

GUIDELINES ON THE CRITERIA FOR AUDITORS AND ACTUARIES TO FUNCTION IN THE INSURANCE INDUSTRY

BACKGROUND

The Financial Services Commission (“Commission”) is issuing these guidelines in respect of the qualifications of auditors and actuaries to be appointed under the Insurance Act, 2001.

Currently the Insurance Act, 2001 and the Insurance Regulations, 2001 address the responsibilities and duties of the Appointed Actuaries and auditors, however, the legislation does not give the Commission the authority to set criteria for their appointment.

Appointed Actuaries and auditors occupy special positions of influence over insurance companies, in that they are required to report to the management of insurance companies on matters that may adversely affect the insurance companies and to provide reports and opinions on the financial statements and the adequacy of assets to cover liabilities, among other things. In providing these services, the Appointed Actuaries and auditors are required to be professional, objective and impartial so as to effectively support the operations of insurance entities.

The Insurance Core Principle 7 of the International Association of Insurance Supervisors¹ states:

“The significant owners, board members, senior management, auditors, and actuaries of an insurer are fit and proper to fulfil their roles. This requires that they possess the appropriate integrity, competency, experience, and qualifications.”

The Commission therefore has the responsibility to review the criteria which qualify auditors and the Appointed Actuaries to function in the insurance industry.

1. Appointment of Auditors and Actuaries

Pursuant to section 37 of the Insurance Act, 2001 every registered insurer, agent and broker shall appoint an auditor and shall forthwith notify the Commission of this appointment. Pursuant to section 44 of the Insurance Act, 2001, every registered insurer shall appoint an actuary and shall notify the Commission of this appointment.

¹ The International Association of Insurance Regulators (IAIS) represents insurance regulators and supervisors of 190 jurisdictions; the FSC is a member. The IAIS works closely with other “financial sector standard setting bodies and international organisations to promote financial stability.”

2. Definitions and Functions

The Insurance Act, 2001 defines an “actuary”² as a person who –
is a fellow of such professional organisation of actuaries as may be prescribed; and

- a) Satisfies such other requirements as may be prescribed.

Under the Insurance Act, 2001 an “auditor” means a person who -

- a) is a registered public accountant as defined in section 2 of the Public Accountancy Act; and
- b) satisfies such other requirements as may be prescribed and includes a firm of such persons.

Pursuant to section 28(1) of the Insurance Act, 2001 the accounts of every registered insurer shall be audited annually by an independent auditor who shall not be an employee or an officer of the insurer. Sections 37 to 43 of the Insurance Act also set out the authority, duties and responsibilities of the auditor.

Pursuant to section 44(2) of the Insurance Act, 2001 and regulation 76(13) of the Insurance Regulations, 2001 the actuarial reserves and other policy liabilities of the insurer should be valued by the Appointed Actuary. Sections 44 to 45 of the Insurance Act set out the authority, duties and responsibilities of the Appointed Actuary.

3. Qualified, Professional and in Good Standing

- (i) The Appointed Actuary and/or auditor must also be:
 - 1) Qualified to be appointed pursuant to regulations 76 and 79 of the Insurance Regulations, 2001;
 - 2) In good standing with their recognized local and international governing bodies pursuant to regulations 76 and 79 of the Insurance Regulations, 2001; and
 - 3) In possession of relevant professional experience and competences
- (ii) Pursuant to sections 26(2) and 30(3) the auditor and actuary should be independent.
- (iii) The Appointed Actuary and auditor must be full members of one of the following organisations or other professional organisations that are recognised by the Commission:

<i>Actuarial Association</i>	<i>Country</i>
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² Another definition has been proposed in the amendments to the Insurance Regulations 2001 as follows:
“Actuary” means a person who is a fully qualified, professional member of an Actuarial body, which is:
(a) accredited by the International Actuarial Association; and
(b) recognised by the Commission to opine on the actuarial reserves of a life insurance company and the reserves of a general insurance company.

