

# THE INSURANCE ACT

## The Insurance (Amendment) Regulations, 2022

In exercise of the power conferred on the Financial Services Commission by section 144 of the Insurance Act, and of every other power hereunto enabling, the following Regulations are hereby made, with the approval of the Minister:-

**Citation and construction.**

1. These Regulations may be cited as the Insurance (Amendment) Regulations, 2022, and shall be read and construed as one with the Insurance Regulations, 2001 (hereinafter referred to as the principal Regulations) and all amendments thereto.

**Amendment of regulation 2 of principal Regulations.**

2. Regulation 2 of the principal Regulations is amended –
  - (a) in paragraph (1), by inserting in their correct alphabetical sequence the following definitions –

“annual filing” means the annual financial statements required to be deposited with the Commission, together with reports from the actuary;

“Bank Grade Obligations” means obligations of any deposit-taking institution within the meaning of section 2 of the Banking Services Act, 2014, and includes securities issued by, loans made to, securities and loans guaranteed by, and accounts receivable, from the deposit taking institution;

“collective investment schemes” or “CISTP” means investments made in collective investment schemes and other pooled arrangements recognized by the Commission for the purpose of calculating the MCT;

“conduct review committee” means the committee established  
by a registered insurer under regulation 74;

“corporate agent” means an agent that is a corporation;

“Government Grade Obligations” means obligations of the  
Government and includes securities issued by, loans  
made to, securities and loans guaranteed by, and  
accounts receivable from the Government;

“Investment Grade Reinsurer” means a reinsurer with a long-  
term issuer credit rating that is not less than BBB;

“level 1 CISTP” has the meaning assigned to it by regulation  
28(18F);

“Non-Investment Grade Reinsurer” is a reinsurer with a long-  
term issuer credit rating that is –

- (a) less than BBB; or
- (b) a reinsurer for which a long-term issuer credit  
rating is not available;”;

(b) by inserting next after paragraph (1), the following –

“ (2) In these Regulations, a reference to a credit rating is  
to be construed as a long-term Standard and Poor’s rating or  
such other rating equivalent thereto as the Commission may  
specify using a translation matrix.”.

**Amendment of regulation 28 of principal Regulations.** 3. Regulation 28 of the principal Regulations is amended –

(a) in paragraph (2)(a), by inserting next after sub-sub-paragraph  
(vi) the following –

- “(vii) preference shares;
- (viii) any other type of equity in accordance with para-  
graph (2A);”;

(b) by inserting next after paragraph (2), the following –

“ (2A) The equity referred to in paragraph (2)(a)(viii), is equity that –

- (a) meets the requirements of sub-paragraphs (b), (c), (d) and (e) to the satisfaction of the Commission;
- (b) provides a permanent and unrestricted commitment of funds;
- (c) is freely available to absorb losses;
- (d) does not impose any unavoidable servicing charges against earnings; and
- (e) ranks behind the claim of policyholders and creditors in the event of the winding-up of the general insurance company.”;

(c) in paragraph (3) –

- (i) in sub-paragraph (c), by inserting next after the words “35% capital factor” the words “until the 1<sup>st</sup> day of January, 2023”;
- (ii) in sub-paragraph (g), by deleting the word “and”;
- (iii) by deleting sub-paragraph (h) and inserting therefor the following –

“(h) total assets that is in excess of 1% of total assets of the insurer –

- (i) excluding insurance and reinsurance contract assets, and assets captured under credit risk, market risk and pooled arrangement risk categories of asset risk; and

(ii) calculated by applying the following formulae –

(A) Total assets – (Insurance and reinsurance contract asset) – (assets captured under credit risk, market risk and pooled arrangement risk categories of asset risk) = A  
And, then –

(B) the amount of A that is in excess of 1% of the total assets of the insurer = B

Where, B is the amount of the deduction;

