

Regulations of Anguilla: 16/2018

Gazette Dated: 16th July, 2018

INSURANCE ACT (R.S.A. C. I16)

INSURANCE (AMENDMENT) REGULATIONS, 2018

Regulations made by the Governor on advice of the Anguilla Financial Services Commission under section 19 of the Insurance Act, R.S.A. c. I16.

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INSURANCE ACT (R.S.A. C. 116)

INSURANCE (AMENDMENT) REGULATIONS, 2018

Regulations made by the Governor on advice of the Anguilla Financial Services Commission under section 19 of the Insurance Act, R.S.A. c. 116.

Interpretation

1. In these Regulations, “principal Regulations” means the Insurance Regulations, R.R.A. 116-1.

Amendment to Section 1

2. The principal Regulations is amended by deleting section 1 and substituting the following—

“Interpretation

1. (1) In these Regulations—

“Act” means the Insurance Act;

“affiliated”, in relation to a Producer Affiliated Re-insurance Company –hereinafter referred to as PARC, means—

- (a) an “affiliate” as defined in the Act;
- (b) a director or officer of the producer of the business reinsured;
- (c) a relation of an ultimate beneficial owner, director or officer of the producer of the business reinsured; or
- (d) any other person acceptable to the Commission;

“Commission” has the same meaning as in the Financial Services Commission Act;

“licensee” has the same meaning as in the Insurance Act;

“\$” means the currency of the United States of America.

(2) For the purpose of the definition of “affiliated” the term “relation” in paragraph (c) means a spouse, parent, grandparent, brother, sister, children, adopted children and step-children.”

Amendment to section 2

3. The principal Regulations is amended by deleting section 2 and substituting with the following—

“Application for an insurance licence

2. An application for an insurance licence under section 5(1) of the Act shall be in the form as set out as follows—

Class 'A' Insurer's licence	Schedule 1
Class 'B' Insurer's licence	Schedule 2
Producer Affiliated Re-insurance Company licence	Schedule 2A
Insurance Agent's or Broker's licence	Schedule 3
Insurance Manager's licence	Schedule 4
Information in support of an Application	Schedule 5."

Insertion of section 3A

4. The principal Regulations is amended by inserting the following immediately after section 3—

“Certificate of compliance form for a Producer Affiliated Re-insurance Company

3A. The prescribed form of the certificate of compliance under section 8(4) of the Act for a Producer Affiliated Re-insurance Company is set out in schedule 9.”

Insertion of Schedule 2A

5. The principal Regulations is amended by inserting the following after schedule 2—

“SCHEDULE 2A

(Section 2)

Anguilla

INSURANCE ACT

(Section 5(1))

APPLICATION FOR A PRODUCER AFFILIATED RE- INSURANCE COMPANY LICENCE IN ANGUILLA*Notes*

Complete all sections giving reasons for non-compliance, if any, and attaching supplementary sheets where appropriate.

Completed forms should be submitted to:—

FINANCIAL SERVICES COMMISSION
P.O.BOX 1575
THE VALLEY
ANGUILLA
Tel: 1 264 497 5881
Fax: 1 264 497 5872

And be accompanied by a non-refundable Application Fee of US\$750

1. Name or proposed name of applicant.

2. Address of:
 - (a) Registered Office.....
 - (b) Principal Office.....
3. Address where full business records will be kept.
4. Financial year end of applicant.
5. List all names (including any previous names) addresses and nationalities of all beneficial shareholders and ultimate beneficial shareholders, together with the number and class of shares (to be) held directly or on their behalf (largely publicly held corporations need only list those beneficial shareholders owning over 25% of their shares). Please state clearly how each ultimate beneficial owner is affiliated with the producer.

