



## *Filing Requirements for Long Term Insurance Companies*

**These requirements apply to all companies registered to conduct long term insurance business in Jamaica.**

The following is to provide a listing of information that is required to be filed with the Financial Services Commission (FSC) by companies registered to conduct long term insurance business in Jamaica. It is intended to be a guide for companies rather than a strict legal interpretation of the *Insurance Act* and regulations. Where there are discrepancies between these requirements and the *Insurance Act* and regulations, the *Act* and regulations take precedence.

### **1. Filing Requirements**

#### **(a) Filing Requirements Related to Particular Events**

1. Regulation 7(4) requires a company to provide FSC with 30 days written notice with respect to particulars regarding the opening or closure of any branches, agencies or sub-agencies.
2. Section 24 of the *Insurance Act* requires a company to notify FSC in writing of any change in the address of its principal office and the name and address of its principal representative not later than seven days after the change takes place.
3. Section 22(3) of the *Insurance Act* requires a company to inform FSC of the names of persons within the company having control to titles of investments and the location of documents of title. Any changes to persons or locations should be immediately filed with FSC.
4. When a company applies for registration under the *Insurance Act* it is required to provide FSC with a number of particulars regarding the company. Section 13 of the *Insurance Act* requires a company to notify FSC in writing of any changes in these particulars within 30 days of the change. As a result, a company must file the following with FSC within 30 days: any changes in the company's memorandum, articles of association or other instrument constituting the company; any changes in the company's policies and practices with respect to the payment of claims; and, any changes with respect to directors, senior officers and those with a significant ownership interest in the company (ownership of 10% or more of outstanding shares). The information required to

be filed with respect to directors, senior officers and significant owners is outlined in Section D of the Third Schedule of the Regulations and the Fit and Proper Questionnaire developed by FSC.

5. The *Insurance Act* provides that certain documents required under the *Act* be signed by a director or principal officer of a company. Section 138 of the *Insurance Act* allows the delegation of this authority if FSC has been informed in writing prior to the delegation.

6. Section 123(2) of the *Insurance Act* requires a company to immediately advise FSC in writing if it has grounds to believe that any of its agents is not suitable to carry on the activities of an agent.

7. Section 79 of the *Insurance Act* requires a company to give immediate written notice to FSC when an agency agreement is terminated, the employment of a sales representative is terminated or a sales representative is hired.

8. Section 131 of the *Insurance Act* allows a life insurance company to pay money into Court if a sufficient discharge cannot otherwise be obtained. A company must give written notice to FSC prior to payment of funds into Court.

9. Regulation 13 requires a company that has ceased to transact business in Jamaica and wishes to obtain a return of its deposit to file with FSC a list of its outstanding insurance contracts. The company must also publish a notice that it is seeking the return of its deposit in the Gazette calling on any claimant to file any objection with FSC within the period indicated in the notice which cannot be less than three months.

10. Section 51 of the *Insurance Act* requires a company to provide FSC with one month's written notice of its intention to present a wind up petition to the Court and serve on FSC a copy of any petition presented.

#### **(b) General Filings Related to Auditors and Actuaries**

1. Section 37(1) of the *Insurance Act* requires a company to immediately notify FSC in writing of the appointment of an auditor. It also requires the company to immediately notify FSC in writing of: an auditor's resignation; an auditor's removal and reasons for the removal; and, any occurrence that causes a vacancy in the office of the auditor.

2. Section 37(4)(b) of the *Insurance Act* requires a company to immediately file a written explanation to the satisfaction of FSC if it is unable to ensure that its auditor is also the auditor of its subsidiary companies.

3. When an auditor resigns during the term of his/her appointment, he/she must provide reasons in writing to the company. Section 38 of the *Insurance Act* requires the company to immediately deliver these reasons to FSC and the new auditor.

4. If company directors and officers become aware of facts that require a material adjustment to the financial statements, section 43 of the *Insurance Act* requires that they amend the financial statements and immediately deliver them to the auditor and FSC.

5. Section 44 of the *Insurance Act* requires a company to immediately notify FSC in writing of the appointment of an actuary.

6. Regulation 76 requires a company to notify FSC in writing within 7 days of an actuary's removal and reasons for the removal as well as any occurrence that causes a vacancy in the office of the actuary.

7. Section 30 of the *Insurance Act* requires a company to file with FSC an abstract of the actuarial report and a statement of long term business within 90 days of the actuary completing his/her annual investigation.