- (i) preference share capital that does not meet the criteria specified in paragraph (3A);
- (j) the balance sheet value of preference shares minus the preference share capital that does not meet the requirements specified in paragraph (3A) which exceeds 33% of the sum of the capital from the equity specified in paragraph (2)(a), excluding preference shares;
- (k) back-to-back placements which are capital issues between two or more companies, either directly or indirectly, which in the opinion of the Commission, inflate the capital position of the companies, such as a case in which a company “A” holds shares in another company “B” and company “B” also, holds shares in company “A”;
- (l) in relation to pension plans, surplus that is

reported as an asset on the insurer's balance sheet less pension surplus assets to which the insurer, in the opinion of the Commission, has unrestricted and unfettered access;

(m) assets in excess of prescribed limits or in breach of prescribed requirements;

(n) investments by the insurer in its own treasury stock instruments whether held directly or indirectly and any of the insurer's own stock that the insurer is contractually obliged to purchase; and

(o) after the 31<sup>st</sup> day of December, 2022, any asset for insurance acquisition cash flows that have been recognized and are yet to be derecognized.”;

(d) by inserting next after paragraph (3), the following –

“ (3A) The preference share capital referred to in paragraph (3) which shall not be deducted under paragraph (2) is preference share capital –

(a) that is permanent;

(b) that cannot be redeemed at the option of the holder thereof;

(c) that is fully subordinated to the interests of policy holders and other creditors; and

(d) in relation to which dividends are not cumulative in the event of non-payment.”;

(e) by deleting paragraph (7) and inserting therefor the following –

“ (7) A general insurance company and branches of foreign companies carrying on general insurance business in Jamaica shall have capital available in an amount in excess of 125% of its capital required under paragraph (9).

(7A) Where a general insurance company and branches of foreign companies carrying on general insurance business in Jamaica fails to meet the requirements for available capital under paragraph (7), the insurer or branch has not met the required margin of solvency under section 53.”;

- (f) by deleting paragraph (9) and substituting therefor the following –

“ (9) The capital requirement for general insurance companies and branches of foreign companies carrying on general insurance business in Jamaica is the sum of the risk components specified in paragraph (9A) minus a diversification credit.”;

- (g) by inserting next after paragraph (9), the following –

**“Risk components for determination of total capital.**

(9A) The risk components for the determination of total capital required under paragraph (9), are –

- (a) asset risk, insurance risk and operational risk; and
- (b) the risk components for regulated financial institutions located in a jurisdiction recognized by the Commission for the purposes of calculating the MCT that are

subsidiaries of a registered general insurer.

**Asset risk.** (9B) The capital required for asset risk is the sum of the risk categories, as follows –

- (a) credit risk;
- (b) market risk for ordinary shares, real estate and right-of-use;
- (c) pooled arrangement risks;
- (d) foreign currency risks; and
- (e) interest rate risks.”;

(h) by deleting paragraph (10) and substituting therefor the following –

“ (10) To determine the capital required for credit risk for an asset item (which shall not be less than zero) multiply the balance sheet value of the asset item by the credit risk factor associated with that asset item and the total of these amounts represents the capital required for credit risk.”;

(i) by deleting paragraph (11);

(j) by deleting paragraph (12) and substituting therefor the following –

“ (12) Subject to regulation 2(2), insurers and branches shall use the latest long-term rating assigned to the instrument or company by a widely recognized international credit rating agency or any other credit rating agency recognized by the Commission.”;

(k) by deleting paragraph (13) and substituting therefor the

following –

“ (13) Insurers and branches shall consistently use the ratings assigned by one agency referred to in paragraph (12) and only where that agency does not rate a particular instrument or company, or does not have long-term ratings, as the case may be, shall insurers and branches use the rating assigned by another such agency.”;

(l) in paragraph (14) –

(i) by deleting the words “Capital factors for” and substituting therefor the words “In relation to credit risk, the capital factors to be assigned to”;

(ii) in sub-paragraph (a) –

(A) by deleting sub-sub-paragraph (ii) and substituting therefor the following –

“(ii) Government Grade Obligations denominated only in Jamaican currency.”;