In those cases where shares are beneficially owned by a corporate body or bodies or the company or the company is part of a group, the chain of connection (group organization chart showing all associated and affiliated companies) to the ultimate beneficial owners must be shown.
6. Provide a list of all directors, managers and officers together with each person's curriculum vitae.
7. If the applicant is to depend upon agent or service companies for the provision of underwriting, management of financial accounting services, please provide details of such companies including evidence of their agreement to provide such services.
8. If applicable, provide the latest audited financial statements of the applicant and, those of the immediate parent, and the consolidated accounts of the group.
9. Attach a written undertaking stating the issued capital of the applicant.
10. Attach evidence of the insurance manager's acceptance of their appointment or their willingness to act.
11. Name and address of one person resident in Anguilla who is authorised to accept service of process in legal proceedings and notices on behalf of the applicant and who is proposed for approval under section 8(3) of the Act.

- 12. Have any of the parties connected with this application ever applied, either individually or in conjunction with others, for authority to transact insurance business in any jurisdiction? If so please give details.
- 13. If applicable, please provide a copy of the licence or registration from the home supervisory authority.
- 14. Attach a detailed business plan on the form attached at Appendix 1 to the Schedule detailing how the applicant will conduct and administer its insurance business in Anguilla and the levels and types of business it intends to undertake.
- 15. All beneficial owners, directors, and controllers of the applicant should complete and submit with this application Schedule 5 (Information in support of an application).

The applicant is applying for the licence specified above and certifies that all the particulars contained in the Application and in the documents accompanying it or otherwise furnished in the support hereof are true and correct and that any change to the information submitted will be communicated immediately to the Financial Services Commission.

Dated this day of, 20.....

.....

Name of Applicant

By its Director/Secretary or other duly authorized person

Signed

APPENDIX 1 TO SCHEDULE 2A OF THE INSURANCE REGULATIONS, R.R.A. I16-1

PRODUCER AFFILIATED RE-INSURANCE COMPANY ("PARC")

BUSINESS PLAN

1	Full Name of Applicant PARC	
2	Purpose of the PARC inclusive of specific proposed activity	
3	Name and address of the producer (i.e. the entity whose business will be insured with the Primary Insurer before being re-insured with the PARC)	

4	Beneficial Owners: (Please list each shareholder of the PARC. Where the shareholder is not an individual, please attach the complete ownership structure and include the name and address of the individual(s) who will ultimately own the PARC.)		
	Name	Address	Number of Shares
	(a)		
	(b)		
	(c)		
	(d)		
	(e)		
	(f)		

5a	Class(es) of re-insurance business to be carried on by the PARC and the Primary Insurer(s) of the business. If not listed below, please describe under "Other".			
	Class of Re-insurance	X	Primary Insurer(s) (Any future change of Primary Insurer requires the Commission's prior approval)	Rating
	(i) Credit Life			
	(ii) Credit Accident & Health			
	(iii) Credit Disability			
	(iv) Product Service Contract / Warranty			
	(v) Guaranteed Asset Protection			
	(vi) Insured Finance Reserve			
	(vii) Involuntary Unemployment			
	(viii) Mortgage Guarantee			

	(ix)	Other (State)			
	(x)				
	(xi)				

5b	Insurance Manager name, address and telephone number:
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5c	A description of the Policies to be written and their characteristics (how exactly will they operate). A specimen copy of the policies intended to be issued should be attached as an appendix.
5d	A description of how the premium will be earned, i.e. the method to be used in calculating the unearned premium reserve.
5e	What is/are the anticipated claims (loss) ratio(s) with an explanation of how each was derived (sufficient to explain the rationale for percentage assumed).
5f	An explanation of how any conflicts of interest will be addressed, including the particulars of any disclosure to be provided to customers of the producer about the re-insurance structure and its financial benefits for the producer.

6	Please provide a brief outline of the nature and workings of the intended re-insurance arrangements of the PARC including a copy of all proposed Re-insurance Treaty arrangements. The outline of the re-insurance arrangements would be expected to include the following:	
	(a)	Confirmation that the ceding Primary Insurer has the responsibility for:
	i.	Reporting the re-insurance in force.
	ii	Determining the unpaid premiums, incurred claims and other balances generally.
	(b)	For re-insurance risk to be ceded by the PARC, an indication of the way in which risk will be transferred (proportional or non-proportional), the retention limits and Treaty capacity.
	(c)	If the PARC will not be ceding re-insurance risk, justify this bearing in mind maximum retention indicated in 7 below, PARC's level of capitalization and exposure, etc.

