

**EXTERNAL INSURANCE BILL,  
2025**

**A BILL FOR AN ACT TO REVISE AND MODERNIZE THE LAW  
REGULATING THE CARRYING ON OF EXTERNAL INSURANCE  
BUSINESS  
IN AND FROM WITHIN THE BAHAMAS**

**Enacted by the Parliament of The Bahamas**

## **PART I- PRELIMINARY**

### **1. Short title.**

- (1) This Act may be cited as the External Insurance Act, 2025.
- (2) This Act shall come into operation on such day as the Minister, may by notice published in the Gazette appoint.

### **2. Interpretation.**

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

**“accountant”** or **“auditor”** means —

- (a) a person who is a member of the Bahamas Institute of Chartered Accountants who holds a practicing certificate from the Institute;
- (b) a person recognised by the Commission as being suitably qualified to act as an auditor by reason of his knowledge and experience; or
- (c) a person who for the time being is authorised by the Commission under section 53 to be appointed as an auditor or accountant for the purposes of this Act;

**“actuary”** means a person who satisfies the Commission that he is a fellow of a professional body of actuaries that is internationally recognised;

**“affiliates”** or **“affiliated”** means a company which —

- (a) stands in relation to another company by reason of their membership in common of an affiliated group;
- (b) stands in relation to another company by reason of their participation or the participation of their affiliates, as defined at (a) above, in a joint venture in which the participants will share revenue or profits; or
- (c) is, in relation to another company, a member of the same group of companies by virtue of common ownership or control;

**“affiliated group”** means one or more chains of companies connected through ownership with a common parent;

**“annuity”** means a policy under which an insurer assumes the obligation to make, after the expiration of a certain period or during a specified period, a payment or a series of periodic payments to a particular person, in exchange for a premium or series of premiums paid to the insurer;

**“associated”** means, in relation to a person —

- (a) the person’s husband, wife, child or stepchild;
- (b) any person who is an employee or partner of that person;
- (c) any company of which he is a director;
- (d) where the person is a body corporate, any director or employee of the body corporate, any subsidiary of the body corporate, and any director or employee of such a subsidiary; and
- (e) where the person concerned is a body corporate any other body corporate, or affiliated group with whom the person has an agreement or arrangement to act together in exercising voting power in relation to the person;

**“beneficiary”** means the person named in a life insurance policy, or as notified in writing to the life insurance company and noted in its records from time to time, to receive the insurance proceeds upon the death of the policyholder or upon the maturity of an endowment;

**“body corporate”** includes a company or any other legal person which may be incorporated or registered under the laws of The Bahamas or of a country or territory outside The Bahamas;

**“carry or carrying on external insurance business”** and its derivatives, includes —

- (a) opening or maintaining a place of business or an office, or appointing or using a representative in The Bahamas, whether or not insurance business is being arranged in or from within The Bahamas;
- (b) operating as an external insurance intermediary;
- (d) offering or engaging, or purporting to offer or engage in external insurance business;

- (e) the assumption of the obligation of a company to cover risks or liabilities in any class of insurance business or as determined by regulations;
- (f) insurance business where the risk is located outside The Bahamas;

**“the Commission”** means the Insurance Commission of The Bahamas established under section 4 of the Insurance Act (*Act No. 16 of 2005*);

**“external insurer”** means a company or other legal person licensed under the provisions of this Act to carry on external insurance business;

**“external insurance broker”** means a company or other legal person licensed under this Act (not being an external insurer) who, for commission or other compensation brings together, with a view to carrying on external insurance business, persons seeking insurance or reinsurance and insurance or reinsurance undertakings, carries out work preparatory to the conclusion of contracts of insurance or reinsurance, and where appropriate, assists in the administration and performance of such contracts;

**“external insurance business”** means insurance business where the risk is located outside The Bahamas;

**“external insurance intermediary”** means a person that acts as, offers, provides or purports to act as, offer or provide insurance management services or external insurance brokerage services to an external insurer;

**“financial year”** means, in relation to licensee, the period not exceeding 53 weeks at the end of which the balance of the licensee's accounts is struck, or if no such balance is struck or if a period in excess of 53 weeks is employed, then a calendar year except that, in the case of a new licensee commencing business, the Commission may upon application, allow an extension;

**“general insurance business”** means the classes of insurance business other than long term insurance business as determined by regulations; **“insolvent”** or **“insolvency”** means that the licensee is either unable to pay its debts as they fall due or the value of the company's liabilities exceed its assets;

**“insurance”** includes “reinsurance” unless the context requires otherwise;

**“insurance business”** means the business of effecting and carrying out contracts of general insurance business, long term insurance business and any other form of insurance business and including but not limited to —

- (a) protecting persons against loss or liability to loss in respect of risks to which such persons may be exposed; or
- (b) to pay to a person a sum of money or other thing of value upon the happening of an insurable event, and includes running-off insurance business including the settlement of claims;

**“insurance manager”** means a company that provides or purports to provide insurance management services to one or more persons or acts or purports to act as an insurance manager;

**“insurance management services”** includes the provision of accounting, administrative, brokerage, underwriting, and claims processing services in respect of external insurance business; **“insured”** means the person named on or in a policy, certificate or contract of insurance;

**“liabilities”** include liabilities to policyholders by way of claims including incurred-but-not-reported claims, reserves for unearned premiums, and reserves for re-insurance receivables due but not paid;

**“licence”** and its cognates means a licence to carry on external insurance business from within The Bahamas granted under this Act;

**“licensee”** means the holder of a valid licence and any person whose licence has been suspended or revoked by the Commission;

**“life insurance policy”** means a contract of life insurance in accordance with the definitions set out in the regulations;

**“long term insurance business”** means the classes of insurance business other than general insurance business as determined by regulations;

**“Minister”** means the Minister responsible for Insurance (excluding National Insurance);

**“mutual insurance company”** means a company which has no share capital whose management is directed by a board elected by the participating policyholders and which issues participating insurance policies to policyholders who may thereby be owners of the company to the extent provided in the articles of the said company;

**“net premium income”** means the premium income less any premiums or other considerations paid by the licensee for reinsurance;

**“overseas regulatory authority”** means an authority which, in a country or territory outside The Bahamas, exercises functions corresponding to any functions of the Commission or the Superintendent;

**“policyholder”** means the person who for the time being has the legal title to the policy, and includes any person to whom a policy is for the time being assigned;

**“power”** includes any privilege, authority and discretion;

**“prescribed”** means prescribed by this Act or any regulation made under this Act;

**“premium income”** means the aggregate of premiums derived during the financial year from the issuance of contracts of insurance;

**“resident representative”** means a licensee’s management company licensed as an insurance manager under the provisions of this Act;

**“restricted external insurer”** means an external insurer that only underwrites the risks of —

- (a) its members, subsidiaries and affiliates;
- (b) reinsureds, not being members, subsidiaries and affiliates, who acknowledge in writing that they know and accept that the external insurer is a restricted external insurer;
- (c) such other persons as the Commission may approve;

**“superintendent”** means the Superintendent of Insurance appointed pursuant to the provisions of the First Schedule of the Insurance Act (*Act No. 16 of 2005*);

**“underwriting manager”** means a company incorporated in The Bahamas prior to the coming into force of this Act and which, operating in or from within The Bahamas as manager or

consultant (but not as *bona fide* employee) provides underwriting and insurance expertise for one or more external insurers;

**“unrestricted external insurer”** means an external insurer that is not a restricted external insurer;

**“variable insurance business”** means insurance business, under a policy or contract, in respect of which the benefits payable under the policy are to be determined wholly or partly —

- (a) according to the investment experience of a separate account or accounts owned and maintained by the licensee in respect of that policy or class of policy, separate and apart from the general account of the licensee and insulated from the claims of the licensee involved as provided herein;
- (b) by reference to the value of or income from property of any description allocated in the general accounts of the licensee in respect of that policy or class of policy whether specified in that policy; or
- (c) by reference to fluctuations in or in an index of, the value of property of any description, whether specified in the policy, and includes variable life insurance business and variable annuity business.

### 3. Application.

- (1) This Act shall apply to all persons carrying on external insurance business in or from within The Bahamas.
- (2) A person shall be deemed to be carrying on external insurance business or holding themselves out as carrying on external insurance business -
  - (a) in The Bahamas, if, regardless of physical location, the person directly or indirectly offers, promotes or arranges contracts of insurance to persons residing in The Bahamas; and
  - (b) from within The Bahamas, if, the person being a company or other legal person –
    - (i) registered or incorporated under the laws of The Bahamas offers, promotes or arranges contracts of insurance to persons residing outside The Bahamas; or

- (ii) being a person registered or incorporated in a foreign jurisdiction makes any representation purporting to offer insurance coverage to persons residing in The Bahamas.

#### **4. Restriction on use of words related to insurance business.**

It shall be an offence for any person, without the approval of the Commission or not being associated with a licensee under this Act, to —

- (a) use or continue to use the words “underwriter”, “insurance”, “reinsurance”, “indemnity”, “casualty”, or any other word which represents or conveys the impression that such person carries on external insurance business in or from within The Bahamas;
- (b) use, make or continue to use or make any representation in any billhead, letter, letterhead, circular, paper, notice, advertisement or in any manner whatsoever that he is carrying on external insurance business in or from within The Bahamas; or
- (c) carry on external insurance business under a name, or using a trade name or mark that in the opinion of the Commission may be misleading or confusing as to the nature or purpose of the business, or is so similar to another person’s name, trade name or mark as to be misleading or confusing.

### **PART II LICENSING OF EXTERNAL INSURANCE COMPANIES AND EXTERNAL INSURANCE INTERMEDIARIES**

#### **5. Requirement for a licence**

- (1) Except where specifically exempted, no person shall –
  - (a) carry on external insurance business;
  - (b) hold themselves out as carrying on external insurance business;
  - (c) provide or purport to provide insurance management services; to an external insurer; or
  - (d) act or purport to act as an external insurance intermediary in or from within The Bahamas,unless such person has obtained a licence issued under this Act.



- (2) For the purpose of obtaining a licence under this Act to carry on external insurance business in or from within The Bahamas, a person must either be a legal person incorporated or registered in and under the laws of The Bahamas, or an insurer registered under the laws of a foreign jurisdiction.
- (3) Notwithstanding subsection (2), and regardless of whether a person intends to carry on external insurance business exclusively or as a part of its business operations, no person may, –
  - (a) apply for a licence under this Act; or;
  - (b) incorporate or register a new legal person to carry on external insurance business; or,
  - (c) if an existing legal person, amend its Memorandum and Articles of Association or other statutorily required constitutive documents, to include an activity regulated under this Act; without obtaining the Commission’s written consent for such application, registration, incorporation or amendment.
- (4) For the purpose of obtaining the Commission’s consent, a person shall submit a written request for a pre-application meeting with the Commission in the prescribed form attaching thereto a copy of the person’s feasibility study and business plan, and, where applicable, a copy of the person’s constitutive documents.
- (5) It shall be in the Commission’s sole discretion whether to give consent to a person to proceed to apply for a licence under this Act.

## **6. Disqualification for a licence.**

- (1) A person is disqualified to be licensed under this Act, if such person, whether incorporated or registered in The Bahamas or in another jurisdiction –
  - (a) is a person whose licence or registration has been revoked for cause by an entity having authority to licence, register or regulate the person;
  - (b) is a person whose history includes enforcement action under the laws of any country similar to enforcement action that may be taken by the Commission;
  - (c) if the minimum capital or the net value of the assets of the company is insufficient or inadequate;

- (d) being required to obtain insurance coverage, is either unable to secure insurance coverage or obtain adequate insurance coverage;
- (e) has a controlling owner, director or senior manager who does not meet the fit and proper requirements under section 7(4), herein.

- (2) Notwithstanding subsection (1), an external insurance intermediary shall not be disqualified to be licensed under this Act by reason of the fact that they are providing services from within The Bahamas to persons outside The Bahamas who do not carry on external insurance business in or from within The Bahamas.