(B) by deleting sub-sub-paragraphs (iii) and (iv);

(C) by deleting sub-sub-paragraph (vi), and substituting therefor the following –

“(vi) before the 1<sup>st</sup> day of January, 2023, premium taxes deferred policy acquisition expenses and installment premiums (not yet due)”;

(D) by deleting sub-sub-paragraph (vii);

(iii) in sub-paragraph (b) –

(A) by deleting sub-sub-paragraph (i) and substituting

therefor the following –

“(i) Bank Grade Obligations;”;

(B) in sub-sub-paragraph (ii), by inserting next after

the words “less;” the word “and”; and

(C) by inserting next after sub-sub-paragraph (ii),

the following –

“(iii) term deposits, bonds and debentures

(including commercial paper) rated

AA- or higher that mature or are

redeemable in less than one year;”;

(iv) by deleting sub-paragraph (d), and substituting therefor

the following –

“(d) 0.75% factor, which relates to –

(i) unpaid claims and adjustment

expenses recoverable from registered

insurers or Investment Grade

reinsurers outstanding for over 6

months but less than 9 months; and

(ii) term deposits, bonds and debentures

(including commercial paper) with a

rating between A- and A+, inclusive,

that mature or are redeemable in less

than one year;”;

(v) by deleting sub-paragraph (g)(i) and substituting

therefor the following –

“(i) term deposits, bonds and debentures (including

commercial paper) with a rating between BBB-

and BBB+, inclusive, that mature or are  
redeemable in less than one year”;

(vi) by deleting sub-paragraph (h)(i) and substituting  
therefor the following –

“(i) term deposits, bonds and debentures  
(including commercial paper) with a rating  
between BBB- and BBB+, inclusive, that  
mature or are redeemable in not less than one  
year; and”;

(vii) in sub-paragraph (j), by –

(A) deleting sub-sub-paragraph (i) and substituting  
therefor the following –

“(i) term deposits, bonds and debentures  
(including commercial paper) with a  
rating between BB- and BB+, inclusive,  
that mature or are redeem-able in not  
less than one year;” and

(B) deleting sub-sub-paragraph (ii);

(viii) in sub-paragraph (k) –

(A) in sub-sub-paragraph (i), by deleting the words  
“; and” and substituting therefor a semi-colon;

(B) in sub-sub-paragraph (ii), by inserting  
immediately after the semi-colon the word  
“and”; and

(C) by inserting next after sub-sub-paragraph (ii)  
the following –

“(iii) term deposits, bonds and debentures

(including commercial paper) with a rating between B- and B+, inclusive, that mature or are redeemable in not less than one year;”;

(ix) in sub-paragraph (l) –

(A) by deleting sub-sub-paragraph (i) and substituting therefor the following –

“(i) term deposits, bonds and debentures (including commercial paper) with a rating of CCC+ or a lower rating that mature or are redeemable in less than one year;”;

(B) by deleting sub-sub-paragraphs (iii), (iv) and (v);

(C) in sub-sub-paragraph (vi), by deleting the words “; and” and substituting therefor a semi-colon; and

(D) by inserting next after sub-sub-paragraph (vii), the following –

“(viii) pension plan surplus that is reported as an asset on the insurer’s balance sheet and to which the insurer, in the opinion of the Commission, has unrestricted and unfettered access; and

(ix) total assets, excluding –

(A) insurance and reinsurance

contract assets; and

- (B) assets captured under credit risk, market risk and pooled arrangement risk categories up to 1% of the total assets of the insurer or branch;”;

(x) by deleting sub-paragraph (m) and substituting therefor the following –

“(m) 35% factor, which –

- (i) before the 1<sup>st</sup> day of January, 2023, relates to deferred policy acquisition expenses, commissions, net of an adjustment for unearned commissions, so, however, that if the net value is negative, then zero; and
- (ii) relates to term deposits, bonds and debentures including commercial paper in arrears or default as to principal or interest;”;