**(c) Periodic Filings**

1. Section 26 of the *Insurance Act* and Regulation 31 require a company to file with FSC not later than March 31 of each year, annual statements for the previous calendar year in the format outlined in Schedule 8 of the regulations. The filing must include: the audited financial statements of the company; the report of the actuary; a sworn affidavit by company officials verifying the accuracy of the filing; and, certifications from the company's independent auditor and actuary. The report of the actuary must be in the format outlined in the Insurance (Actuaries) (Life Insurance Companies) Regulations.

2. Section 26 also requires the company to publish a copy of its audited financial statements in a daily newspaper with national circulation in Jamaica within 14 days of making the filing noted in (c) 1.

3. If an insurance company is associated with other companies in a group, Section 27 of the *Insurance Act* requires the parent company, within 90 days of its year end, to file with FSC an audited consolidated balance sheet and income statement for the group. In addition, each subsidiary and associated company within the group must file an audited balance sheet and income statement within 90 days of the end of its financial year.

4. Regulation 30 requires a company to file with FSC not later than March 31 of each year, a report on its segregated funds for the previous calendar year in the format outlined in Schedule 7 of the regulations.

5. Regulation 104 requires a company to establish a prudent and comprehensive investment and lending policy and to review the policy at least once a year. Details regarding the content of and the process for development of an investment and lending policy are outlined in Regulation 104. The regulation also requires a company to file its investment and lending policy with FSC, but does not specify a time frame. FSC recommends that a company file its investment and lending policy as well as evidence to suggest that the policy has been subject to Board of Director review no later than June 30 of each year. If a company has made no changes to its Investment and Lending Policy since it was previously filed, a letter signed by the Chairman of the Board of Directors indicating that the policy has been reviewed by the Board and that no changes were made will be considered as acceptable for filing purposes by FSC.

6. Section 88 of the *Insurance Act* requires a company to make an annual filing listing all its authorized agents, brokers and sales representatives as well as any other persons or

companies that it has paid or agreed to pay compensation for purposes of negotiating or soliciting insurance in Jamaica. FSC requires that this filing be made at March 31 of each year on activities related to the preceding calendar year.

7. Section 115 of the *Insurance Act* and Regulation 158 require a company to file with FSC on March 31 of each year a statement of all unclaimed moneys under its control as at December 31 of the preceding year.

8. Regulation 40 requires a company to submit to FSC no later than May 15, 2002 a statement, certified by the company, that the company is in compliance with the investment regulations or to submit a plan approved by the company's Board of Directors on how compliance will be achieved within three years. The plan must contain specific goals that will be achieved during specified reporting periods not exceeding one year. Companies that file a plan are required to file a statement comparing plan goals and achievements by May 15 of each subsequent year.

9. Regulation 74 requires the directors of a company to elect a Conduct Review Committee. One of the requirements of the committee is to develop written procedures to identify and prevent conflicts of interest. Regulation 81 requires the Conduct Review Committee of the company to file its written procedures with FSC within 30 days after the committee is formed. Regulations 82 to 86 can be used by the Conduct Review Committee as guidance when developing its written procedures. FSC would normally expect to receive the Conduct Review Committee's written procedures within 60 days of the company's annual general meeting. If the Conduct Review Committee has made no changes to its procedures since its previous filing, a written statement indicating that no changes have been made signed by the Chair of the Conduct Review Committee will be considered acceptable for filing purposes by FSC.

10. Regulation 32 requires a company to file with FSC not later than the last day of the month following the end of the quarter, a quarterly report for the quarters ending March 31, June 30, September 30 and December 31 in the format outlined in Schedule 9 of the regulations.

## **2. Filing Fees**

Regulation 164 and Schedule 20 require each company to pay a filing fee of \$5,000 with the submission of its annual return (see filing (c) 1) and a filing fee of \$3,000 with the submission of each quarterly return (see filing (c) 10).

## **3. Compliance with Requirements**

The information filed by companies is required by FSC to fulfill its supervisory obligations. Therefore, FSC expects companies to be fully aware of their filing obligations and to meet these obligations in a timely manner. In many instances, the failure to file required information with FSC in a timely and accurate manner is an offence under the *Insurance Act* with the possibility of significant fines and/or imprisonment on conviction.

It should also be noted that Section 8 of the *Financial Services Commission Act* empowers FSC to impose certain limitations, prohibitions and conditions on a company that is “contravening or has contravened any provisions of the relevant Act or regulations made thereunder”. The failure to file required information in a timely manner could be considered a contravention of the *Insurance Act* and the regulations.

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