## **7. Application for licence.**

- (1) Where an applicant obtains the Commission's consent as required under section 4(3) and unless the Commission exempts an applicant from any requirement under this section, the applicant shall appoint an approved Resident Representative and submit an application for a licence in the prescribed form, which application shall be accompanied by –
  - (a) a business plan setting out the nature and scale of the applicant's business including information concerning capitalization and source of funds;
  - (b) detailed policies and procedures to be adopted by the applicant to meet anti-money laundering and anti-terrorism financing requirements under the Financial Transactions Reporting Act, 2018 (*No. 5 of 2018*) and the Anti-Terrorism Act, 2018 (*No.27 of 2018*);
  - (c) documentation or other records evidencing its paid-up capital or, in the case of a mutual insurance company approved by the Commission, that the aggregate of its contributed reserves and subordinated capital accord with requirements prescribed from time to time;
  - (d) if the applicant is incorporated under the Companies Act (*Ch.308*) –
    - (i) the certificate of incorporation; and
    - (ii) a statement from the Central Bank of The Bahamas to the effect that the applicant is regarded as a non-

- resident Company for the purpose of the Exchange Control Regulations Act (*Ch.360*);
- (e) if the applicant is incorporated under the International Business Companies Act, (*Ch.309*), its Certificate of Incorporation;
  - (f) if the applicant is registered under the Segregated Accounts Companies Act, (*Ch.369C*), its Certificate of Registration; and
  - (g) audited financial statements;
  - (h) such other information or document as may be required; and
  - (i) the prescribed fee.
- (2) Where required by the Commission, an applicant shall have its business plan and financial projections reviewed by an independent accountant and an independent actuary, each of whom shall independently certify the feasibility of the plan and the projection;
- (3) Notwithstanding subsection (1), -
- (a) a person lawfully incorporated outside The Bahamas may be licensed as an external insurer by the Commission where  
  
in accordance with the laws of the relevant jurisdiction, the person –
    - (i) is duly registered or licensed to conduct insurance business for a period satisfactory to the Commission;
    - (ii) is regulated by a regulatory authority or other entity which in the Commission’s opinion is at least as comparable to that in The Bahamas;
    - (iii) meets the capital requirements as may be prescribed from time to time;
    - (iv) satisfies the Commission that the relevant regulator having primary jurisdiction over it has been informed of, and has no objection to, its application for a licence; and
    - (v) meets the requirements of subsection (1).
  - (b) a person lawfully incorporated within The Bahamas applying to be licensed as an external insurance broker shall

not be prohibited from applying for a licence where its operations will involve providing services from within The Bahamas to persons outside The Bahamas who do not carry on external insurance business in or from within The Bahamas.

- (4) In determining whether a person is fit and proper, the Commission shall consider *inter alia* whether he is a person —
- (a) who, in the Commission's opinion –
    - (i) is of sound probity, and able to exercise competence, diligence and sound judgement in fulfilling their responsibilities in relation to insurance business; and
    - (ii) has sufficient knowledge and practical experience adequate to enable them to act in the role related to the external insurer's business;
  - (b) whose relationship with an insurance company will not threaten the interest of policyholders;
  - (c) whether in The Bahamas or not, is a person who
    - (i) is not an undischarged bankrupt;
    - (ii) is not prohibited from being a director or officer of a company; or
    - (iii) has not been convicted of an offence under the provisions of any laws relating to fraud, dishonesty, insider trading, or money laundering, or for which the penalty is imprisonment for six months or more;
  - (d) based on their employment record or other information, the Commission concludes that they —
    - (i) might have been engaged in business practices which appear to the Commission to be deceitful or oppressive or otherwise improper; or
    - (ii) contravened any provision of any enactment designed for the protection of the public against financial loss due to dishonesty;
    - (iii) were incompetent or guilty of malpractice engaged in the provision of insurance, investment or other financial services or in the management of companies or resulting in bankruptcy; and

- (e) such other matters as the Commission may consider relevant.

## **8. Ownership.**

For the purposes of this Act, a person licensed as an external insurer may invest in another person licensed under this or any other Act.

## **9. Withdrawal of application.**

An application for a licence may be withdrawn by notice in writing to the Commission at any time before a determination is made on the application, and any fees paid relative to such application shall be non-refundable and non-transferable.

## **10. Approval or refusal of application for licence.**

- (1) It shall be within the Commission's sole discretion with consideration of whether it is in the public interest –
  - (a) to approve or refuse an application for a licence; or
  - (b) approve an application subject to conditions, or as restricted or unrestricted as to classes of insurance business.
- (2) Where the Commission proposes to refuse a licence, or refuses a licence in respect of one or more of the classes of insurance business for which the application is made, it shall notify the applicant in writing of the reasons for its decision. .
- (3) Where the Commission's decision is to refuse an application for a licence or in respect of one or more of the classes of insurance business for which the application was made, the applicant may request a reconsideration within fourteen (14) days of receiving the Commission's written decision.
- (4) On refusal of an application for a licence, the applicant shall not be entitled to repayment of the application fee.

## **11. Variation of Licence.**

- (1) Upon payment of the prescribed fee, a licensee may apply using the prescribed Form for the variation of a licence, and where the

Commission approves the application, a new licence shall be issued upon the return of the previously issued licence by the licensee.

- (2) Where the application is for the addition or removal of a class of insurance, the provisions of section 6 shall apply *mutatis mutandis*.

## **12. Surrender of licence.**

- (1) The Commission may require that a licensee surrenders their licence where that licensee has not commenced operations within one year of being licensed by the Commission.
- (2) Notwithstanding subsection (1), a licensee may voluntarily surrender their licence with the Commission's consent at any time after the licence has been issued, by submitting a written request in the prescribed form to the Commission, and such surrender shall be irrevocable.
- (3) Whether required by the Commission or requested by a licensee, the surrender of a licence shall be subject to the provisions of section 23 herein.

## **13. Dormancy.**

- (1) Notwithstanding section 12, an external insurer may apply for a certificate of dormancy of the whole or any part of its licence by submitting a written request in the prescribed form to the Commission and the provisions of section 25 shall apply.

## **14. Replacement of licence.**

Where the Commission is satisfied that a licence has been inadvertently lost, destroyed or defaced, the Commission shall replace the licence upon payment of the prescribed fee by the licensee.

## **15. Issuance of a licence.**

Upon approval of an application for a licence, the applicant shall pay the prescribed annual fee within seven days of receiving notice of the Commission's decision, and thereafter the Commission shall —

- (a) issue the licence in the prescribed form and on such terms and conditions as the Commission deems appropriate;

- (b) specify the class or classes of insurance business in which the licensee may engage, and whether the licensee is a restricted or unrestricted external insurer; and
- (c) enter the details of the licence in the Register kept and maintained by the Commission for that purpose.

**16. Type of Licence.**

For the purpose of section 15(b), the Commission may only issue –

- (a) an unrestricted licence to an external insurer where the licensee has a minimum fully paid-up capital, capital surplus, and subordinated capital or contributed reserve fund of at least such amount as may be prescribed or approved, by the Commission; and,
- (b) a restricted licence to an external insurer where that licensee licensee has a minimum paid-up capital or contributed reserve fund, as may be approved by the Commission.

**17. Validity of licence.**

A licence issued under this Act remains valid and continues under this Act –

- (a) until it is revoked under section 20; or
- (b) upon its surrender by the licensee under section 12.

**18. Conditions of licence.**

(1) Notwithstanding any other conditions imposed under the provisions of this Act, it shall be a condition of a licence, which if breached shall render the licence liable to revocation in accordance with section 20(3), that the licensee will not, without the prior approval in writing of the Commission –

- (a) enter into a merger or consolidation;
- (b) transfer, other than in the ordinary course of its business including a transfer by way of re-insurance, the whole or any part of its assets or liabilities;
- (c) charge the whole or any part of its assets except as provided for under subsection (3);
- (d) issue, transfer, or allow the transfer of any shares to any person who was not named as a shareholder in the application for a licence or any amendment to the application, except in the case where the issue or transfer is to a person who immediately after the issue or transfer will

- own shares with a book value equal to ten percent or less of the aggregate book value of the total outstanding shares of the licensee;
- (e) change its name from that set out in the licence or adopt a business or trade name or mark not previously approved by the Commission;
  - (f) engage in a class of insurance business other than that specified in its licence;
  - (g) alter its constitutive documents;
  - (h) remove, replace or appoint a person as director or officer who was not named as a director or officer at the time application was made for licensing; and
  - (i) make any other material change in the information supplied in the application for the licence.
- (2) For the purpose of subsection (1)(b), a licensee who intends to transfer the whole or any part of its assets or liabilities shall obtain the Commission's prior approval by submitting documents and information specifying procedures as applicable, for effecting the full discharge of any claims and losses including incurred but not reported losses, unearned premiums and liabilities to policyholders or similar creditors.
- (3) Subsection (1)(c) does not apply —
- (a) where the charge is by way of letters of credit acceptable to the Commission issued to secure the insurance or reinsurance obligations of the licensee;
  - (b) where the amount of the charge does not exceed the excess of surplus over the minimum capital and surplus required to meet the statutory and solvency margin required by the Commission to be maintained as a condition of the licence and, if none, then as required by law; and
  - (c) where pledges, mortgages or other encumbrances of assets held in accounts segregated under this or any other Act.



- (4) Where a transfer under this section is effected pursuant to subsection (2), the licensee shall as soon as possible thereafter notify the Commission.
- (5) In respect of a licensee engaged in variable insurance business, it shall be a condition of the licence that the licensee comply with licensing and reporting provisions prescribed by regulation.
- (6) The Commission may at any time by regulation, add to, vary or delete any condition imposed under this section.

## **19. Renewal of licence.**

- (1) Unless the Commission has approved a licensee's prior request for an extension of time within which to comply, a licence issued under this Act shall be renewed annually no later than thirty days before the anniversary date on which the licence was issued, and upon payment of the prescribed annual fee.
- (2) The payment of the prescribed annual fee, which shall be non-Refundable, shall be subject to section 56(3) and (4) of this Act.

## **20. Suspension or Revocation of licence.**

- (1) The Commission shall automatically suspend a licence where a licensee fails to comply with the requirements of section 19 by the annual renewal date and no prior request for an extension of time has been submitted to the Commission by the licensee.
- (2) Where a licence is suspended under subsection (1), the Commission may –
  - (a) cancel or rescind the suspension if during the thirty-day period following notice of such suspension, or the expiration of any period of extension, the licensee complies with the requirements of section 19 and pays an administrative penalty of ten percent of the prescribed annual fee to the Commission; or
  - (b) revoke the licence if within seven days of the end of the thirty-day period following notice of suspension, or the expiration of any period of extension, the licensee fails to comply with the requirements of section 19.

- (3) Notwithstanding subsection (1) and (2), the Commission may immediately suspend or revoke a licence in the public interest where the licensee —
- (a) fails to comply with a condition of its licence;
  - (b) is in breach of any duty or obligation imposed upon it by this Act or commits an offence under this Act;
  - (c) is carrying on insurance business outside The Bahamas and loses its licence to carry on insurance business in that other jurisdiction, or commits an offence under the laws of that other jurisdiction;
  - (d) appears to the Commission to be conducting its business in a financially hazardous condition or in a manner likely to be detrimental to the public interest or to the interest of its creditors or policyholders;
  - (e) is the subject of a report or complaint made pursuant to sections 29 and 31, and if after an investigation the Commission is satisfied that it is detrimental to the public interest that the licensee should continue to carry on business;
  - (f) ceases to carry on external insurance business under its licence;
  - (g) becomes bankrupt, goes into liquidation, is wound up or otherwise dissolved; or
  - (h) voluntarily surrenders its licence.
- (4) Notwithstanding any provision of this Act or any other law or action the Commission may take in exercise of its enforcement powers, the Commission may suspend any licence which it has issued for the purpose of conducting an investigation into the activities of any licensee with the length of such suspension being in the Commission's sole discretion, and this power to suspend shall also include the power to extend such suspension.
- (5) Where a licence is suspended or revoked under subsection (3) or (4) the Commission shall issue a written notice to the licensee stipulating the reason for the suspension or revocation, and in the case of;
- (a) suspension —

- (i) its duration which may be up to ten days;
    - (ii) directives for corrective action by the licensee and the period within which corrective action is to be taken; and
    - (iii) the conditions or restrictions which apply to the licensee's business operations during the period of suspension;
  - (b) revocation –
    - (i) the duration of the notice period before the revocation occurs;
    - (ii) the conditions or restrictions which apply to the licensee's business operations during the notice period;
    - (iii) the licensee's right to show cause why the licence should not be revoked.
- (6) Notwithstanding subsection (5), the Commission shall not issue written notice to a licensee where the decision to revoke is based on the licensee's voluntary surrender of its licence.
- (7) The Commission shall publish notice of all suspensions or revocations in the Official Gazette; however suspensions under subsection (2)(a) shall not be published where a decision to suspend has been cancelled or rescinded.

**21. Licensee's right of review on suspension or revocation of licence.**

- (1) Within 21-days of receiving the Commission's notice of suspension or revocation issued pursuant to section 20(3), an affected licensee may apply to the court by way of an originating application for judicial review of the Commission's decision to suspend or revoke their licence.
- (2) An application to the court pursuant to subsection (1) shall not act as a stay of the Commission's decision to suspend a licence, but shall act as a stay of the Commission's decision to revoke the licence.
- (3) Where a licensee's application against revocation of its licence is pending determination by the court, the Commission shall provide interim oversight of the licensee's operations.