(xi) by inserting next after sub-paragraph (m), the following –

- “(n) 1.25% factor, which relates to term deposits, bonds and debentures (including commercial paper) with a rating that meets or exceeds AA- that mature or are redeemable in not less than one year;
- (o) 2.25% factor, which relates to term deposits, bonds and debentures (including commercial

paper) with a rating between A- and A+, inclusive, that mature or are redeemable in not less than one year;

- (p) 5% factor, which relates to term deposits, bonds and debentures (including commercial paper) with a rating between BB- and BB+, inclusive, that mature or are redeemable in less than one year;
- (q) 7% factor, which relates to term deposits, bonds and debentures (including commercial paper) with a rating between B- and B+, inclusive, that mature or are redeemable in less than one year;
- (r) 20% factor, which relates to term deposits, bonds and debentures (including commercial paper) with a rating of CCC+ or a lower rating that mature or are redeemable in not less than one year;
- (s) for term deposits, bonds and debentures (including commercial paper) for which the rating of the security, issuer or guarantor, if any, is not available or is not rated, the credit risk factor is the sum of the factor for the deposit, bond or debenture with a rating equal to the long-term sovereign rating of the country in which the issuer or guarantor is established plus a factor of –

- (i) 0.25%, if the issuer or guarantor is a municipality or agency of a foreign government or the Government;
- (ii) 0.75%, if the ordinary shares of an issuer or guarantor is trading on the main market of the Jamaica Stock Exchange;
- (iii) 1.5%, if the ordinary shares of an issuer or guarantor is trading on the junior market of the Jamaica Stock Exchange or on another stock exchange recognized by the Commission;
- (iv) 3.0%, if the ordinary shares of an issuer or guarantor is neither trading on the Jamaica Stock Exchange nor on another stock exchange recognized by the Commission;
- (t) 45% for computers, furniture and fixtures.”;
- (m) by deleting paragraph (15)(a);
- (n) in paragraph (17)(a), by deleting the words “paragraph (7)” and substituting therefor the words “paragraph (70)”;
- (o) by inserting next after paragraph 18, the following –
  - “**Market risk for ordinary shares.** (18A) The capital required for market risk for ordinary shares is determined by the sum of the values for those ordinary shares, and the values of the ordinary shares are

calculated by multiplying the balance sheet value of the ordinary shares by the market risk factor for those ordinary shares, as follows –

- (a) 25% factor for ordinary shares of an issuer trading on the main market of the Jamaica Stock Exchange;
- (b) 35% factor for ordinary shares of an issuer trading on –
  - (i) the junior market of the Jamaica Stock Exchange; or
  - (ii) a stock exchange recognized by the Commission;
- (c) 45% factor for ordinary shares of an issuer that is neither trading on the Jamaica Stock Exchange nor on a stock exchange recognized by the Commission.

**Market risk for real estate.**

(18B) The capital required for market risk of real estate is determined by the sum of the values for the real estate, and the values of the real estate is calculated by multiplying the balance sheet value of each real estate holding by the market risk factor for that real estate holding, as follows –

- (a) 8% factor for investment in freehold interest in land and buildings held and occupied by a general insurance

company or a branch of a foreign insurer carrying on general insurance business in Jamaica;

- (b) 15% factor for investment in freehold interest in land and buildings acquired to generate income.

**Market risk for Right-of-Use.**

(18C) The capital required for market risk for Right-of-Use is determined by –

- (a) the sum resulting from adding the values of the Right-of-Use for each leasehold investment; and
- (b) the values for the Right-of-Use of each leasehold investment to be summed under paragraph (a), is calculated by –

- (i) applying the following

formula –

$(\text{greater of A and B}) \times C$

Where –

A = 0

B = the balance sheet value of the right-of-use assets less the balance sheet value of the associated right-of-use liability for the leasehold

C = market risk factor;

- (ii) using the following market risk factors –

(A) 10% for buildings

and land leased by  
the general insurance  
company or a branch  
for its own use;