<i>Actuarial Association</i>	<i>Country</i>
Canadian Institute of Actuaries/Institut Canadien des Actuaries	Canada
Faculty of Actuaries	United Kingdom
Institute of Actuaries	
Society of Actuaries	United States
<i>Accounting (Auditing) Association</i>	<i>Country</i>
Recognised associations for maintaining professional standards on auditing; currently the Institute of Chartered Accountants of Jamaica ("the Institute")	Jamaica

The Appointed Actuary or auditor must also be in good standing with the organisations with which he or she is affiliated, e.g. the Caribbean Actuarial Association, Joint Board for the Enrolment of Actuaries and the Institute. Good standing with the appropriate experience qualifies the Appointed Actuary or auditor to be considered by the Commission for appointment in the insurance industry.

In the case of an auditor, the firm or individual must be on the list of licensed accountants issued by the Public Accountancy Board (PAB).

4. Conflict of Interest

The auditor and actuary should not perform the duties of an auditor or Appointed Actuary where there exists a potential or actual conflict of interest between the auditor or actuary and the insurance company or a third party; or both, unless:

- the auditor's or actuary's ability to act fairly and objectively is unimpaired, and
- there has been full disclosure of the potential or actual conflict to all parties involved (including the Commission); and
- all parties have agreed that the auditor or actuary may perform the duties of auditor or Appointed Actuary to the insurance company.

If a potential or actual conflict of interest exists, the auditor or Appointed Actuary shall submit a conflict of interest statement, as prescribed, to the Commission.

5. Relevant experience and competence

The skills and resources of the Appointed Actuary and the auditor should be appropriate for the scale, nature and complexity of the registered entity. It is expected that all work carried out by the Appointed Actuary or the auditor for the registered entity will be completed with appropriate quality checks and reviews. The Appointed Actuary and the auditor are expected to follow the guidance notes or standards of practice required by the actuarial and accounting organisations, respectively with which he or she is affiliated.

The Appointed Actuary and the auditor should maintain awareness of developments in the insurance industry, local and international, and relevant changes in legislative requirements. Where an actuarial or

accounting organisation has continuing professional development requirements, these requirements must be met by the Appointed Actuary and the auditor affiliated with those organisations.

The Commission expects actuaries to have obtained their fellowships (majoring in insurance) and have at least three years experience in responsible positions with insurance companies to be considered for appointment as Appointed Actuaries. The Commission may however declare actuaries with less than three years experience as suitable as long as they can demonstrate to the Commission's satisfaction their ability to adequately carry out the duties expected of an Appointed Actuary of a registered insurer.

In the case of an auditor the Commission expects auditors to have at least three years auditing experience in the insurance industry to be considered for appointment as auditor for an insurance entity. The Commission may declare auditors with less than three years auditing experience, in the insurance industry, as suitable provided that the auditor can demonstrate to the Commission's satisfaction his/her ability to adequately carry out the duties expected of an auditor appointed by a registered insurer.

6. Sanctions by the Commission

Pursuant to section 42 of the Insurance Act, 2001, where the Commission has reasonable grounds to believe that the auditor of a registered insurer or registered insurance intermediary –

- a) Has failed to perform his duties or complied with the relevant provisions of the Insurance Act, 2001
- b) The auditor was a party to the preparation or approved a financial statement that does not fairly present the financial position of the company
- c) The auditor is incompetent or is guilty of professional misconduct

The Commission shall forthwith deliver a written report to the company, the PAB and the Institute of Chartered Accountants.

In addition, the above failures may result in the Commission preventing the auditor from auditing any entity in the insurance industry.

There is currently no similar provision regarding the Appointed Actuary and so the Commission proposes the following amendment to the Insurance Act, 2001:

Where the Commission has reasonable grounds to believe that the Appointed Actuary of a registered insurer:

- a) has failed to perform his/her duties or complied with the relevant provisions of the Insurance Act, 2001***
- b) the Appointed Actuary was a party to the preparation or approved a valuation of the insurance company's liabilities or reserves that does not fairly present the financial position of the company***
- c) the Appointed Actuary is incompetent or is guilty of professional misconduct***

The Commission shall forthwith deliver a written report to the company, the Caribbean Association of Actuaries and the Appointed Actuary's professional association or institute.

In addition, the above failures may result in the Commission preventing the actuary from performing the duties of Appointed Actuary in the insurance industry.

7. Amendment to the Insurance Act and Regulations

The Commission intends to seek amendments to the Insurance Act, 2001 and Insurance Regulations, 2001 in order to strengthen its supervisory oversight of the criteria required by auditors and actuaries to function in the insurance industry and for actuaries and auditors to be approved by the Commission before commencement of duties with an insurance entity.