification for not testing certain risks; and

(c) the insurance business of the insurer judged to be immaterial and omitted from testing,

for a period of no less than seven years from the date such documentation was created.

(4) The appointed actuary shall create a procedure manual that properly documents the entire stress testing process which shall include the following minimum requirements:

(a) the basic principles of the stress testing approach;

(b) the quantitative and qualitative techniques employed;

(c) the design of the stress testing models;

(d) the controls and procedures integral to the stress testing process; and

(e) the criteria used to determine the scenarios to be tested.

Financial Condition Report.

11. (1) For the purposes of sections 159 and 214 of the Act, the appointed actuary shall provide annually to the board of directors of the insurer, a written financial condition report, as at the effective date, outlining the investigations performed under regulation 4 and presenting significant findings and conclusions.

(2) The Financial Condition Report shall be in such format and shall include the signed opinion of the appointed actuary as specified by the Inspector from time to time.

(3) In addition to the annual requirement under subregulation (1), the appointed actuary shall continually identify and monitor matters that may threaten the insurer's financial condition.

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(4) If there is a material adverse change in the insurer's circumstances, the appointed actuary shall immediately make an investigation and submit a report on the findings of such investigation to the Inspector, the Chief Executive Officer and the board of directors of the insurer.

Commencement.

12. These Regulations shall come into operation on 1st January 2021.

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INSURANCE (INTERMEDIARIES) REGISTRATION REGULATIONS

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INSURANCE (INTERMEDIARIES) REGISTRATION REGULATIONS

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Intermediaries) Registration Regulations.

Interpretation.

2. (1) In these Regulations—

Act No. 4 of 2018.

"Act" means the Insurance Act, 2018;

"accredited institution" means a statutory body or company incorporated under the Companies Act, whose educational programmes and awards are accredited by the Accreditation Council of Trinidad and Tobago;

"CPD activity" means a seminar, lecture, conference, certified appropriate e-learning tutorial, workshop or course or module in relation to the categories referred to in regulation 12(2), recognised by an approved educational institution or other accredited institutions, and any other activity specified by the Central Bank;

"CPD hour" means the time spent attending or completing a CPD activity in accordance with these Regulations;

"CPD year" means each twelve month period beginning on the date of registration, or renewal of registration of an intermediary, after the commencement of the Act;

"examinations" means the examinations referred to in Part IV of the Act necessary to qualify a person to act as or carry on business as an agent, a broker, a sales representative or an adjuster;

"Minister" means the Minister to whom the responsibility for finance is assigned.

PART I

APPLICATION FOR REGISTRATION AS AN INTERMEDIARY

Application for registration as an intermediary.

3. An application for registration under Part IV of the Act shall be made in accordance with section 111 of the Act and these Regulations.

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Application for brokerage or agency.

4. (1) An application for registration as a brokerage or agency shall be accompanied by—

(a) a statement of the name of the applicant and the address of its registered office and head office in Trinidad and Tobago;

(b) the name, address, nationality, experience and other relevant information, including the information required for the purposes of Schedule 5 to the Act pertaining to each—

(i) director and officer;

(ii) controlling shareholder or significant shareholder;

(iii) shareholder holding five per cent or more of any class of shares;

(iv) proposed director and officer;

(v) proposed controlling shareholder and proposed significant shareholder; and

(vi) person proposing to hold five per cent or more of any class of shares;

(c) the name, address, nationality, experience and other relevant information, including the information required for the purposes of section 136(5) pertaining to the proposed auditor;

(d) a certified copy of the articles of incorporation or continuance, by-laws or other constituent documents and the certificate of incorporation or certificate of continuance under which the applicant is incorporated, continued or constituted;

(e) a statement of the types and classes of insurance business that the applicant proposes to carry on;

(f) in the case of an application by or on behalf of a company that has been carrying on business other than that of an agency or brokerage prior

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to the application, a copy of its audited financial statements for the three consecutive years immediately preceding the application, except that where the company has been functioning for less than three years, a copy of the audited financial statements for each year it has been in operation shall be sufficient;

(g) a business plan and the projected financial statements for the three consecutive years immediately following the proposed commencement date for carrying on business of an insurance agency or business of an insurance brokerage;

(h) in the case of a brokerage application, a certified statement, or where this cannot be produced, such proof as the Central Bank may require—

(i) of the ability of the applicant to meet the requirement of a minimum stated capital of not less than such amounts as required pursuant to section 116 of the Act;

(ii) that there is in force professional indemnity insurance cover as required pursuant to section 116 of the Act and details of such professional indemnity insurance; and

(iii) of any proposed preferential arrangement;

(i) in the case of an agency application, copies of its agency agreement or power of attorney as well as any agreement relating to commissions and other remuneration payable to it in respect of its agency.