- (4) Where the licensee's application is unsuccessful, the Commission shall proceed to revoke the licence, and –
  - (a) publish notice of the revocation in the Official Gazette; and,
  - (b) in the case of a licensee incorporated or registered in a foreign jurisdiction, issue written notice of the suspension or revocation to the entity responsible for the incorporation or registration.

**22. Effect of suspension or revocation of a licence.**

- (1) Where a licence has been suspended or revoked under section 20(3), no licensee may renew any policies which existed prior to the date they were notified of the suspension or revocation of the licence, and neither shall a licensee negotiate, enter into, nor issue any new policies after that date.

- (2) Notwithstanding subsection (1) and subject to section 18, a licensee shall be permitted to continue to carry on business relating to policies issued before the date on which it is notified of the suspension or revocation, but its business activities shall not include the renewal of such policies as such renewal shall be deemed as the issuance of a new policy.

- (3) The Commission shall supervise a licensee with respect to its business activities following the suspension or revocation of its licence, unless the Commission is satisfied that the licensee has made suitable arrangements for its obligations under those policies to be met.

- (4) Any person who fails to comply with subsection (1) and (2) shall be guilty of an offence.

**23. Process following licence surrender or revocation.**

- (1) Where, pursuant to section 12 or section 20(3) —
  - (a) a licensee has requested the voluntary surrender of their licence; or

- (b) the Commission has issued its notice of revocation to a licensee without objection by the licensee, the licensee shall prepare and submit a written plan to the Commission for the Commission's approval setting out the steps the licensee will follow to terminate their external insurance operations.
- (2) The plan required under subsection (1) shall, –
    - (a) be submitted by the licensee –
      - (i) at the same time as the request to voluntarily surrender their licence; or
      - (ii) no later than seven days after the expiration of any period stipulated in the Commission's notice of revocation or surrender to the licensee; and
    - (b) with respect to the termination of operations, –
      - (i) identify the individual who will manage the process;
      - (ii) stipulate the length of time required to conclude the process;
      - (iii) address client notification and transfer procedures, where applicable, and the manner in which client files will be closed and secured; and
      - (iv) attach relevant documents and exhibits.
  - (3) Upon the Commission's approval of the plan, and subject to the Commission's supervision and directives, the licensee shall commence termination procedures.
  - (4) Where the Commission is satisfied that the licensee has fully complied with the plan and any directives issued by the Commission, it shall consent to the surrender of the licence or proceed with the revocation.
  - (5) Notwithstanding the foregoing, the Commission shall be entitled to inspect or investigate the licensee's business operations prior to or after consenting to a voluntary surrender or proceeding with a revocation, and where the results of such inspection or investigation warrant, shall have power to take enforcement action against the licensee.

#### **24. Sums to be held in escrow.**

Where the Commission receives a request for surrender of a licence from or has issued notice of revocation to a licensee who has

commenced external insurance business operations, the licensee shall, in addition to complying with the provisions of section 23(1) and (2), deposit a sum [of not less than \$20,000.00] [determined by the Commission] with a financial and corporate service provider to be held in escrow for a period of one year following the date on which the Commission consented to the surrender or revoked the licence.

## **25. Effect of Dormancy**

- (1) Where a licence has been made dormant in whole or in part, the external insurer shall, during the period of dormancy, possess and maintain unimpaired capital and surplus or such other amount as determined by the Commission, and shall not be, with respect to the dormant part of their licence, –
  - (a) subject to or liable for the payment of [tax] required under any law; or
  - (b) required to do any of the following –
    - (i) file annual statements with the Commission;
    - (ii) prepare audited financial statements; or
    - (iii) obtain statements of actuarial opinion.
- (2) Notwithstanding subsection (1)(b), while it shall be in the Commission's sole discretion whether an external insurer is exempt from examination for any year in which they qualify as a dormant external insurer, they shall not be exempt from examination for any year when they did not qualify as a dormant external insurer.
- (3) The Commission may, upon application, declare an external insurer or any part of its licence to be dormant for purposes of this section even if such external insurer retains liabilities associated with policies written or assumed by the insurer; provided, however, that the external insurer has otherwise ceased carrying on insurance business.
- (4) An external insurer shall not resume insurance business with respect to any part of its licence which has been made dormant until such time as it has provided written notice to the Commission of its intention to resume–

- (a) assuming risk through the issuance of insurance policies, reinsurance contracts, or both; and
  - (b) accepting premiums whether direct or indirect, assumed via reinsurance, or both.
- (5) Where the Commission receives a notice under subsection (4), the external insurer shall only resume dormant insurance business activities with the Commission's written approval, and thereafter such external insurer or the relevant part of its licence shall no longer be considered as dormant and the external insurer shall thereafter comply with all provisions of this Act and regulations.
- (6) If, after a period of [5] years from the date of the written notice being sent to the Commission, a dormant external insurer has not resumed carrying on insurance business by assuming risk through the issuance of insurance policies, reinsurance contracts, or both, or accepting premiums, whether direct or indirect, assumed via reinsurance, or both, the nonrefundable license renewal fee payable under section 19 of this Act shall be increased to [\$25,000] for the sixth year of dormancy and [\$5,000] for every year of dormancy thereafter.
- (7) The length of any dormancy shall be in the Commission's sole discretion but shall not exceed five [5] years except where the Commission waives any requirement as to length of dormancy and permit the dormant external insurer to continue as a dormant insurer for a period in excess of the original period stipulated by the Commission, without incurring the additional fees set forth in subsection (6) upon good reason shown and acceptable to the Commission.
- (8) Where a contract of insurance or reinsurance was made and issued in any year in which an external insurer's licence was not dormant, the external insurer may continue to adjudicate and settle insurance claims brought under that contract of insurance or reinsurance during the dormancy period.

- (9) For the purpose of subsection (4) and the notice required thereunder, an external insurer may surrender its Certificate of dormancy and apply for approval to resume transactions under its dormant licence in whole or in part at any time by submitting the following to the Commission –
- (a) a resolution of the external insurer’s board of directors authorizing the surrender;
  - (b) updated business plan;
  - (c) biographical information about any new officers or directors;
  - (d) executed contracts with approved service providers including the Resident Representative, auditors, accountants, actuaries, and external insurance broker; and
  - (e) evidence of minimum capital and surplus as required by this Act.
- (10) Any person who contravenes subsection (1) or (4) is guilty of an offence.

### **PART III**

## **CONDUCT OF EXTERNAL INSURANCE AND EXTERNAL INSURANCE INTERMEDIARY BUSINESS**

### **26. Registered office to be maintained.**

- (1) Except where specifically exempted, all licensees under this Act shall maintain a registered office in The Bahamas for the purpose of accepting service of notices, instruments or other documents or legal process addressed to the licensee and the licensee shall provide the Commission with written notice of the registered office’s address.
- (2) Where the Memorandum of an applicant incorporating under either the Companies Act (*Ch. 308*) or the International Business Companies Act (*Ch. 309*) does not include the address of its registered office, such applicant shall, once licensed by the Commission and before commencing business operations, provide written notice to the Commission of the address of its registered office.
- (3) Notwithstanding any other law, rule or practice, any notice, instrument, or other document or legal process to be delivered to or



served upon the licensee may be delivered or served by leaving the same, or sending it by registered mail to the licensee's registered office.

- (4) Once licensed by the Commission no licensee shall change the address of its registered office without providing thirty days prior written notice to the Commission of the intention to do so.
- (5) A licensee that fails to comply with the provisions of this section is guilty of an offence.

## THE RESIDENT REPRESENTATIVE

### 27. Appointment of Resident Representative.

- (1) An applicant for an external insurance licence under this Act, shall appoint a Resident Representative, [who shall be an approved licensed insurance manager, or a licensed financial and corporate service provider.
- (2) Upon the appointment of the Resident Representative, the applicant shall provide written notification to the Commission concerning the appointment of its Resident Representative, including their name and address and a copy of the terms of engagement of the Resident Representative.
- (3) Once licensed by the Commission as an external insurer, the licensee shall not terminate the appointment of its Resident Representative and no Resident Representative may resign their appointment without providing thirty days prior written notice to the Commission of the intention to do so.
- (4) Where, for the purposes of subsection (3), the written notice has been provided to the Commission –
  - (a) by the licensee, the notice shall also include the name and particulars of the person intended to replace the existing Resident Representative; and
  - (b) by the Resident Representative, the notice shall include a declaration that the licensee has been notified of their intention to resign their appointment.
- (5) Where the licensee has been notified by the Resident Representative of their intention to resign their appointment, the requirement under subsection (1) and (4)(a) shall apply *mutatis mutandis*.

- (6) The licensee or Resident Representative that fails to comply with the provisions of this section is guilty of an offence.

## **28. Role of resident representative.**

The resident representative —

- (a) Shall use their best efforts to provide underwriting or other management services only to or for licensed external insurers.
- (b) shall keep and maintain the licensee's books, records and other prescribed documents at their address;
- (c) may inspect corporate records of the licensee; and
- (d) shall be entitled to be notified by the licensee of —
  - (i) all meetings of shareholders and directors; and
  - (ii) any regulatory or governmental claims of violation of insurance or securities laws in other jurisdictions, or final adjudication of fraudulent conduct.

## **29. Resident representative to report certain events.**

- (1) The resident representative shall, within fourteen days of becoming aware that there is a likelihood that the licensee is or will be unable to pay its debts, or having reason to believe that with relation to the licensee's business operations an event under subsection (2) will or has occurred, report the matter to the Commission in writing, including in that report all of the relevant particulars and also send a copy of that report to the licensee's auditor.
- (2) For the purpose of subsection (1), the occurrence of or belief that any of the following events will occur with relation to the licensee's business operations, shall be reported to the Commission —
  - (a) the licensee's compliance with the solvency criteria prescribed by section 31;
  - (b) the licensee's compliance with any other requirement of this Act;
  - (c) the licensee ceasing to carry on business under its licence;
  - (d) the licensee is name as a defendant in criminal proceedings in any country or jurisdiction;
  - (e) that a court of final jurisdiction outside of The Bahamas has ruled that the licensee has violated insurance or securities laws or any laws relating; or
  - (f) to fraudulent conduct in the relevant foreign jurisdiction.

- (3) A resident representative that fails to discharge the duty imposed by subsection (1) is guilty of an offence and liable on summary conviction to a fine of fifty thousand dollars.

## EXTERNAL INSURANCE BROKER

### **30. Sale of insurance products only through broker.**

- (1) No external insurer may sell or otherwise distribute insurance products in or from within The Bahamas except through an approved external insurance broker licensed under this Act.
- (2) An external insurance broker licensed under this Act shall only place business with external insurers that are operating lawfully in the jurisdictions where they transact business.

### **31. Duty of External Insurance Broker to report.**

- (1) Where an external insurance broker has knowledge or information or it appears that any of the external insurers for whom they act —
  - (a) is conducting its business in a financially hazardous manner or in a manner that would expose such external insurer to risk of becoming insolvent;
  - (b) is not complying with the provisions of this or any other Act or the regulations made thereunder;
  - (c) is experiencing a state of affairs that might be prejudicial to the interests of such external insurers policyholders or creditors;
  - (d) has ceased to carry on the business for which it is licensed, it shall, in good faith, immediately report the same to the Commission giving particulars of the information and documents in its possession.
- (2) In discharging their duty under subsection (1), the external insurance broker shall not, nor shall any director, officer, member, agent or employee thereof be liable to any action, suit or proceeding for or with respect to such reporting.

## DUTIES OF LICENSEES

### **32. General duty to comply and cooperate.**

- (1) A licensee shall comply with the provisions of this Act concerning the conduct of its business, and shall –
  - (a) deal openly, honestly and cooperatively with the Commission;
  - (b) provide to the Commission, as duly required, information relevant to its operation; and
  - (c) submit to on-site or off-site inspections or examinations, as required by the Commission, in the exercise of its functions.
- (2) Every licensee shall, in the conduct of its business, comply with any rules, guidelines or directives made and issued by the Commission and such compliance shall be considered as a part of the minimum criteria for licensing.
- (3) Any licensee, or any of its employees, managers, officers or other person, who –
  - (a) fails to cooperate with; or
  - (b) obstructs or assaults any person appointed by or acting on behalf of the Commission in the conduct of an examination, inspection or investigation of the licensee, commits an offence.
- (4) For the purposes of subsection (3), it shall not be relevant whether the employee, manager, officer or other person was acting on the specific instruction of any individual having control of or responsibility for the management or operation of the licensee.