(B) 20% for buildings and  
land leased by the  
general insurance  
company or a branch  
to generate income;

(C) 45% for leases for  
property other than  
buildings and land;

(D) 45% for computers and  
furniture fixtures;

**Factor for  
CISTP.**

(18D) Subject to paragraph (18E), the  
capital required for market risk for CISTP, is  
determined by –

- (a) the sum of the values for CISTP; and
- (b) the values for CISTP which are  
calculated by multiplying the balance  
sheet value for each CISTP by the  
market risk factor for that CISTP; and
- (c) the CISTP capital risk factor which is  
the weighted average of the credit and  
market risk factors for investments of  
CISTP.

(18E) Where a CISTP (referred to as

the level 1 CISTP) is invested in another CISTP (referred to as the level 2 CISTP) the risk factor for that investment is the weighted average of the credit and market risk factors for the investments in the level 2 CISTP.”;

(p) by deleting paragraph (44) and substituting therefor the following –

- “ (44) The capital required for insurance risk –
- (a) before the 1<sup>st</sup> day of January, 2023, is the sum of the capital required for –
- (i) the margins for unearned premium, premium deficiencies and unpaid claims (policy liabilities); and
- (ii) the margin for catastrophes;
- (b) after the 31<sup>st</sup> day of December, 2022, is the sum of the capital required for –
- (i) the margin for liability for incurred claims;
- (ii) the margin for liability for unexpired coverage; and
- (iii) the margin for catastrophes; and
- (c) shall not include reinsurance placed with Non-investment Grade Reinsurers in the determination thereof.”;

(q) by inserting next after paragraph 51, the following –

- “Cessation of paragraphs 45 to 51.** (51A) After the 31<sup>st</sup> day of December, 2022, paragraphs (45) to (51) shall cease to apply and capital required in respect

of –

- (a) the margin for liability for incurred claims shall be the sum of the capital required for each class of insurance business determined in accordance with paragraph (51B); and
- (b) the margin for liability for unexpired coverage shall be the sum of the capital required for each class of insurance business determined in accordance with paragraph (51C).

**Margin liability for incurred for claims.**

(51B) The capital required for a class of insurance business (which shall not be less than zero) is calculated by applying –

- (a) the following formula –

$$A \times B$$

Where:

A is the liability for incurred claims for insurance contracts issued (net salvage and subrogation), excluding the associated risk adjustment for non-financial risk, less the asset for incurred claims for reinsurance contracts held excluding associated risk adjustment for non-financial risk;

B is the applicable risk factor; and

- (b) the applicable risk factor by class of insurance, as follows –

Class of Insurance Business	Factor (%)
Property	15.0

Motor vehicle	15.0
Liability	25.0
Pecuniary loss	20.0
Marine, Aviation and Transport	20.0
Accident	15.0
Sickness & Health	15.0
All other classes	25.0.

**Margin for unexpired coverage, excepting accident, sickness and health coverage.**

(51C) The capital required for a class of insurance business, excepting accident, sickness and health (which shall not be less than zero) is calculated by applying –

(a) the following formula –

$$((\text{greater of A and B}) \times C)$$

Where:

A is unexpired coverage for insurance contracts issued minus unexpired coverage for reinsurance contracts held;

B is 50% of premium received in the preceding 12 months net of associated reinsurance paid in the preceding 12 months;

C is applicable risk factor;

(b) the applicable risk factor by class of insurance, as follows –

<b>Class of Insurance Business</b>	<b>Factor (%)</b>
Property	20.0
Motor vehicle	20.0
Liability	30.0
Pecuniary loss	25.0

Marine, Aviation and Transport	25.0
Excepting accident, sickness and health, all other classes	30.0.”;

**Margin for unexpired coverage, excepting accident, sickness and health coverage.** (51D) The capital required for accident, sickness and health insurance business (which shall not be less than zero) is calculated by applying a factor of 15% to annual revenue of that business.