(2) An agency application shall be stamped, signed and dated by a duly authorised officer of the insurer on behalf of which the agency shall act.

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Application for broker, agent, sales representative or adjuster.

5. An application for registration as a broker, agent, sales representative or adjuster shall be accompanied by the following:

(a) a statement of the name, address and occupation of the applicant, including the information required for the purposes of Schedule 5 to the Act in respect of the applicant;

(b) in the case of an application as a broker or agent, the name, address and endorsement of the brokerage or agency for which the applicant is to be registered as either a broker or an agent;

(c) in the case of an application as a sales representative, the name, address and endorsement of the insurer, brokerage or agency for which the applicant is to be registered as a sales representative; and

(d) in the case of an application as a broker, agent, sales representative or adjuster, details on any shareholdings in an insurer or an agency.

Application for renewal certificate.

6. An application to renew a certificate of registration issued under section 117 of the Act shall be made to the Central Bank not later than twenty business days before the anniversary date of issue of the certificate of registration and shall be accompanied by—

(a) the endorsement of the insurer, brokerage or agency, where applicable;

(b) in the case of a brokerage or agency, the names of the brokers and agents who shall act for and on behalf of the brokerage or agency;

(c) in the case of an agency or a brokerage, the names of the sales representatives who are employed by the agency or brokerage;

(d) in the case of a brokerage, details of its professional indemnity insurance; and

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(e) in the case of a sales representative, agent, broker or adjuster, evidence that he has met the continuing professional development requirements pursuant to section 119 of the Act and these Regulations.

Failure to renew certificate within the prescribed time.

7. A person who does not submit an application to renew a certificate of registration within the period required in regulation 6 shall—

(a) thereafter submit a new application for registration in accordance with the requirements of these Regulations and section 111 of the Act; and

(b) provide a written explanation of his failure to submit an application before the period required in regulation 6.

PART II

APPROVED EDUCATIONAL INSTITUTIONS

Approved educational institution.

8. An approved educational institution shall, in consultation with the Central Bank, determine—

(a) the scope and form of examinations, except that no examination shall be wholly oral; and

(b) the prescribed fee payable by a candidate for such examinations.

Examinations.

9. Examinations shall be held at least once each year.

Approved educational institute to issue certificate.

10. An approved educational institution shall issue to every person who passes an examination a certificate to that effect signed by the head of the institution.

PART III

CONTINUING PROFESSIONAL DEVELOPMENT

Interpretation of "intermediary".

11. For the purposes of regulations 12 to 17, "intermediary" means an agent, broker, sales representative and adjuster.

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CPD Requirements.

12. (1) Subject to subregulation (3), every intermediary shall complete a minimum of twelve CPD hours for each CPD year.

(2) The Central Bank may, from time to time, specify in writing the number of CPD hours to be completed by intermediaries in relation to the following categories:

(a) classes of insurance business for which an intermediary is registered;

(b) ethics;

(c) relevant laws and regulations; and

(d) any other categories which, in the opinion of the Central Bank, are relevant to the business for which the intermediary is registered.

(3) Notwithstanding the provisions of subregulations (1) and (2), the minimum continuous professional development requirements of an intermediary may be prorated in the event—

(a) that the intermediary is registered for a period of less than one year pursuant to section 117 of the Act;

(b) of an intermediary's maternity leave entitlement, as prescribed by any written law;

(c) of illness, where the illness is for a duration of not less than six weeks and is supported by a medical certificate issued by a medical practitioner registered with the Medical Board of Trinidad and Tobago, who is not a relative of the intermediary;

(d) of illness occurring whilst the intermediary was in another jurisdiction, where the illness is for a duration of not less than six weeks and is supported by a notarised medical certificate issued by a medical practitioner registered with a recognised body in that jurisdiction, who is not a relative of the intermediary; or

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(e) the intermediary is appointed to public office, national service or given an overseas assignment by his employer, for a duration of not less than six weeks but not more than 12 months and is supported by documentary evidence.

(4) An intermediary shall commence CPD activities in accordance with regulation 13, twelve months after the commencement of these Regulations.

CPD Hours.

13. (1) CPD hours may be obtained by attending or participating in a CPD activity recognised by an approved educational institution, an accredited institution or attending or participating in such activities approved by the Central Bank.

(2) The Central Bank may, from time to time, publish a list of the approved educational institutions and CPD activities referred to in subregulation (1) by means of posting such list on its website or otherwise.

(3) Where an intermediary earns CPD hours in excess of the minimum yearly requirement referred to in regulation 12(1), up to two of the excess CPD hours may be carried into the following CPD year.