**33. Duty to notify changes relating to licensing.**

A licensee shall immediately notify the Commission in writing upon the occurrence of any of the following –

- (a) address for service;
- (b) contact information, including email address, phone contact or residential and postal addresses;
- (c) principal place of business; or
- (d) attorneys and corporate officers.

**34. Duty to obtain approval for certain changes.**

Every licensee shall obtain the written approval of the Commission prior to

- (a) merging with another licensee or entity;

- (b) issuing, transferring or otherwise disposing of shares in a company licensed under this Act;
- (c) appointing a director;
- (d) adding to or reducing the shareholders of a company licensed under this Act; or
- (e) making any change to auditors or accountants.

**35. Duty to keep and maintain records.**

- (1) All licensees shall keep and maintain within The Bahamas and shall make available to the Commission upon request —
  - (a) where applicable, a record of all policies issued by the licensee and the aggregate amount of the premiums received thereon;
  - (b) an accurate record of all premiums paid on reinsurance; and
  - (c) such other books, records, receipt and vouchers as are necessary to allow the licensee to prepare and submit the statement of the insurance business to the Commission.
- (2) The Commission may examine, during ordinary office hours the books and records of the licensee wherever held in The Bahamas, and the licensee shall cause such books and records to be readily available for examination and facilitate the examination.

**36. Duty to implement risk and compliance procedures, et. al.**

Each external insurer, insurance manager, and external insurance broker licensed under this Act shall implement and maintain internal risk and compliance procedures and internal controls that will ensure effective management and compliance with relevant legislation, and which shall include training for employees and other relevant persons associated with the licensee.

**37. Annual returns.**

An external insurance intermediary shall no later than four months of the end of its financial year, submit the prescribed Annual Update Form.

**FINANCIAL OBLIGATIONS**

**38. Duty to maintain adequate financial resources and solvency.**

Every licensee shall –

- (1) maintain and be able to demonstrate adequate financial resources for the nature and scope of its business operations;

- (2) maintain solvency and be able to meet the risks of its business operations; and
- (3) maintain regulatory capital as required under this Act or as prescribed by the Commission.

**39. Capital requirements.**

- (1) The minimum fully paid- up capital, capital surplus, and subordinated capital or contributed reserve fund shall be as prescribed.
- (2) Paid-up capital or contributed reserves may be in the form of cash or such assets and in such amount as the Commission approves.

**40. Conditions on financial requirements.**

- (1) The Commission may impose as a condition of any licence issued under this Act that –
  - (a) licensee maintains in cash, short-term securities, or other easily realisable investments, funds adequate for prompt payment of claims, provided however that, the amount so required at any material time shall not exceed forty per centum of the annual total net premium income of the licensee.
  - (b) licensees other than restricted external insurers are prohibited from making investments of a specified class without the prior written approval of the Commission.
- (2) Where a licence is subject to the condition under subsection (1)(b), the Commission may require the licensee to realise investments of that class within a stipulated period and the licensee shall so comply .

**41. Prevention of money laundering and anti-money laundering reporting.**

- (1) Subject to any rules or guidelines made under the provisions of this Act, a licensee shall, with respect to the conduct of its business, comply with the provisions of the Financial Transactions Reporting Act (*Ch. 368*), the Financial Intelligence (Transactions Reporting) Regulations, 2001 and the Anti-Terrorism Act, 2018 (*No. 27 of 2018*) with respect to the prevention of money laundering and the financing of terrorism.

- (2) Every external insurer, insurance manager and external insurance broker to which the Financial Transactions Reporting Act (*Ch.368*) and Regulations applies shall —
  - (a) ensure that adequate policies and procedures are in place to comply with Anti-Money Laundering (AML) and the Combating of Financing of Terrorism (CFT) laws and obligations;
  - (b) establish on-going training programs to ensure that employees and agents are kept informed of new money laundering and financing of terrorism techniques, methods and trends;
  - (c) establish proper screening procedures to ensure high ethical and technical standards when hiring employees or appointing agents;
  - (d) ensure that its overseas branches or subsidiaries also have appropriate AML/CFT policies and procedures in place; and
  - (e) require its external auditor to submit a report during the course of the annual audit of financial statements on the adequacy of policies and procedures relating to money laundering and the combating of the financing of terrorism, pursuant to the Financial Transactions Reporting Act (*Ch.368*) and Regulations.
- (3) A copy of the report required in subsection (2)(e) must be forwarded to the Commission within four months of the end of the licensee's, insurance manager's or external insurance broker's financial year.

#### **42. Annual audits and Actuarial report.**

- (1) A licensee shall appoint an independent auditor, approved by the Commission, who shall make an examination in accordance with international accounting standards, of the licensee's annual financial statements.
- (2) No later than four months after the close of its financial year, a licensee shall submit its annual audited financial statements together with such other related information as may be prescribed to the Commission and accompanied by the independent auditor's report.

- (3) A licensee shall, if requested by the Commission, also appoint an independent auditor, who shall submit a certificate to the Commission stating –
- (a) that the licensee’s reserves are adequate to meet its liabilities; and
  - (b) whether in his opinion —
    - (i) the statutory books and records of the licensee have been kept properly, accurately, up-to-date and in accordance with applicable laws;
    - (ii) the licensee has complied with the solvency criteria prescribed by section 31 at the balance sheet date and with such other requirements as may be prescribed; and
    - (iii) the licensee has complied with the reporting and other relevant provisions of the anti-money laundering and counter terrorism financing legislation.
- (5) A licensee whose outstanding claims, including those claims that are incurred but that are not reported to the licensee, exceed two hundred per cent of its capital and surplus accounts shall submit to the Commission an annual review of those claims given by an actuary approved by the Commission.
- (6) A licensee that is a company incorporated outside The Bahamas, shall within four months of the end of its financial year furnish to the Commission a certificate issued by the overseas regulatory authority in the country in which it is incorporated, or any other country where it is authorised and licensed to undertake insurance business, to the effect that the licensee is complying with all the applicable insurance supervisory requirements of that overseas regulatory authority.
- (7) For the purpose of this section, an auditor, actuary or accountant shall not be considered to be an independent auditor, actuary or accountant if he is an employee or an officer of the respective licensee or owns any financial interest in the business of that licensee



#### **43. Separation of funds.**

- (1) A licensee carrying on variable insurance business may establish any number of separate accounts in respect of the respective premiums paid to it to provide insurance coverage consistent with the licensee's external insurance business and with respect to the increment of value resulting from the investment and reinvestment of the same.
- (2) Such respective premiums and increments in value referred to in subsection (1) shall be credited to a separate account which shall be kept separate one from the other and independent of all other funds and the general account of the licensee.
- (3) Notwithstanding any other law to the contrary, -
  - (a) separate accounts referred to in subsection (1) are not chargeable with any liability arising from any other business of the licensee or arising from any activity carried out by the licensee in relation to any other separate account; and
  - (b) separate accounts referred to in subsections (1) and (2) shall not be included in the calculation of the minimum share capital of the licensee but shall nevertheless be deemed property of the licensee.
- (4) Any claim of the insurer under a contract of reinsurance taken out by the insurer in respect of a contract for which a separate account has been established shall be deemed to be an asset of the relevant separate account to the extent only that the insurer fails to meet its obligations under the relevant contract and upon payment of any amount due under such contract of reinsurance shall be immediately credited to the relevant separate account, whether the insurer is solvent or not.
- (5) Nothing herein contained shall prevent a licensee having recourse to segregation provisions as set forth in any other Act.

### **PART IV WINDING-UP OF LICENSEES**

#### **44. Petition for compulsory winding up.**

- (1) Notwithstanding any other law, rule or practice, a licensee may be compulsorily wound up by order of a judge of the Supreme Court pursuant to section 184(a) of the Companies (Winding Up

Amendment) Act, 2011 either upon the petition of the Commission or upon the petition of policy holders.

- (2) Subject to subsection (3) –
- (a) The Commission may present a petition for the compulsory winding-up of a licensee on the ground that the licensee is insolvent.
  - (b) A policy holder may only present a petition for the compulsory winding up of a licensee where the licensee is engaged in either —
    - (i) long-term insurance business, and the policy or policies involved has an aggregate cash surrender value of at least five hundred thousand dollars ; or
    - (ii) general insurance business, and the policy or policies involved has an aggregate annual premium of at least one hundred thousand dollars.

Provided however that where a licensee is engaged in both long-term and general insurance business, a policy holder shall be entitled to present a petition for the winding up of the licensee if they qualify under (a) and (b).

- (3) No petition for the compulsory winding-up of a licensee may be presented without leave of a judge of the Supreme Court, and the petitioner shall satisfy the judge that a *prima facie* case has been established that either —
- (a) where the petition is made by the Commission, the licensee is insolvent; or
  - (b) where the petition is made by a policy holder, the licensee has failed to pay a substantial claim that is uncontested or awarded by a court or other tribunal of competent jurisdiction and all rights of appeal with respect to that claim have been waived or have elapsed through the passage of time.
- (4) In any proceedings upon a petition for the compulsory winding-up of a licensee, evidence that the licensee was insolvent at any time before the start of the proceedings is evidence that the licensee continues to be insolvent unless the contrary is proved.

**45. Commission to be a party to all winding up proceedings.**

The Commission shall be a party to all proceedings for winding up of a licensee whether the petition is presented by –

- (a) policy holders for the compulsory winding up of a licensee;
- (b) the licensee, or some other authorized person, for voluntary winding up; or
- (c) by a person recognized in law as being entitled to petition for winding up,

and the Commission shall be entitled to request and receive from the licensee, the policy holder or person, as the case may be, such information as it may require concerning the affairs of the licensee.

**46. Petition by Commission for judicial management.**

Where the Commission is of the opinion that it is necessary or proper to do so, it may, with the leave of the Court, present a petition for an order that the licensee or any part of the insurance business of the licensee be placed under judicial management in accordance with prescribed regulations, on the ground that it is in the public interest to do so.

**47. Petition for Voluntary winding up.**

- (1) Where a licensee has passed a resolution for the voluntary winding-up of its business, the leave of the court shall not be required for the presentation of its petition to the court to be voluntarily wound-up.
- (2) Unless the Commission agrees to a shorter period of notice, a licensee shall, at least thirty days prior to the presentation of the licensee's petition to the court to be voluntarily wound up, give written notice to the Commission of the resolution and the notice shall state therein the date on which the licensee will cease to enter into new insurance contracts and include the name and address of its proposed liquidator.
- (3) Both the licensee and the Commission are entitled to be heard on any petition presented to the Court under this section.
- (4) Notwithstanding anything in this or any other Act or regulation, an external insurer which carries on long-term insurance business shall not be wound-up voluntarily.

**48. Stay of legal process.**

Where a petition is presented under this Part for an order in respect of a licensee, all actions and the execution of all writs, summonses and other processes against the licensee are, by virtue of this section, stayed and may not be proceeded without the leave of the Court.

**49. Rights and interests of policy holder.**

- (1) The rights and interests of a policyholder in the assets of a separate account maintained under a variable life insurance or variable annuity policy issued by a licensee shall not be liable to be applied or made available in payment of the debts of any creditor, and no creditor of the policyholder may attach any rights or interests in the policy or claim payment thereof, except where —
  - (a) the purchase of the policy or acquiring, conveying, transferring or settling the assets used to purchase the policy was made with the intent to willfully defeat an obligation owed by the policyholder to the creditor; or
  - (b) bankruptcy proceedings have been commenced by or against the policyholder in a court of competent jurisdiction at the date of purchase of the policy or within three months of the date of purchase of the policy.
- (2) No action or proceeding shall be commenced pursuant to subsection (1) (b) above unless commenced within two years of the date of the relevant disposition.

**50. When external insurer insolvent.**

- (1) Unless the Commission otherwise determines, an unrestricted external insurer carrying on general insurance business shall be deemed to be unable to pay its debts if at any time after the expiration of the first financial year, the value of its assets does not exceed its liabilities —
  - (a) by 1/5 of the premium income for the preceding financial year, where the premium income does not exceed five million dollars; and
  - (b) by the aggregate of one million dollars and 1/10 of the amount by which the premium income in the preceding financial year exceeded ten million dollars where the premium income for that year exceeded five million dollars.
- (2) A restricted external insurer carrying on general insurance business shall be deemed to be unable to pay its debts if at any time the value

of its assets does not exceed its liabilities by such amount as the Commission may prescribe from time to time.