**Liability for remaining coverage for insurance contracts.** (51E) For the purpose of the value “A” in paragraph (51C)(a), for groups of insurance contracts issued where the liability for remaining coverage is determined using –

- (a) the general measurement model (GMM) as follows –

unexpired coverage for insurance contracts issued (GMM) = estimate of future cash flows for insurance contract issued (excluding premium and acquisition expenses cash flows) adjusted for the time and value of money

Where “estimate of future cash flows”, includes expenses directly attributable to fulfilling the obligations under insurance contracts, but does not include the risk adjustment for non-financial risk;

- (b) the premium allocation approach (PAA) as follows –

unexpired coverage for insurance contracts issued (PAA) = (liability for remaining coverage, excluding the loss component + unamortized insurance acquisition cash flows + premiums receivable) x ELR + costs

Where –

ELR is the expected loss ratio;

Costs in unexpired coverage for insurance contracts issued (PAA) –

- (a) are expenses directly attributable to fulfilling the obligations under insurance contracts;
- (b) implicit in the ELR, explicitly added, or a combination of implicit and explicit;

Unexpired coverage for insurance contracts issued (PAA) exclude any risk adjustment for non-financial risk and may be adjusted for the time value of money.

**Asset for remaining coverage for reinsurance contracts.**

(51F) For the purpose of the value “A” in paragraph (51C)(a), for groups of reinsurance contracts held where the asset for remaining coverage is determined using –

- (a) the GMM, as follows –

unexpired coverage for reinsurance contracts held (GMM) = estimate of future cash flows for reinsurance contract held + estimate of future cash flows for future reinsurance contract held) adjusted for the time and value of money

Where –

“estimate of future cash flows” -

- (a) does not include the risk adjustment for non-financial risk;
- (b) for reinsurance contracts and future reinsurance contracts held refer to the portion of these contracts that covers the unexpired portion of underlying insurance contracts issued;
- (c) includes expected losses recoverable, net of

expected future  
reinsurance costs;

(b) the PAA, as follows –

unexpired coverage for reinsurance contracts held (PAA) = [(asset for remaining coverage excluding the loss recovery component + unamortized reinsurance commission) + premiums payable for reinsurance contracts held + expected future reinsurance premiums] x ELR – premiums payable net of reinsurance commissions – expected future reinsurance premiums net of reinsurance commissions

Where –

Unamortized reinsurance commission is equal to the amount used for the measurement of the ARC; and

Unexpired coverage for reinsurance contracts held –

- (a) excludes any risk adjustment for non-financial risk; and
- (b) may be adjusted for the time value of money.”;

(r) by deleting paragraph (52);

(s) by deleting paragraph (53);

(t) by deleting paragraph (54);

(u) by deleting paragraph (55);

(v) in paragraph (56), by deleting the words “be expected to”;

(w) in paragraph (59), by deleting –

(i) the words “switch to” and substituting therefor the word “use”;

(ii) the words “or version of the model”;

(x) in paragraph (60), by –

(i) deleting sub-paragraph (b) and substituting therefor the

following –

“(b) “PML<sub>500</sub> Earthquake” refers to the gross probable maximum loss from earthquake estimated using a 500 year event return period and the gross probable loss is to be calculated using a seventy-five per cent damageability confidence level for deterministic models or a fifty per cent damageability confidence level for probabilistic models;” and

(ii) deleting sub-paragraph (d);

(y) by deleting paragraph (61), and substituting therefor the following –

“ (61) The Margin for Catastrophes shall equal the (Greater of PML<sub>250</sub> Windstorm-Reinsurance Collectable, Windstorm) and (PML<sub>500</sub> Earthquake Reinsurance Collectable, Earthquake) plus the cost of one reinstatement of catastrophe reinsurance cover in the cases in which the reinstatement reinsurance cover has not been repaid by the insurer or branch.”;

(z) by deleting paragraph (64);

(aa) by deleting paragraph (65);