(4) The time spent by an intermediary on activities such as travelling to a CPD activity, registration for a CPD activity, or social events shall not be treated as a CPD activity or CPD hours for the purposes of these Regulations.

CPD Year.

14. Without prejudice to regulation 12(3) and (4), an intermediary shall complete CPD hours required under regulation 12(1) by the end of the twelfth month in each CPD year, except in the year of renewal of registration where CPD hours must be completed before the time required for submission of an intermediary's application for renewal of registration.

Record keeping regarding CPD.

15. (1) An intermediary shall maintain a written record of the CPD hours and CPD activity undertaken by him or her, in

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order to demonstrate compliance with these Regulations and the Central Bank may specify the form and content of such written record to be so maintained.

(2) An intermediary shall keep records of all supporting documentation in respect of a CPD activity undertaken as evidence of attendance at, participation in and completion of such CPD activity, including, but not limited to, attendance sheets, certificates of attendance, certificates of completion, computer printouts or other record of completion or written confirmation from his employer.

(3) The records required to be kept under subregulations (1) and (2) shall be retained by an intermediary for a minimum period of six years.

Returns.

16. (1) An intermediary shall file a CPD Return together with each application for renewal of registration under regulation 6, declaring—

(a) that he has completed the minimum requirement of CPD hours for each CPD year in accordance with these Regulations; and

(b) the CPD activities that make up the CPD hours under paragraph *(a)*.

(2) An intermediary shall apply to the relevant approved educational institution for written verification that the activities listed in the CPD Return constitute a CPD activity and such written verification shall be submitted together with the CPD Return made pursuant to subregulation (1).

(3) In the case of an agent or sales representative, the CPD Return filed under subregulation (1) shall be endorsed by the relevant insurer, brokerage or agency, as the case may be, with whom the intermediary is registered.

(4) The Central Bank may specify the form of the CPD Return, the written declaration and the written verification to be filed in accordance with subregulations (1) and (2).

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Failure to comply with CPD Requirements.

17. (1) Where an intermediary fails to complete the minimum CPD hours required under these Regulations, he shall be allowed to complete the outstanding CPD hours—

(a) in the case of a CPD year which occurs other than in a year of renewal of registration, within the following CPD year, in addition to the CPD hours required in that CPD year; or

(b) in the case of a CPD year, which is also a year of renewal of registration, within the first six months of the following CPD year, in addition to the hours required in that CPD year and the certificate of registration shall be stated to be conditional upon the completion of the outstanding CPD hours,

where the intermediary did not incur a shortfall in CPD hours within the previous three CPD years.

(2) Subject to subregulation (3), an intermediary who—

(a) fails to comply with regulation 16 or 17(1); or

(b) makes a false or materially incorrect CPD Return,

will be deemed to be in breach of the continuing professional development requirements and the Central Bank may either revoke the registration of an intermediary or refuse to grant an application for renewal of registration as the case may be.

(3) Where an intermediary fails to comply with regulation 16 or 17(1), but did not make a false return, the Central Bank may, in lieu of the action under subregulation (2), suspend or defer the renewal of the registration of an intermediary until such time as the intermediary complies with all relevant CPD requirements under regulation 16.

(4) For the avoidance of doubt, an intermediary whose registration is suspended or whose renewal or registration has been deferred under subregulation (3) shall not carry on business as an agent, broker, sales representative or adjuster, as the case may be, during the period of suspension of deferral or renewal of such registration.

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PART IV

MISCELLANEOUS

Exemption from examinations.

18. A person who has carried on business as—

(a) an agent;

(b) a broker;

(c) an adjuster; or

(d) a salesman under the former Act,

in a particular class of insurance business and who was exempted from the examinations referred to in the Insurance (Agents, Brokers, Salesmen and Adjusters) (Registration) No. 12 of 1982 by the Central Bank shall be exempted from the examinations referred to in these Regulations.

Commencement.

19. These Regulations shall come into operation on 1st January 2021.

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INSURANCE (PARTICIPATING ACCOUNT) REGULATIONS

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Participating Account) Regulations.

Interpretation.

2. In these Regulations—

Act No. 4 of 2018.

"Act" means the Insurance Act, 2018;

"dividend or bonus policy" means the participating policy dividend or bonus policy established by the board of directors pursuant to regulation 3.

Board to establish policy.

3. In the case of an insurer that issues participating policies, its board of directors shall within six months after commencement of these Regulations, establish a policy consistent with the provisions of the Articles of Incorporation, Continuance or Amendment, By-Laws, other constituent documents, and rules of the insurer and this Act and Regulations—

(a) for determining the dividends and bonuses to be paid to the participating policyholders; and

(b) with respect to the operation of each of the participating accounts maintained pursuant to section 43 of the Act.