- (3) A licensee carrying on long-term insurance business shall be deemed to be unable to pay its debts if the value of its assets does not exceed its liabilities.
- (4) In computing a licensee's liabilities for the purposes of this section, all contingent and prospective liabilities, other than liabilities in respect of share capital and surplus, are to be taken into account.
- (5) In computing the assets and liabilities of a licensee carrying on variable insurance business, the assets of any one or more separate accounts maintained by the licensee in respect of its variable insurance business, or the liabilities chargeable against such accounts in respect of such business, and any assets acquired and held in a fiduciary capacity as designated by its auditor in financial statements filed with the Commission shall not be included in such computation.
- (6) For the purposes of this section —
  - (a) assets include —
    - (i) cash,
    - (ii) bonds, debentures, fixed deposits, and equities listed on a recognised stock exchange, or legally recognised inter-dealer market,
    - (iii) mortgage loans on real estate,
    - (iv) net accrued investment income due,
    - (v) premiums receivable,
    - (vi) reinsurance balance receivable,
    - (vii) funds held by ceding reinsurers,
    - (viii) accounts receivable (except from a person with whom the external insurer is associated, unless approved by the Commission),
    - (ix) irrevocable letters of credit drawn or confirmed by a bank licensed under the Bank and Trust Companies Act (*Ch. 316*); and
  - (b) liabilities include loss reserves and unearned premiums, and other outstanding liabilities, but do not include capital and surplus.

## **PART V CORPORATE GOVERNANCE**

### **51. Corporate Governance.**

The Commission shall prescribe regulations and issue Corporate Governance guidelines for the appointment and responsibilities of boards of directors of licensees, auditors and actuaries, and for the establishment of audit, conduct, review and other relevant committees and for other relevant matters as is deemed necessary.

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## **PART VI ADMINISTRATION OF THE ACT**

### **52. Administration of Act.**

This Act shall be administered by the Insurance Commission of The Bahamas, a body corporate continued under section [ ] of the Insurance Act, *Ch. 347* and which body shall exercise regulatory control over licensees under this Act.

### **53. Functions of the Commission.**

- (1) The Commission's functions are to –
  - (a) maintain regulatory control over and a general review of external insurance business in or within The Bahamas;
  - (b) advise the Minister on all matters relating to the regulation of external insurance business in or within The Bahamas;
  - (c) protect the external insurance market against abuses, market misconduct, and other improper practices; and
  - (d) perform any other function reasonably required or incidental to the Commission's functions under this Act.<sup>54</sup>

### **54. Powers of the Commission.**

- (1) In the exercise of its functions, the Commission is empowered to —
  - (a) supervise and maintain regulatory control over and a general review of external insurance business in The Bahamas;
  - (b) issue, suspend, or revoke licenses as the regulator of external insurance business in The Bahamas;
  - (c) take administrative and other actions to protect the interests of the general public;

- (d) by order take enforcement action against any person for failing to comply with the provisions of this Act, or any Regulations, Rules, Order or Guidelines made under this Act, or any other law or Act with which licensees must comply;
  - (e) have authority to conduct annual on-site inspections and regulatory hearings to determine the extent to which licensees are in compliance with the provisions of this Act;
  - (f) have authority to demand from any licensee or person information or documents relating to any matter in connection to regulated activity under this Act;
  - (g) have power to extend any period of time specified in the Act or the Regulations;
  - (h) have the power to petition the Supreme Court for the winding up of a licensee and for the appointment of a liquidator;
  - (i) have power to impose conditions on, and after, issuing a licence to a licensee;
  - (j) keep and maintain registers to record a list of licensees and details of the licences issued by the Commission, or any other relevant information;
  - (k) make any order as appears to the Commission to be just and equitable under this Act;
  - (l) cooperate with any other governmental body or regulatory authority within or outside The Bahamas and enter into agreements or memorandums or understanding for the mutual sharing of information with such body or authority; and
  - (m) do all things and take all actions which may be necessary or expedient or which are incidental to the discharge of any function or power given to The Commission.
- (2) In exercise of its functions and powers, the Commission may require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses under oath.
- (3) An oath required to be taken under this Act may be administered and certified by the Superintendent.

- (3) For the purpose of this Part, “governmental body” shall include but not be limited to a person who is empowered by the laws of the Bahamas or a foreign jurisdiction to request information from the Commission for the purpose of civil or criminal investigations into the activities of a licensee under this Act.

**55. Power to make and issue rules, guidelines, etc.**

- (1) The Commission may make and issue rules, guidelines and directives, and publish notices and bulletins —
  - (a) regarding the interpretation, application, or enforcement of the provisions of this Act;
  - (b) for the better regulation of the provision of external insurance activities under this Act;
  - (c) in connection with the manner by which licensees shall carry on activities as an external insurer or external insurer intermediary; and
  - (d) to provide guidance to licensees as to the —
    - (i) duties, requirements and standards with which they shall comply; and
    - (ii) sound principles to be observed when carrying on activities as an external insurance licensee.
- (2) The Commission may amend from time to time any rule, guideline, Order or directive or notice or bulletin made and issued or published in accordance with this section.
- (3) Unless circumstances require a shorter period, the Commission may at least sixty days prior to the making of any rule or guideline or amendment thereof, and for the purpose of ensuring that interested parties have a reasonable opportunity to make written representation with respect to the proposed rule or guideline or amendment, publish on its website a copy of the rule or amendment with a concise statement of the purpose of the proposed rule or guideline or amendment.

**56. Power to determine fees.**

- (1) The Commission shall have power to prescribe the fees to be imposed in the performance of its functions and powers, which power shall include the power to vary or amend any fees that have been so prescribed.



- (2) Fees shall be as prescribed by the Commission in respect of —
  - (a) any application for licensing under the provisions of the Act;
  - (b) the resignation of any person;
  - (c) the issue of any certificate;
  - (d) the inspection of any Register;
  - (e) the furnishing by the Commission of any document or copy; and
  - (f) extra-ordinary inspections conducted by the Commission to determine compliance with the provisions of this Act.
- (3) The Commission shall have power to apply a late payment charge in its sole discretion with respect to any unpaid prescribed fee.
- (4) Where any prescribed fee remains unpaid due to the failure or refusal of a licensee to make such payment, the Commission shall be entitled to recover such fee as a civil debt, and any late payment charge shall also be so recoverable.
- (5) For the purpose of subsection (4), where judgment is given for the Commission to recover any unpaid fee or late payment charge, the court may order payment of a penalty in an amount equal to the amount of the unpaid fee.

**57. Power to amend or replace forms.**

The Commission may by order for general or specific application amend or replace any prescribed form including by amending the list of attachments which must be provided with such form.

**PART VII  
ENTRY, INSPECTION AND INVESTIGATION.**

**58. Power of entry.**

- (1) The Commission, or a person authorized by the Commission as its agent, may enter the premises of any licensee at a reasonable time for the purpose of conducting any inspection of or investigation into the licensee's activities.
- (2) Where the Commission or its agent is conducting an inspection or investigation, they shall be entitled to —

- (a) search the premises and take possession of any documents or material appearing to be such documents or material relevant to the inspection or investigation;
  - (b) take any necessary steps for the preservation of the relevant documents or material; and
  - (c) take copies or extracts from the relevant documents or material.
- (3) The identification issued by the Commission to the agent, which shall be produced upon demand, shall be sufficient proof of that agent's authority to act on behalf of the Commission and to enter the licensee's premises and conduct an inspection or investigation upon the Commission's instructions.

**59. Entry and search of other premises.**

- (1) Notwithstanding section 58, where the Commission has reasonable grounds for suspecting that there are on any premises any securities, books, accounts, documents or statistics, production of which has been required by virtue of section 59 and which have not been produced in compliance with that requirement, the Commission may apply to a magistrate for an order to enter and search such premises.
- (2) Where a magistrate is satisfied on information on oath laid by the Commission or by any person authorised by the Commission for that purpose, that an order should be made to permit such entry and seizure, the magistrate may issue a warrant authorising any member of the Royal Bahamas Police Force, together with any other person named in the warrant, to —
- (a) enter the premises specified in the information using such force as is reasonably necessary for the purpose;
  - (b) search the premises and seize and remove any securities, books, accounts, documents or statistics appearing to be the securities, books, accounts, documents or statistics required by the Commission;
  - (c) take, in relation to any securities, books, accounts, documents or statistics so appearing, any other steps that may appear necessary for preserving them and preventing interference with them.

- (3) A warrant issued under this section shall expire fourteen days after the date on which it is issued.
- (4) Any securities, books accounts, documents or statistics that have been seized under this section may be retained for a period of three months or, if within that period criminal proceedings have been brought in respect of the seizure, until the conclusion of those proceedings.
- (5) This section and sections 58 and 62 shall be deemed not to be in conflict with any other law.

**60. Power of inspection.**

- (1) The Commission or a person authorized by the Commission as its agent may at any time conduct an onsite or offsite routine inspection of the business conduct, financial affairs, books, records, and other document of a licensee for the purpose of determining if the licensee is complying with any law administered by the Commission.
- (2) Notwithstanding subsection (1) the Commission, or its agent shall carry out inspection for cause for the purposes of ascertaining whether any person —
  - (a) is in the business of providing an external insurance services in breach of section 4;
  - (b) is representing or has represented that the person is in the business of providing external insurance services in breach of section 4;
  - (c) is qualified or has been qualified to be licensed in accordance with section 7;
  - (d) has made a false or misleading representation or omission with respect to an application made pursuant to section 6;  
or
  - (e) has breached any order, guideline or directive made or issued or condition imposed by the Commission.
- (3) During the course of an inspection, the Commission or its agent may require any person to —
  - (a) produce for examination, any books, records and other documents that the person, if a licensee, is required to maintain under this Act;
  - (b) supply such information or explanation as may be reasonably required by the Commission; and

- (c) produce for inspection, relevant documents within the person's possession or control, for the purpose of ascertaining whether any information provided by such person is correct.

## **61. Power to make investigation.**

- (1) Where it appears to the Commission that —
  - (a) a licensee is, or is likely to become, unable to meet its financial obligations;
  - (b) a licensee has failed to comply with any of the provisions of this Act, the regulations, or any of the Commission's orders or directives;
  - (c) a licensee has failed to produce any information which was required to be produced in response to the Commission's written request within thirty days from the date of the Commission's request. ; or
  - (d) any information in the possession of the Commission warrants an investigation into the whole or any part of any class of the external insurance business of the licensee,

the Commission may serve written notice on the licensee requiring it to show cause within such period as is specified in the notice, why the Commission should not, on the whole or any part of the licensee's business, or appoint a person, in this section referred to as the Inspector, to make such an investigation and report to the Commission the results of the investigation.

- (2) Where the licensee either fails to respond to the Commission's notice issued pursuant to subsection (1) within the period specified in the notice, or the response provided by the licensee is inadequate in the Commission's opinion, the Commission may cause an investigation to be made by the Inspector.
- (3) In connection with any investigation, the Commission shall have the power and authority to engage such professional or other expert as may, in its opinion, be necessary or desirable and the costs incurred in connection with engaging such professional or other expert shall be borne by the licensee.
- (4) The Inspector shall have authority to enter premises and conduct an investigation, and proof of their authority shall be presented to enter premises to conduct an investigation and the provisions of

- (5) Any costs incurred in connection with subsection (3) above which are not paid within 28 days of notification of the same are recoverable by the Commission summarily as a civil debt.

