



INFORMATION BULLETIN

Procedure for Placing Insurance Business with Unregistered Insurers

Section 20 of the Insurance Act, 2001 and Part XIII of the Insurance Regulations, 2001 allow locally registered insurance entities to place insurance business with unregistered foreign insurance companies under certain specified conditions. Three important conditions are that:

- *The insurance cover must not be available in Jamaica,*
- *The Financial Services Commission must approve the transaction, and*
- *The applicant must meet the prescribed requirements.*

Below are the detailed requirements for the placement of this type of insurance.

Insurance and Co-Insurance

Applies to: Facultative Placement Brokers ("FPB") only.

1. Procedure for Placing Business

Before placing business with an unregistered insurer, a FPB or a locally registered insurance company (company) must do the following:

- a) Conduct a diligent search to determine if the full amount or type of insurance can be placed with an insurer or co-insured with another insurer registered in Jamaica to sell that class of business. This requires obtaining documentation from all insurers locally registered to transact the class of business in question, indicating the level of risk they are willing to take.
- b) Determine through proper due diligence, that the selected unregistered insurer meets the FSC's eligibility requirements as set out in Regulations 143, 145 and 146 of the Insurance Regulations, 2001 which are summarized below.
- c) Apply to the FSC for permission to place the contract with the unregistered insurer, providing evidence of the diligent search (referred to in a) above), the due diligence on the eligibility requirements and any other documents that would assist the Commission in reaching a decision.

Upon approval by the FSC, the broker or company may proceed with placing the entire business or that portion of the business for which cover cannot be found in Jamaica.

2. Eligibility Requirements - Unregistered Insurer

An unregistered insurer must provide evidence to the FPB of meeting the eligibility requirements. These requirements include:

- a) Meeting the fit and proper criteria as defined under the Act - Section 2(3). This includes the completion of Fit and Proper questionnaires on the directors and senior managers
- b) Being authorized to sell insurance in its domiciliary jurisdiction
- c) Being authorized to write the class or type of insurance in question in its domiciliary jurisdiction
- d) Meeting the capital and surplus requirement. This requires the company to have capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of:
 - (a) the minimum capital and surplus requirement under the Insurance Act, 2001 or
 - (b) an amount as prescribed by Regulation 28 in the case of general insurers or Regulation 29 in the case of long-term insurers
- e) Meeting any other requirement that may be prescribed by the FSC from time to time

3. Withdrawal of Eligibility

The FSC may declare an unregistered insurance company ineligible and notify each FPB, if the Commission believes that the insurer:

- a) Is in an unsound financial position
- b) Has acted in an untrustworthy manner
- c) No longer meets the standards set out in Section 11 of the Insurance Act
- d) Has willfully violated the laws of Jamaica, or
- e) Does not conduct a proper claim practice

4. Actions Against Eligible Unregistered Insurers

An eligible unregistered insurer may be sued upon a cause of action arising in Jamaica under a facultative insurance placements contract made by it or evidence of insurance issued or delivered by the FPB. Policies issued by the eligible unregistered insurer must contain a provision stating the substance of this regulation and must also designate a person to whom the Commission must send all correspondence.

5. Duties of the Facultative Placement Broker and Local Insurance Company

- a) No contract of insurance placed by a FPB shall be binding on the policyholder and no premium is due and payable until the FPB has notified the policyholder in writing, in a form acceptable to the Commission, that:
 - (i) the insurer with which the FPB places the insurance is not registered with the Commission and is not subject to its supervision; and
 - (ii) in the event of insolvency of the insurer the policyholder may have to pursue losses in another jurisdiction.

b). Certificate, Cover Note, Binder or other Evidence of Insurance

Once the insurance is approved, if the policy is not readily available, the certificate, cover note or binder containing certain information, must be delivered within 30 days to the policyholder or to the producing broker. This information must include:

- i) For facultative placements - The name of the FPB and the following legend in bold ten-point type: **"This is evidence of insurance procured under Section 20 of the Insurance Act, 2001 and Part XIII of the Insurance Regulation, 2001. The insurer(s) is/(are) not regulated by the Commission"**;
- ii) The description and location of the property insured and its location;
- iii) General description of the coverage including material limitations, the premium, the rate and the taxes applicable;
- iv) Name and address of the policyholder, the FPB, the insurer or insurers, the proportion of the risk assumed by each insurer and the registration number of the FPB;
- v) Copies of any other agreements, conditions, endorsements, exclusions, clauses or any other material facts that would normally be included in the policy.