7	An overview of how the PARC will operate, be managed, maximum business risk retention, etc.
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8	An overview of the investment policy as approved by the board of directors indicating:	
	(a)	diversification by type
	(b)	any limits or restrictions on the amount that may be held in each of financial instruments, property and receivables
	(c)	the basis for valuing assets which are included in the financial reports
	(d)	the safekeeping of assets
	(e)	appropriate matching of assets and liabilities
	(f)	liquidity

9		Projected outcome of the business over the first 5 years of operations. Attach an appendix showing first five (5) years' projections (supplemented with such explanatory notes as may be required) covering:
	(a)	The projected levels of capitalization
	(b)	Anticipated premium income (from various categories if applicable)
	(c)	Other income and expenditure
	(d)	Assets, liabilities
	(e)	Anticipated risk exposure and asset base at the end of each year
	(f)	The anticipated solvency margins

10		Any special circumstances or peculiarities of the Applicant PARC or of its intended modus operandi of which the Commission should be aware.
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_____ (signature)

Date _____

Insurance Manager/Director of Licensee”.

Amendment to Schedule 6

6. The principal Regulations is amended by deleting Schedule 6 and substituting with the following—

“SCHEDULE 6
(Section 3)

Anguilla

Insurance Act

(Section 21(1)(f))

INSURANCE FEES

	COLUMN 1 Service	COLUMN 2 US\$
Application fees		
1.	An applicant for a licence shall pay-	
(a)	For filing an application for a Class ‘A’ local or foreign licence (under section 3(1)(a) of the Act)	\$2,000
(b)	For filing an application for a Class ‘B’ licence (under section 3(1)(b) of the Act)	\$1,500
(c)	For filing an application for a Class ‘B’ licence (under section 3(1)(c) of the Act)	\$1,000
(d)	For filing an application for a Producer Affiliated Re-insurance Company licence (under section 3(1)(g) of the Act)	\$750
(e)	For filing an application for a Class ‘B’ licence (under section 3(1)(d), (e), or (f) of the Act)	\$750
(f)	For filing an application for an insurance agent’s or insurance broker’s licence (under section 3(2) of the Act)	\$500
(g)	For filing an application for an insurance manager’s licence (under section 3(2) of the Act)	\$1,000
(h)	For filing an application for a sub agent or principal representative (insurance) licence (under section 3(2) of the Act)	\$200
Annual Licence fees		
2.	Subject to paragraph (o), on the grant of a licence, (not including a Producer Affiliated Re-insurance Company) and for each calendar year after that, a licensee shall pay-	
(a)	For a Class ‘A’ local licence (under section 3(1)(a) of the Act) for long term business carried on in more than two jurisdictions (including Anguilla)	\$7,400
(b)	For a Class ‘A’ local licence (under section 3(1)(a) of the Act) for general business carried on in more than two jurisdictions (including Anguilla)	\$7,400
(c)	For a Class ‘A’ local licence (under section 3(1)(a) of the Act) for long term business carried on only in Anguilla and one other jurisdiction	\$4,000