Board to review policy.

4. The board of directors of an insurer shall review annually the policy required under regulation 3.

Allocation of income to participating account.

5. An insurer shall credit to or debit from a participating account, that portion of the investment income or losses of the insurer for a financial year, including accrued capital gains or losses, whether or not realised, that is determined in accordance with a method that is—

(a) in the written opinion of the appointed actuary of the insurer, fair and equitable to the participating policyholders;

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(b) approved by resolution of the board of directors, after considering the written opinion of the appointed actuary; and

(c) not disallowed by the Inspector under subregulation 7(2), on the ground that it is not fair and equitable to the participating policyholders, within sixty business days after receiving all of the information submitted pursuant to regulation 7.

Allocation of expenses to participating account.

6. An insurer shall debit from a participating account, that portion of the expenses, including taxes, of the insurer for a financial year that is determined in accordance with a method that is—

(a) in the written opinion of the appointed actuary, fair and equitable to the participating policyholders;

(b) approved by resolution of the directors, after considering the written opinion of the appointed actuary; and

(c) not disallowed by the Inspector, on the ground that it is not fair and equitable to the participating policyholders, within sixty business days after the Inspector receives all of the information submitted pursuant to regulation 7.

Filing of allocation method for participating account.

7. (1) An insurer shall submit to the Inspector—

(a) a copy of the resolutions referred to in subregulations 5*(b)* and 6*(b)*;

(b) a copy of the written opinion of the appointed actuary referred to in subregulations 5*(a)* and 6*(a)*; and

(c) any other information relevant to the allocation method requested by the Inspector,

within thirty business days after the approval of the resolutions.

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(2) Where the Inspector disallows methods pursuant to subregulations 5*(c)* and 6*(c)*, he may specify an alternate method which, in his opinion, is fair and equitable to the participating policyholders of the insurer.

Review of allocation method for participating account.

8. (1) The appointed actuary of an insurer shall report annually in writing to the board of directors and state his opinion on the fairness and equity of the method used by the insurer for allocating its investment income, losses and expenses, including taxes to a participating account maintained pursuant to section 43 of the Act.

(2) The board of directors of an insurer shall review annually the opinion of the appointed actuary submitted in accordance with subregulation 8(1) and shall act pursuant to regulations 5 and 6 accordingly.

Commencement.

9. These Regulations shall come into operation on 1st January 2021.

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INSURANCE (PENSION FUND PLAN INVESTMENTS) REGULATIONS

380/2020.

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Pension Fund Plan Investments) Regulations.

Percentage.

Act No. 4 of 2018.
Schedule 7.

2. For the purposes of investment by the Trustees of a registered plan in such assets as are set out in the Schedule 7 to the Insurance Act, 2018, the percentage which the assets of the registered plan originating in Trinidad and Tobago shall bear to the total of the assets of the plan shall be not less than seventy per cent.

Certificate of Central Bank.

3. Where a registered plan is an insured plan or a Deposit Administration Plan, the insurer shall submit to the Central Bank a certificate to the satisfaction of the Central Bank certifying that in respect of each insured plan or Deposit Administration Plan, the percentage of the funds of the plan that the insurer has invested in assets originating in Trinidad and Tobago meets the investment requirements of regulation 2.

Commencement.

4. These Regulations shall come into operation on 1st January 2021.

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INSURANCE (PENSION FUND PLANS REGISTRATION FEES) REGULATIONS

made under section 279

Citation.

1. These Regulations may be cited as the Insurance (Pension Fund Plans Registration Fees) Regulations.

Interpretation.

2. In these Regulations—

Act No. 4 of 2018.

"Act" means the Insurance Act, 2018;

"pension fund plan", "plan" and "registered plan" shall have the same meaning as "privately administered pension fund plan" in the Act.

Fee for registration of plan.

3. There shall be payable for the registration of a pension fund plan, a fee of two thousand five hundred dollars.

Fee for registration of amendments.

4. (1) Subject to regulation 3, there shall be payable for the registration of any amendment of the Trust Deed and Rules of a registered plan or for any correction of the register occasioned by a change in the address of such plan or in the names or addresses of the trustees thereof, a fee of one thousand dollars.

(2) No fee shall be payable for the registration of any amendment or correction required, either expressly or by necessary implication, by any written law.

Fees payable to the Central Bank.

5. All fees prescribed by these Regulations shall be paid to the Central Bank.

Commencement.

6. These Regulations shall come into operation on 1st January 2021.

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