## **62. Power to obtain information.**

- (1) The Commission may by order direct any person to provide information or documents concerning the business affairs of such person in such manner as the Commission thinks fit to satisfy itself that the provisions of this Act or any other applicable law are being complied with.
- (2) Where a person, whether a licensee or not, is required to produce a document and fails to do so and informs the Commission that the document cannot be located or is not available, such person shall complete the prescribed Declaration stating where the document may be found and the identity of the person who last had custody of the document.
- (3) Where the Commission considers that a person is or may be able to give information or to produce a document which is or may be relevant to an inspection or investigation, it may –
  - (a) require such person to provide written statements to the Commission, and attend at a specified time and place to answer questions under oath or affirmation confirming the truth of the statements made ;
  - (b) enter during normal business hours the business premises of such person for the purpose of –
    - (i) inspecting and taking copies of documents or information stored in any form on such premises; or
    - (ii) removing from the premises any documents or information.
  - (c) require such person to give or procure the giving of specified documents or information or documentation or information of a specified description in such form as the Commission may reasonably require;
  - (d) require such person to provide an explanation of or further particulars regarding any information or document provided, produced or obtained under this section;
  - (e) require such person to cooperate with the Commission in relation to the investigation that the person is reasonably able to give;
- (4) In making an investigation under this Part, the Commission or the Inspector may –
  - (a) require the person to produce –

- (i) auditing information, including audit working papers, communication and other information relating to the audit or review of books, accounts, statistics or financial statements; and
    - (ii) any securities, of the company; and
  - (b) call upon the manager or resident representative of any company for such information or explanation as the Commission or Inspector may reasonably require for the purpose of enabling it or him to perform their functions under this Act.
- (5) A person required to provide any information or explanation, or to produce any document under this section, who –
  - (a) without reasonable excuse fails to comply with the Commission’s request;
  - (b) provides any information or explanation or produces any document which that person knows to be false, does not believe to be true, or is negligent as to whether the information, explanation or document is false; or
  - (c) intentionally suppresses any fact material to such information, explanation or document,

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars, and where the fine remains unpaid, to a fine not exceeding five hundred dollars for each day or part thereof that the offence continues after conviction.
- (6) For the purpose of this section, no obligation as to confidentiality or non-disclosure imposed by any law or any requirement imposed thereunder, any rule or law, any contract, or any rule of professional conduct shall prevent the production by a licensee of any information or document required hereunder.
- (7) Notwithstanding subsection (3), a person shall not be required to disclose information or to produce a document which he would be entitled to refuse to disclose or to produce on the grounds of legal professional privilege in court proceedings, where such privilege arises from —
  - (a) the giving of legal advice to a client, or the client’s representative, by a legal advisor;

- (b) communications between a person, or a representative of such person, seeking legal advice from the legal advisor; or
  - (c) communications from any person in contemplation of, or in connection with, legal proceedings for the purpose of those proceedings.
- (8) Where information or documents are produced in response to an order made and issued, or an inspection or investigation by the Commission, the Commission may use any of the information or documents in any proceedings.

### **63. Regulations.**

- (1) The Commission may make regulations giving effect to the purposes of this Act and, in particular, the regulations may make provisions with respect to any or all of the following —
  - (a) the licensing, operation, conduct and activities of external insurers;
  - (b) the licensing, operation, conduct and activities of insurance managers;
  - (c) the licensing, operation, conduct and activities of external insurance brokers;
  - (d) prescribing anything that is required by this Act to be prescribed;
  - (e) exempting any person or class of persons or business or class of business from any provision of this Act;
  - (f) constituting the breach of any provision of this Act or of any regulation to be an offence;
  - (g) prescribing anything that is required with respect to the financial obligations or requirements under this Act; and
  - (h) where there is no provision or not sufficient provision of this Act in respect of any matter or thing necessary to give effect to this Act, the manner or form in which the deficiency is to be supplied.
- (2) Regulations may contain such incidental or supplemental provisions as appear to the Commission to be expedient for the purposes of the regulations.
- (3) The Commission shall furnish the Minister with a copy of the final regulation or amendment without delay and where no objection to the

regulation or amendment was delivered by the Minister, the regulation or amendment thereof shall be effective as of the date of publication on the Commission's website and the Gazette, or such other date that may be specified in the regulation or amendment.

- (4) Where the Minister objects to a regulation or amendment thereof, the Commission shall be provided with written notice of the reason for the objection.

#### **64. Confidentiality.**

- (1) Subject to subsections (2) and (3), the Commission or any officer, employee, agent or advisor of the Commission who discloses any information relating to —
- (a) the affairs of the Commission;
  - (b) any application made to the Commission;
  - (c) the affairs of an external insurer, an insurance manager or external insurance broker; or
  - (d) the affairs of a customer, client or policyholder of an external insurance broker,

that he has acquired in the course of his duties or in the exercise of the Commission's functions under this or any other law, is guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years.

- (2) Subsection (1) shall not apply to a disclosure —
- (a) lawfully required or permitted by any court of competent jurisdiction within The Bahamas;
  - (b) for the purpose of assisting the Commission to exercise any functions conferred on it by this Act, by any other Act or by regulations made thereunder;
  - (c) in respect of the affairs of an external insurer, insurance manager or external insurance broker or of a customer, client or policyholder of an external insurer, insurance manager or external insurance broker with the consent of the external insurer, insurance manager or external insurance broker or customer, client or policyholder, as the case may be, which consent has been voluntarily given;



- (d) where the information disclosed is or has been available to the public from any other source;
- (e) where the information disclosed is in a manner that does not enable the identity of any external insurer, insurance manager or external insurance broker or of any customer, client or policyholder of the external insurer, insurance manager or external insurance broker to which the information relates to be ascertained;
- (f) to a person with a view to the institution of, or for the purpose of —
  - (i) criminal proceedings;
  - (ii) disciplinary proceedings, whether within or outside The Bahamas, relating to the exercise by a counsel and attorney, auditor, accountant, valuer or actuary of his professional duties; and
  - (iii) disciplinary proceedings relating to the discharge by a public officer, or a member or employee of the Commission of his duties; or
- (g) in any legal proceedings in connection with —
  - (i) the winding-up or dissolution of an external insurer, insurance manager or external insurance broker, or
  - (ii) the appointment or duties of a receiver of an external insurer, insurance manager or external insurance broker.

## **PART VIII INFORMATION SHARING**

### **65. Power to Cooperate.**

The Commission shall exercise its power to cooperate as follows –

- (1) At the request of a domestic regulatory authority, the Commission may exercise its powers under this Act to assist with the performance by the domestic regulatory authority of its functions.
- (2) Notwithstanding section 63 of this Act, the Commission may provide information, documents or material it has acquired in the exercise of its functions or powers under this Act or any other law to any other domestic regulatory authority where the

Commission considers such information may be relevant to the functions of that other domestic regulatory authority or as a necessary part of a framework for consolidated supervision, oversight or regulation of the financial services sector and the requirements of subsection (3)(b), subsection (4) and subsection (9) shall apply *mutatis mutandis*.

- (3) The Commission may provide assistance to an overseas regulatory authority where satisfied that —
- (a) such assistance may be relevant to the functions of the overseas regulatory authority and is intended to enable such authority to carry out the supervision, investigation or enforcement to which the request relates in either civil or administrative matters or proceedings to enforce laws, regulations and rules administered by the authority;
  - (b) the overseas regulatory authority has given a written undertaking that any material obtained pursuant to its request shall not, except with the approval or consent of the Commission be —
    - (i) used for any purpose other than a purpose that is specified at the time of the request; and
    - (ii) disclosed to any third party, other than a designated third party.
  - (c) the material requested is of sufficient importance to the carrying out of the supervision, investigation or enforcement to which the request relates and cannot reasonably be obtained by any other means;
  - (d) the matter to which the request relates is of sufficient gravity;
  - (e) the provision of the requested assistance will not be contrary to the national interest of The Bahamas or the interest of the public; and
  - (f) the information requested will not be used in criminal proceedings.
- (4) The Commission may, in determining whether to provide assistance to an overseas regulatory authority, consider whether —
- (a) the act or omission that is alleged to have breached the law or regulatory requirement to which the request relates

- would, if it had occurred in The Bahamas, be enforceable under this Act;
- (b) the overseas regulatory authority has given or is willing to give an undertaking to the Commission to —
- (i) comply with a future request by the Commission to the overseas regulatory authority for similar assistance;
  - (ii) contribute towards the costs of providing the assistance that the overseas regulatory authority has requested, as agreed with the Commission.
  - (iii) has satisfied the Commission that it is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality; and
  - (iv) has been given an undertaking not to disclose the information provided without the Commission's consent.
- (5) Pursuant to subsection (3), and notwithstanding section 63 or any obligations as to secrecy or restrictions on the disclosure of information by virtue of any written law, any rule of law, any contract or any rule of professional conduct, the Commission may in relation to a request from an overseas regulatory authority —
- (a) transmit to the overseas regulatory authority any material in the possession of the Commission that is requested by the authority;
  - (b) order any person to furnish the Commission with any material that is requested by the overseas regulatory authority, that the Commission may then transmit to that authority;
  - (c) order any person to give the Commission assistance in connection with a request made by an overseas regulatory authority; or
  - (d) order any person to make an oral statement to the Commission on any information requested by the overseas regulatory authority, record such statement, and transmit the recorded statement to that authority.
- (6) Where a person in possession of any document required to be produced in response to an order made under subsection (5) claims a lien on the document —

- (a) the requirement to produce the document shall not be affected by the lien;
  - (b) no fees shall be payable for or in respect of the production; and
  - (c) the production shall be without prejudice to the lien.
- (7) No civil or criminal proceedings, except for an offence under subsection (8) shall lie against any person, who in compliance with an order made under subsection (4), —
- (a) furnishes the Commission with any information or material in any form, including any document or copy thereof;
  - (b) makes a statement to the Commission in good faith; or
  - (c) gives assistance to the Commission by doing or omitting to do any act, the doing or omission of the act is done in good faith.
- (8) It shall be an offence, punishable on summary conviction to a fine not exceeding one hundred thousand dollars, for any person, in response to an order made under subsection (4), to —
- (a) without reasonable excuse, refuse or fail to comply with the order;
  - (b) knowingly furnish the Commission with any false or misleading information or material in any form, including any document or copy thereof; or
  - (c) knowingly make a statement to the Commission that is false or misleading in a material particular.
- (9) In the exercise of its cooperative power under this section, the Commission shall have authority under section 43(1)(h) to enter into memoranda of understanding with overseas regulatory authorities subject to the following —
- (a) the memoranda of understanding shall be —
    - (i) for the mutual and reciprocal assistance of an overseas regulatory authority, or any designated third party, in carrying out supervision, investigation or enforcement functions;
    - (ii) related to the consolidated supervision with an overseas regulatory authority, or designated third party; or
    - (iii) for the purpose of the Commission's supervision, investigation or enforcement functions under this Act, or any other lawful purpose;

- (b) the scope of the memoranda of understanding shall not exceed the Commission's powers under the provisions of this section; and
  - (c) notice of the memoranda of understanding is issued to the Ministry of Finance and published on the Commission's website and in the Gazette.
- (10) Where the Commission is of the view that the court's assistance is necessary in relation to any request for assistance received from an overseas regulatory authority, it shall immediately notify and provide copies of all relevant documents to the Attorney-General, and the Attorney-General shall be entitled, in a manner analogous to *amicus curiae*, to appear or take part in any proceedings, in The Bahamas, or in any appeal from such proceedings, arising directly or indirectly from any such request.
- (11) For the purpose of this section –
- “designated third party”** includes —
- (a) a person or body responsible for supervising the relevant regulatory authority;
  - (b) any authority responsible for carrying out the supervision, investigation or enforcement of laws alleged to have been breached; or
  - (c) any authority of the foreign jurisdiction, other than the requesting overseas regulatory authority, exercising a function that corresponds to a regulatory function of the Commission under this Act;
- “domestic regulatory authority”** means the body or person in The Bahamas that exercises regulatory, supervisory, enforcement or similar functions as the Commission, and includes —
- (a) regulators supervising financial institutions;
  - (b) securities exchanges;
  - (c) Self-regulatory organisations;
  - (d) law enforcement agencies; and
  - (e) other governmental or regulatory agencies or Competent Authority; and
  - (f) any other Bahamian authority, as prescribed.
- “enforce”** means to enforce through criminal, civil or administrative proceedings;
- “material”** means any document or information in any form;

**“supervision”** in relation to an overseas regulatory authority, means the taking of any action for the supervision of —

- (a) a external insurer or external insurance intermediary or any other person regulated or supervised by the overseas regulatory authority; or
- (b) the issue of external insurance in the foreign jurisdiction of the overseas regulatory authority.

## **PART IX ENFORCEMENT**

### **66. Power of Commission to issue sanctions including fines.**

- (1) Notwithstanding any other provisions in this Act, the Commission may issue an order sanctioning a licensee, where it is satisfied that the licensee has committed an offence by breaching the provisions of this Act or any relevant regulation, rule or guideline, which sanction may include –
  - (a) a fine or penalty;
  - (b) a public reprimand;
  - (c) a ban on carrying out certain operations;
  - (d) the temporary suspension of an external insurance manager;
  - (d) the rescinding of the approval of a Resident Representative;
  - (e) the removal of a director; responsible officer or other senior manager;
  - (f) the imposition of conditions on a licence; or
  - (g) order the licensed insurer or insurance intermediary to pay a fine based on the amounts set out in section 54.
- (2) Where the Commission makes an order under this section —
  - (a) the order shall be put in writing;
  - (b) the order shall specify the offence which the licensed insurer; association of underwriters, or insurance intermediary committed and the penalty imposed by the Commission;
  - (c) a copy of the order shall be given to the licensed insurer, association of underwriters, or insurance intermediary;
  - (d) once the licensed insurer, association of underwriters, or insurance intermediary pays the fine as ordered, it shall not be liable to any further prosecution in respect of the offence and

where any such prosecution is brought it shall be a good defence for the licensee to prove that an order was made, under this section; and

- (e) the order may be enforced in the same manner as an order of the court.