(d)	For a Class 'A' local licence (under section 3(1)(a) of the Act) for general business carried on only in Anguilla and one other jurisdiction	\$4,000
(e)	For a Class 'A' local licence (under section 3(1)(a) of the Act) for general business and long term business carried on in more than two jurisdictions (including Anguilla)	\$7,400
(f)	For a Class 'A' local licence (under section 3(1)(a) of the Act) for general business and long term business carried on only in Anguilla and one other jurisdiction	\$6,000
(g)	For a Class 'A' foreign licence (under section 3(1)(a) of the Act) for either general business or long term business carried on in Anguilla	\$6,000
(h)	For a Class 'A' foreign licence (under section 3(1)(a) of the Act) for general business and long term business carried on in Anguilla	\$7,400
(i)	For a Class 'B' licence (under section 3(1)(b) of the Act) for long term business	\$3,000
(j)	For a Class 'B' licence (under section 3(1)(b) of the Act) for general business and long term business	\$4,000
(k)	For a Class 'B' licence (under section 3(1)(c) of the Act) for general business	\$3,000
(l)	For a Class 'B' licence (under section 3(1)(d), (e), and (f) of the Act)	\$2,500
(m)	For a Producer Affiliated Re-insurance Company licence (under section 3(1)(g) of the Act) (for each calendar year following the end of the calendar year in which the licence is granted)	\$750
(n)	For an Insurance agent or insurance broker licence (under section 3(2) of the Act)	\$1,000
(o)	For an insurance manager licence (under section 3(2) of the Act)	\$2,000
(p)	If a licence is granted on or after July 1, half of the relevant prescribed licence fee is payable at the time of the grant.	

Fees for other applications

3. For other applications under these Regulations, an applicant, other than a Producer Affiliated Re-insurance Company in relation to paragraphs (a), (c) and (f),” shall pay the following fee-

(a)	Application for approval under section 12 of the Act	\$200
(b)	Application for approval of transfer of insurance portfolio or amalgamation under the Act	\$740
(c)	Application for approval of a director or senior officer under the Act	\$200
(d)	Application for exemption from preparing audited accounts under section 8(5) of the Act	\$500
(e)	Approval of exemption from preparing audited accounts under section 8(5) of the Act	\$500
(f)	Any other application for the approval of the Commission under the Act	\$150”.

Insertion of Schedule 9

7. The principal Regulations is amended by inserting the following after Schedule 8—

“SCHEDULE 9

(Section 3A)

Anguilla

INSURANCE ACT

(Section 8(4))

CERTIFICATE OF COMPLIANCE FOR A PRODUCER AFFILIATED RE-INSURANCE COMPANY

ANNUAL COMPLIANCE STATEMENT

(Certificate of compliance pursuant to section 8(4) of the Insurance Act, R.S.A. c. I16)

TO: The Director
Anguilla Financial Services Commission
P.O. Box 1575
The Valley, Anguilla AI-2640
British West Indies

Re:
Producer Affiliated Re-insurance Company (the “Licensee”)

Activity period for this annual compliance statement – Year ended _____ 20__

This serves to confirm that the Licensee:

- a) has notified the Commission of all changes or proposed changes in the information (including in the Licensee’s Business Plan) submitted in connection with the Licensee’s application for its license issued under the Insurance Act, R.S.A. c. I16 (the “Insurance Act”);
- b) has carried on business only in accordance with the information referred to in paragraph (a) above and with such changes as the Commission has approved;
- c) has conducted its affairs in compliance with the provisions of the Insurance Act and the Insurance Regulations, R.R.A. I16-1; and
- d) currently writes only the types of re-insurance business indicated below arising from the operations of:

.....
Name of the entity (the “Producer”) whose business is insured with a Primary Insurer before being reinsured with the Licensee

Class of Re-insurance (Please indicate) If not listed below then please describe in "Other".	X	Primary Insurer(s)*	Rating **
(i) Credit Life			
(ii) Credit Accident & Health			
(iii) Credit Disability			
(iv) Product Service Contract / Warranty			
(v) Guaranteed Asset Protection			
(vi) Insured Finance Reserve			
(vii) Involuntary Unemployment			
(viii) Mortgage Guarantee			
(ix) Other (please state)			
(x)			

* Where there is an intermediate company between the Producer and the Primary Insurer, this must be stated.

** The Primary Insurer's Rating must be stated.

[Note that prior approval of the Commission is required for a change of Primary Insurer(s) and for a change in the nature or extent of the risk to be reinsured]

Insurance Manager/Director of Licensee". (signature)

Date: _____

Citation

8. These Regulations may be cited as the Insurance (Amendment) Regulations, 2018.

Made by the Governor on this *13* day of *July*, 2018



Timothy J. Foy, OBE
GOVERNOR OF ANGUILLA