Once the policy is available, in addition to the information required for the certificate, cover note or binder, the policy must also designate the person in Jamaica to whom the Commission shall mail process.

If after the delivery of any evidence of the insurance there is:

- a change in the identity of the insurer(s), or
- a change in the proportion of risk assumed by the insurer(s) or
- any other material change in coverage, or
- a change in any other material as to the insurance coverage

then, within seven days of the change, an endorsement to the original document or an appropriate substitute for same showing the current status and insurers should be delivered to the policyholder or the producing broker.

c). Filing Requirements

Within thirty (30) days of placing insurance with an unregistered insurer, a report must be filed with the FSC. This report must include:

- the name and address of the policyholder;
- the identity of the insurer(s);
- the description of the subject and location of the risk;
- the premium;
- any other pertinent information that the Commission may reasonably require; and
- the effective date and terms of the insurance contract.

The affidavit must also be filed at the same time (See prescribed format attached).

By the end of the month following the end of each quarter, two (2) copies of a report showing business placed with unregistered insurers in the quarter must be filed with the FSC. This report must contain aggregate gross premiums written, aggregate return premiums and the amount of aggregate taxes remitted to the government.

d). Records

The following records on unregistered insurance placed must be maintained for a minimum of five (5) years following the **termination** of the contract and be available for examination at all times:

- i) A copy of the notice informing the policyholder that:
 - (a) the insurer is not registered with the Commission nor is subject to its supervision; and
 - (b) in the event of insolvency of that insurer, the policyholder may have to pursue losses in another jurisdiction.

Please note that this notice is required before the contract can be binding upon the policyholder and before any premiums are due and payable.

- ii) A copy of the quarterly report filed with the FSC.
- iii) A complete and true record of the insurance contract which includes a copy of the policy, certificate, cover note, any other evidence of insurance, any correspondence relating to the insurance and the application in accordance with Regulation 155(1).

It is important to note that the Commission, by granting permission to an entity to place insurance business with an unregistered insurer, does not assume any liability towards the applicant in relation to the insurance contract concerned or its placement [see Section 20 (3) of the Insurance Act].

This bulletin contains the general provisions for placing business with unregistered insurers. It does not replace the need for a careful review of the applicable provisions in the Insurance Act, 2001 and the Insurance Regulations, 2001.

All questions regarding this information bulletin on placing business with unregistered insurers should be directed to:

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The Financial Services Commission
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AFFIDAVIT
Pursuant to Regulation 149(f) Insurance Regulations, 2001

RE: Insurance Placement with an Uninsured Unregistered Insurance Company

....., declares that it has employed
(Name of Facultative Placement Broker or Company)

diligent efforts to place the coverage stated in the report, which this affidavit forms a part of, with a company registered in Jamaica but was unsuccessful in part or in whole. Diligent efforts included contacting, in writing, every local insurance company registered to transact the relevant class of business and receiving a written response as to their partial or total inability to do so.

The following companies were contacted and they indicated their inability to provide the required coverage:

NO.	INSURANCE COMPANY	DATE CONTACTED	% ABLE TO COVER	NO.	INSURANCE COMPANY	DATE CONTACTED	% ABLE TO COVER
1				8			
2				9			
3				10			
4				11			
5				12			
6				13			
7				14			

Further, the Client policyholder was informed, in writing, prior to
(name of policyholder)

placement of the insurance that:

1. the facultative placement insurer(s) with whom the insurance was to be placed is not registered in Jamaica and is not subject to supervision by the Financial Services Commission or any other regulatory body in Jamaica; and
2. in the event of the insolvency of the facultative placement insurer(s), claims may have to be pursued in other jurisdictions.

I declare that the information given above is
(Name of Principal Officer)
accurate and complete.

Dated the _____ day of _____
(Date) (Month) (Year)

Signed by _____)
_____)
_____)

in the presence of: _____)
_____)
_____)

Justice of the Peace/
Attorney at Law

Signature

Signature and Seal

Intermediary Name: _____

Period Ending: _____

Date: _____

FACULTATIVE INSURANCE PLACEMENTS

	Facultative Placement Insurer	Type of Policy	Gross Premiums Written	Return Premiums From Facultative Insurer	Return Premiums Paid to Policyholder	Date Remitted to Jamaica
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
		TOTAL				

To the best of my knowledge the above information represents an accurate account of facultative insurance placement transactions for quarter ending.....

NAME: _____
(Principal or officer)

SIGNATURE: _____

DATE: _____