## **PART X OFFENCES**

### **67. Unlicensed activity an offence.**

Subject to section 80, a person who —

- (a) carries on external insurance business in or from within The Bahamas during any period in which he does not hold a licence under this Act; or
- (b) offers or provides the services of an insurance manager or external insurance broker to an external insurance company or in relation to the transaction of external insurance business in or from within The Bahamas during any period when that person is not a licensed insurance manager or external insurance broker within the meaning of this Act,

is guilty of an offence and liable on summary conviction to a fine not exceeding fifty thousand dollars.

### **68. Deception by director, etc.**

A director, officer, employee or agent of a licensee or insurance manager or external insurance broker who, with intent to deceive —

- (a) makes any false or misleading statement or entry in a book, account, record, report or statement or fails to make any entry that should be made therein; or
- (b) obstructs the carrying out by an auditor of his functions under this Act, is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars or imprisonment for a term not exceeding two years, or both.

### **69. Breach of sections 27 and 29 of the Act.**

Any person who breaches sections 27(1) and 29(1) is guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to a fine of two hundred and fifty dollars for every day or part thereof during which the offence continues.

## **70. False statements.**

Any person who for any purpose of this Act makes any representation, the truth of which he has no reasonable ground to believe (the onus of proof of his belief being upon him) is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

## **71. Offences generally.**

- (1) Any person guilty of an offence under this Act, including any regulations, guidelines or rules made hereunder, and for which no specific provision or penalty is otherwise provided shall, if the offender is an individual, be liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term of six months, or to both such fine and imprisonment, or if the offender is not an individual, to a fine not exceeding three thousand dollars.
- (2) Where any offence under this Act, or any regulations, guidelines or rules is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer or employee of the body corporate, he as well as the body corporate, shall be deemed to be guilty of committing that offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term of one year.

## **PART XI MISCELLANEOUS**

## **72. Treatment of life insurance and annuities.**

- (1) Where any person is the beneficiary of a life insurance policy issued by a licensed external insurer, they shall be exclusively entitled to the said insurance and any proceeds thereof.
- (2) Where any person acquires an annuity contract issued by a licensed external insurer of which he or any foundation founded by him or any other person is the annuitant or beneficiary and he or a trust settled on him or foundation is the owner, the said annuity contract and the proceeds thereof including periodic or non-periodic



payments or any refund on death shall be to the sole benefit of such person.

- (3) The proceeds of an insurance policy and all annuity benefits, including periodic or non-periodic payments or any death refund under subsection (1) and (2) shall be exempt, as the case might be, from –
  - (a) the claims of any creditor of the policyholder, the insured, beneficiary or other claimant which exemption shall also apply to the estate of such creditor, insured, beneficiary or claimant; and
  - (b) the claims of any creditor of the policyholder, annuitant or beneficiary of the annuity contract or any creditor of the estate of such policyholder, annuitant or beneficiary.
- (4) Notwithstanding subsection (3) except where an insurance policy or annuity contract was effected for the benefit of a creditor of the policyholder, annuitant or beneficiary or the estate of such persons, the cash surrender value of and the death benefit payable under any life insurance policy and the proceeds of an annuity contract shall not be liable to attachment, garnishment or legal process in favor of any creditor.
- (5) Life insurance policies and annuity contracts which by their terms provide for cancellation or redemption by the policyholder shall not be subject to cancellation or redemption during any period in which the [owner] policyholder is acting under duress imposed by any lawful authority or otherwise, other than lawful authority in The Bahamas, and any licensee acting under the authority of this subsection shall be indemnified and exonerated by the policyholder for redeeming or paying out the policy proceeds or annuity benefits.
- (6) An external insurer carrying on long-term insurance business or any person acting on its behalf who makes a surrender or partial surrender payment, a policy proceeds payment, or an annuity payment in circumstances where the cancellation or redemption of the life insurance policy or annuity contract cannot take place shall be guilty of an offence.
- (7) Except with the express written consent of an irrevocable beneficiary, no life insurance policy and annuity contract shall be deemed by their terms subject to cancellation or redemption by virtue of the fact that

any person was designated as the irrevocable beneficiary of such policy or contract.

- (8) When a policy of insurance or an annuity contract whether heretofore or hereafter issued, is effected by any person on his own life or on another life in favour of some person other than himself, and the life insurance policy or annuity contract is assigned or in any way made payable to another person, then such third person as the lawful beneficiary or assignee thereof, shall be exclusively and directly entitled to the proceeds or benefits of such life insurance policy or annuity contract to the exclusion of the creditors and representatives of the insured and of the person effecting such insurance or annuity contract.
- (9) The right of the beneficiary or assignee under subsection (8) applies notwithstanding any right to change the beneficiary, or whether or not the policy or annuity contract is made payable to the person whose life is insured or to the annuitant if predeceased by the beneficiary or assignee of the policy or contract, and the licensee issuing the policy or annuity contract shall be discharged of all liability thereon by payment of its proceeds in accordance with the terms of the policy or assignment.

### **73. Insurable Interest.**

- (1) Any individual having legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person.
- (2) Except where a person has an insurable interest in another person's life or body, they shall not procure or cause to be procured any insurance contract upon the life or body of that other person unless at the time when such contract was made, the benefits of the contract are payable to the individual insured or their personal representatives or such other person as may be entitled to the benefits.
- (3) For the purpose of this Act, but without restricting the meaning of the expression "insurable interest", an insurable interest shall be deemed to be had by —
  - (a) an individual in his own life, body or health;
  - (b) parent of a child under eighteen years of age, or a person in *loco parentis* of such a child, in the life of the child;
  - (c) a spouse, in the life of his or her spouse;

- (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 person in the life of an officer, director or employee thereof;
  - (f) any trust or foundation in the life of any beneficiary or settler or founder thereof;
  - (g) a person who has a pecuniary interest in the longevity of another person; and
  - (h) any trustee, nominee, custodian or foundation acting on behalf of, for the direct or indirect benefit of, or at the discretion of a person identified as having an insurable interest in the life of another person.
- (4) For the purpose of subsection (1) a person applying for a policy insuring their own life shall be entitled to agree and designate in writing in the application for the policy a person as —
- (i) a beneficiary of the policy; or
  - (ii) an absolute or partial owner of the policy; or
  - (iii) both a beneficiary and an absolute or partial owner of the policy,
- which person can be an individual, partnership, association, corporation, foundation, any trust or other legal person, without regard to whether such person would otherwise have an insurable interest in the life of the individual applicant.
- (5) This section shall apply to policies whether effected before or after the commencement of this Act.
- (6) For the purposes of this section, the expression “child” in relation to any person, includes —
- (a) an adopted child;
  - (b) a step-child;
  - (c) any other child, living with that person and wholly or mainly maintained by that person; or
  - (d) any person designated as the child of another by statute or otherwise by due process of law.
- (7) An external insurer shall be entitled to rely upon all statements, declarations, and representations made by an application for insurance relative to the insurable interest which such applicant has

in the insured; and no external insurer shall incur any legal liability, by virtue of any untrue statements, declarations, or representations so relied upon by an external insurer acting in good faith.

**74. Single integrated death benefit.**

A life insurance policy issued by an external insurer shall be deemed to provide a single integrated death benefit provided that any separated account backing the policy or any additional or alternative payout benefits are not separable from the policy and all elements of and benefits under such a policy providing a single integrated death benefit shall be treated for all purposes under this Act as a single life insurance policy and not as separate from the policy.

**75. Policy not illegal.**

- (1) No insurance policy shall be illegal or invalid by reason only of the fact that prior to its conclusion and at the time it was entered into any person involved was acting in breach of any provision of this Act.
- (2) Any such insurance policy shall be enforceable against, but unenforceable by, the person acting in breach of this Act, and if a body corporate any director.

**76. Exemptions.**

Notwithstanding the provisions of any other law, rule or practice, every external insurer licensed under this Act and the proceeds or benefits of any

life insurance policy or annuity contract issued by an external insurer licensed under this Act relating to or imposed on such licensee or proceeds or benefits shall —

- (a) be exempt from the payment of any tax, fee, duty or impost in The Bahamas other than any provisions for the same in force at the commencement of, or payable in respect of a licence under, this Act, for a period of twenty years from the date of the first such licence of the external insurer; and
- (b) be exempt from any regulation by the Securities Commission with regard to the sale of variable life products.

## **77. Appointment by Commission of actuary, etc.**

The Commission, after consultation with the Superintendent may by instrument authorise a person to be appointed as an actuary or auditor or accountant for the purposes of this Act, if in the opinion of the Commission that person is suitably qualified for such an appointment by reason of his knowledge and experience.

## **78. Protected disclosure.**

- (1) Where any director, officer, employee, or agent of a licensee is aware of any breach of this Act or any regulations, rules or guidelines by any person associated with the licensee, they may voluntarily disclose their knowledge to the Commission and such disclosure shall be protected by the Commission.
- (2) The Commission may confidentially request information from a director, officer, employee, or agent of a licensee relating to a subject person or any associated person, and such disclosure shall be protected by the Commission.

## **79. Tipping Off.**

- (1) No person who discloses any information to the Commission pursuant to section 78, shall –
  - (a) inform a subject person or any associated person that they have made a voluntary disclosure to the Commission concerning the subject person or associated person; or
  - (b) disclose that the Commission has made a request concerning the subject person or associated person where the information relates to –
    - (i) a request for assistance from any domestic regulatory authority or overseas regulatory authority; or
    - (ii) an investigation by the Commission under this Act or any other written law.
- (2) The non-disclosure obligation under subsection (2) applies, notwithstanding any obligation under any contract, or any agreement, or arrangement whether express or implied that the disclosing person may have in relation to the subject person or associated person.

- (3) A person who breaches or fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years or both such fine and imprisonment.
- (4) In this section “subject person” means the person about whom the Commission makes an inquiry for the purposes of an investigation or to fulfil a request for assistance.

**80. Transitional.**

Unless otherwise stated in this Act, a company carrying on external insurance business in The Bahamas immediately prior to the coming into force of this Act, shall be deemed to be duly licensed under this Act.

**81. Repeal.**

The External Insurance Act (*Ch. 348*) is hereby repealed.

## **OBJECTS AND REASONS**

The purpose of the External Insurance Bill, 2025 (“the Bill”) is to update and modernize the legal framework governing the conduct of external insurance business in and from within The Bahamas. Comprising of eleven parts and eighty-one clauses, the Bill aims to enhance the regulatory environment, ensuring alignment with global standards while fostering a competitive and transparent insurance market.

### **PART I**

Clause 1 of the Bill provides the short title and grants the Minister the authority to designate the commencement date of the Bill following its enactment.

Clause 2 outlines the Interpretation provisions, which provide clear definitions of key terms and phrases used throughout the Bill. The definitions in this clause have been updated to reflect modern usage and to eliminate inconsistencies with the Interpretation and General Clauses Act, *Ch. 2*.

Clause 3 of the Bill is a new addition that addresses the application of the Bill. Its purpose is to clearly define the persons to whom the Bill applies, as well as establish what constitutes the conduct of external insurance business both within and from within The Bahamas.

Clause 4 of the Bill has been reworded from its original form to establish a prohibition on referencing external insurance business covered by the Bill without obtaining prior approval from the Insurance Commission of The Bahamas (“Commission) through the appropriate licensing process.

### **PART II**

This PART has been revised to introduce a comprehensive licensing framework that applies equally to external insurers and intermediaries. Previously, there was no clear distinction between the licensing framework for these two categories of participants, and this revision seeks to streamline and clarify the requirements for both.

Clause 5 of the Bill is a new addition that modernizes the licensing requirements to clarify who may be licensed under circumstances where the consent of the Commission is required. Furthermore, it introduces two additional scenarios to more accurately reflect the circumstances under which external insurance business may be conducted.

Clause 6 of the Bill is a new addition, which outlines the legal provisions regarding persons disqualified from obtaining a license under the Bill. This clause specifies the criteria and conditions under which a license may not be granted.

Clause 7 is a new addition and was previously section 4 in the External Insurance Act, 2009 (“Act”). This clause outlines the process for licensing under the Bill, providing a distinct and revised procedure for obtaining a license. This clause also clarifies that external insurance brokers are not prohibited from applying for a license to conduct business with individuals or entities outside of That Bahamas that do not engage in external insurance business. Additionally, the “fit and proper” requirements are now included in clause 7, applying to both external insurers and intermediaries, ensuring that all participants meet the necessary standards for competence and integrity to operate under the Bill.

Clause 8 of the Bill addresses ownership, providing an amended restatement of the current law, that allows for external insurers to invest in another entity under the Bill.

Clause 9 of the Bill introduces the law governing the withdrawal of applications. Applicants are now allowed to withdraw their application for licensing before the Commission has made a decision, thereby offering greater flexibility in the licensing process.

Clause 10 clarifies the Commission’s authority to approve or refuse an application, reinforcing the Commission’s power in the licensing process. This clause also introduces a provision allowing applicants whose applications have been refused to seek reconsideration, providing an opportunity for review and ensuring a fair and transparent process.

Clause 11 of the Bill addresses the variation of licenses, restating the Commission’s power to amend or modify a license. This clause modernizes the law by providing the Commission with the authority to make necessary adjustments to a license as circumstances evolve, ensuring flexibility and alignment with current regulatory needs.

Clause 12 of the Bill is a new addition and introduces a formal process for the surrender of a license, allowing licensees to voluntarily surrender their license. Previously, there was no structured procedure for an applicant to surrender their license, and such actions occurred on an ad hoc basis. This clause now provides clarity and consistency in handling license surrenders.

Clause 13 of the Bill is a new addition, referred to as “dormancy”, providing licensees with an alternative to surrendering their license. This



clause allows licensees to suspend certain aspects of their license temporarily, as surrender is an irrevocable action.

Clause 14 of the Bill reintroduces the replacement of licenses in the event they are damaged, ensuring clear and practical processes for obtaining a new license when necessary.

Clause 15 of the Bill combines several existing provisions to ensure greater clarity in the licensing regime process following the issuance of a license under the Bill.

Clause 16 of the Bill is a new addition which clarifies the types of licenses the Commission may issue specifically restricted and unrestricted licenses.

Clause 17 of the Bill restates the law regarding the validity of licenses under the Bill, emphasizing that licenses remain valid until they are revoked or surrendered, ensuring a clear understanding of their duration.

Clause 18 of the Bill has been revised to clarify certain aspects of the law, enhancing its readability and consistency with other provisions.

Clause 19 of the Bill is a new addition which outlines the renewal process, specifying when renewals should take place and combining the previous section 48 related to renewal and unpaid fees for clarity.

Clause 20 of the Bill consolidates provisions related to the suspension and revocation of licenses. It introduces new provisions where licensees can be automatically suspended and clarifies the circumstances for revocation. Additionally, it grants the Commission with the authority to suspend a license for the purpose of investigation and establishes the required process for suspension or revocation.

Clause 21 of the Bill is a new addition, granting licensees the right to seek a review of their suspension or revocation. It also clarifies the review process, ensuring fairness and transparency.

Clause 22 of the Bill is a new addition, clarifying the existing provision on the effect of suspension and revocation, outlining the consequences for licensees whose licenses are suspended or revoked.

Clause 23 of the Bill is a new addition, establishing the process to be followed by both the Commission and the licensee following suspension or revocation, ensuring a structured approach to these situations.

Clause 24 of the Bill is a new addition, introducing an “escrow” requirement for applicants surrendering their licenses. It mandates that certain sums be held for at least one year to address potential liabilities or claims, ensuring funds are available to cover outstanding fees or balances.

Clause 25 of the Bill is a new addition, outlining the effect of dormancy, detailing the process related to the new dormancy provision and providing further clarification on the temporary suspension of certain aspects of a license.

### **PART III**

This new PART focuses on the conduct of external insurance and external insurance intermediary business. Its purpose is to establish clear guidelines for how external insurers and intermediaries should operate, ensuring that their business practices align with the regulatory framework set forth by the Bill. This PART aims to promote transparency, accountability, and ethical conduct within the sector.

Clause 26 of the Bill mandates that all licensees must have a registered office. This requirement aims to provide a clear point of contact and the facilitation of regulatory oversight.

Clause 27 of the Bill combines and incorporates current provisions under the Act, related to the appointment of a resident representative, with necessary amendments. It introduces a requirement that the licensee cannot terminate the appointment of a resident representative without notifying the Commission, and similarly, the representative cannot terminate their appointment without giving notice to the Commission.

Clause 28 and 29 of the Bill are new additions, clarifying the role of the resident representative, outlining their responsibilities and the expectations for their involvement in the business operations of the external insurer.

Clause 30 of the Bill is a new addition, prohibiting the sale of insurance products directly from the external insurer, ensuring that insurance business is conducted through an approved external insurance broker licensed under the Bill.

Clause 31 of the Bill introduces provisions for the conduct of external insurance brokerage business, setting clear guidelines and expectations for brokers operating in the external insurance market.

Clause 32 of the Bill establishes a general duty for licensees to comply and cooperate with the Commission.

Clause 33 of the Bill introduces a duty for licensees to notify the Commission of any changes, including address or operational details.

Clause 34 of the Bill introduces for licensees to obtain prior approval from the Commission for certain changes, outlining the circumstances under which approval is required.

Clause 35 of the Bill introduces a duty to maintain records, ensuring that all relevant external insurance business activities are documented, maintained, and accessible for regulatory review.

Clause 36 of the Bill imposes a duty to implement risk and compliance procedures, requiring licensees to develop and maintain effective frameworks to manage the risk of their external insurance business to ensure regulatory compliance.

Clause 37 of the Bill retains the wording from the existing provision in the Act related to annual returns, emphasizing the obligation of licensees to submit regular returns to the Commission.

Clause 38 of the Bill restates and amends the obligation to maintain adequate financial resources and solvency, clarifying the financial health requirements for licensees.

Clause 39 of the Bill updates and modernizes the capital requirements, ensuring that external insurers and intermediaries have sufficient financial backing to operate effectively in or from within The Bahamas.

Clause 40 of the Bill restates the conditions on financial requirements, ensuring that licensees continue to meet the necessary financial thresholds to remain operational.

Clause 41 of the Bill is a new addition, previously misplaced under cooperate governance. This clause outlines the duty to prevent money laundering and requires licensees to report any suspicious activities. It also introduces an obligation for licensees to conduct business in full compliance with anti-money laundering laws.

Clause 42 of the Bill restates the provisions for annual audits, placing a clear obligation on licensees to undergo annual audits and submit actuarial reports. The new subsection 7 provides logical revisions to streamline the auditing process and clarifies reporting requirements.

Clause 43 of the Bill has been retained to ensure that licensees maintain distinct and separate funds for operational purposes. This clause ensures the protection of the interests of policyholders and the maintenance of the financial integrity of the licensee, by ensuring that funds are not comingled with other assets or liabilities. The separation of funds is critical for regulatory transparency and financial accountability.

## **PART IV**

This new PART introduces provisions on winding-up, clarifying the grounds for compulsory winding-up by the Commission or policyholders. It also provides a clearer framework for winding up an external insurance business, ensuring that all procedures align with established legal standards.

Clause 45 of the Bill provides for other parties to be involved in the winding-up proceedings, in accordance with the Companies (Winding Up Amendment) Act, 2011, expanding the scope of those who can participate in the process.

Clause 46 of the Bill remains largely unchanged, except for the removal of the redundant provision regarding compulsory winding-up.

Clause 47 of the Bill, formerly section 28 of the Act, clarifies that a petition from the licensee is considered a request for voluntary winding-up. It restates that where a resolution for voluntary winding-up has been passed by the licensee, no court approval is required for the process to proceed.

Clause 48 of the Bill, which was the old section 29 of the Act, maintains the original wording and has been renumbered in accordance with the new numbering system in the Bill.

Clause 49 of the Bill provides for the protection of the rights and interests of policyholders in winding-up proceedings.

Clause 50 of the Bill has undergone stylistic changes, with no change to substance, ensuring consistency in the presentation of the law.

## **PART V**

This PART which was formerly was formerly Part VI in the Act, has been renumbered and restated to focus exclusively on corporate governance of licensees.

Clause 51 of the Bill stipulates that the Commission shall prescribe regulations and issue guidelines for the appointment and responsibilities of boards of directors of licensees, auditors and actuaries, and for the establishment of audit, conduct, and other relevant matters as deemed necessary.

## **PART VI**

This PART has been reorganized to differentiate between corporate governance and the administration of the Commission.

Clause 52 of the Bill introduces the administration of the Bill, a provision which did not exist previously. It clarifies how the Commission will administer the provisions of the Bill.

Clause 53 outlines the functions of the Commission, providing a detailed framework for the Commission's responsibilities and operations under the Act.

Clause 54 of the Bill addresses the Commission's powers. The Commission now has new powers to cooperate with other regulatory bodies, maintain and keep registers, and extend deadlines or timeframes as necessary for compliance.

Clause 55 of the Bill empowers the Commission to make and issue rules and guidelines, providing for the establishment of detailed regulatory standards and procedures necessary for the effective implementation of the Bill.

Clause 56 of the Bill restates and clarifies the Commission's power to determine fees. This clause addresses the previous ambiguity related to civil debt provisions, by correcting the defects in the original wording. Additionally, it introduces new subsections 4 and 5, creating a new process for the determination and management of fees, ensuring clearer procedures for the collection and enforcement of fees.

Clause 57 of the Bill is a new addition empowering the Commission to amend its forms without Parliamentary intervention. This power is necessary to enhance the Commission's administrative powers.

## **PART VII**

This new PART combines the previous section 44 of the Act with new provisions, reformulating the power of entry to grant the Commission general authority to enter premises without needing to seek the Magistrate's approval. This reformulation streamlines the Commission's ability to access relevant premises for regulatory purposes.

Clause 58 of the Bill is a rewrite of the old section 44, maintaining its original intent while clarifying the language and scope of the Commission's authority.

Clause 59 of the Bill empowers the Commission to enter and search premises where there is reasonable ground to do so.

Clause 60 of the Bill introduces the power of inspection, providing the Commission with explicit authority to inspect business operations, records, and activities of its licensees as part of its regulatory functions.

Clause 61 of the Bill reformulates the Commission's power to make investigations, replacing the previous section 42 to give the Commission clearer authority to conduct investigations when necessary.

Clause 62 of the Bill is a new addition, empowering the Commission to order persons to provide information, extending this power to both licensees and non-licensees.

Clause 63 of the Bill outlines the Commission's authority to make regulations. A new subsection 3 has been added, requiring the Commission to provide the Minister with a copy of any regulation or amendment. Additionally, a new subsection 4 mandates that the Minister must provide written notice to the Commission if there is any objection to the proposed regulation.

Clause 64 of the Bill deals with confidentiality. It is a renumbering of the former section 47 of the Act without altering the core provisions, ensuring the continued protection of confidential information.

### **PART VIII**

This new PART has been introduced to clarify the law regarding how the Commission may cooperate and share information with both domestic and foreign authorities. The Commission's ability to assist has been strengthened by providing clearer and more robust guidelines for information sharing and cooperation. This PART ensures that the Commission can effectively collaborate with other authorities to enforce regulatory standards and address cross-border issues in the insurance sector.

### **PART IX**

The new PART broadens the scope of enforceable offences by stipulating that a breach of the Bill, or any other relevant law, rule, or guideline, constitutes an offence. This expansion ensures that the Commission has the authority to take action not only against violations of the Bill itself but also against breaches of any associated regulations, rules, or guidelines issued by the Commission to regulate the insurance sector. This approach strengthens the Commission's enforcement powers and enhances the overall regulatory framework for industry.

### **PART X**

The new PART title "Offences" separates offences from the miscellaneous section in the current Act. This separation provides greater clarity on what constitutes an offence under the Bill. In this part, unlicensed activity is deemed an offence, ensuring that engaging in external insurance business without the appropriate license is clearly defined as a violation, reinforcing the importance of compliance with the licensing requirements of the Bill. By virtue of this new part, the legal

framework, and the enforcement of regulatory standards, have been streamlined and enhanced.

## **PART XI**

The new PART titled “Miscellaneous” includes provisions related to tipping off, transitional provisions, protected disclosure of information, as well as exemptions and the treatment of life insurance and annuity benefits.

The inclusion of tipping off addresses the illegal act of notifying someone about a regulatory investigation or enforcement action, while the transitional provisions ensure a smooth implementation of the Bill. Additionally, the protected disclosure of information offers legal protection for individuals who report wrongdoing or provide information about non-compliance, safeguarding whistleblowers from retaliation.

The exemption provisions outline specific circumstances under which certain provisions or requirements may not apply, providing flexibility where needed. Additionally, the treatment of life insurance and annuity benefits addresses how these benefits should be handled under the Bill, ensuring proper regulation and clarity in how life insurance policies and their benefits are managed in the context of the law.

This PART ensures that all essential aspects of the Bill, including protections and special treatments, are comprehensively addressed.