(bb) by deleting paragraph (67) and substituting therefor the following –

**“Foreign  
currency  
risk.** (67) To calculate the foreign currency risk for capital required for asset risk –

(a) value for each foreign currency is summed; and

(b) the value for each foreign currency is determined by applying the factor for that foreign currency as specified in paragraph (67A), to the absolute value of the assets minus the liabilities denominated in foreign currency and converted to the equivalent value denominated in Jamaican currency.”;

(cc) by inserting next after paragraph (67), the following –

“ (67A) The factor to be applied to a foreign currency is as follows –

Foreign Currency	Factor (%)
1. United States Dollar	5
2. Canadian Dollar	15
3. Euro	15
4. Pound Sterling	15
5. Bahamas dollar	25
6. Barbados dollar	25
7. Eastern Caribbean dollar	25
8. Trinidad and Tobago Dollar	25
9. A foreign currency other than those specified in items 1 to 8, inclusive.”;	30

(dd) by inserting next after paragraph (71), the following –

**“Interest rate risk.** (71A) To calculate the interest rate risk for capital required for asset risk –

(a) the factor for interest rate shock is 150 basis points;

- (b) the duration of an asset, duration being a measure of the sensitivity of the value of the asset to changes in interest rates, shall be calculated by the insurer using the Effective Duration methodology or the Modified Duration methodology;
- (c) the modified duration of a bond or interest rate sensitive asset is the percentage change in the value of the bond given a change in the percentage of the interest rate, in accordance with the formula, as follows –

$$\text{Modified duration} = \frac{1}{\text{Yield}} \times \frac{\text{the sum of PVCF}_t \text{ over all times } t \text{ at which cash flow occurs}}{\text{Market Value}}$$

Where:

Yield = the annually compounded yield to maturity for cash flows.

PVCF<sub>t</sub> = the present value of the cash flow at time t discounted at the yield rate;

- (d) the effective duration of the bond or interest rate sensitive asset takes into account the fluctuations in the value of the bond relative to changes in the bond's yield to maturity and fluctuation in the expected cash flows of the bond in accordance with the formula, as follows –

$$\text{Effective duration} = \frac{\text{Fair value if yields decrease by } \Delta y - \text{fair value if yields increase by } \Delta y}{2 \times (\text{initial price}) \times (\text{change in yield in decimal})}$$

Where:  $\Delta y$  = change in yield in decimal;

- (e) the asset portfolio duration (whether calculated using modified or effective duration) is the weighted average of the duration of the assets in the portfolio of the insurer and the proportion of the asset portfolio that a security comprises in accordance with the formula, as follows –

$$(W_1 \times D_1) + (W_2 \times D_2) + (W_3 \times D_3) + \dots + (W_K \times D_K)$$

Where:

$W_1$  = fair value of asset i divided by fair value of the portfolio  
 $D_1$  = duration of security i  
 $K$  = number of assets in the portfolio;

- (f) the Interest Rate Sensitive Asset Portfolio –
- (i) is the insurer's portfolio of assets, the value of which changes on the occurrence of changes in interest rates; and
- (ii) shall include investments such as term deposits and other similar short-term securities (excluding cash), bonds and debentures, commercial paper, loans, residential mortgages, commercial mortgages,

preference shares, insurance

contracts assets and reinsurance

contracts held assets;

(g) investments in CISTP shall be separated based on the type of investment;

(h) the assets of the CISTP that are interest rate sensitive shall be included in the determination of the fair value of the insurer's total interest rate sensitive assets;

(i) the Interest Rate Margin for Assets is the product of multiplying the duration, factor and value specified in sub-sub-paragraphs (i), (ii) and (iii), as follows –

(i) the Interest Rate Sensitive Asset Portfolio duration (whether modified or effective duration);

(ii) the interest rate shock factor expressed in decimal form;

(iii) the fair value of Interest Rate Sensitive Asset Portfolio;

(j) the Interest Rate Sensitive Liabilities are insurance contracts liabilities for incurred claims, insurance contracts liabilities for remaining coverage,

reinsurance contract held liabilities and liabilities due to reinsurers under funds withheld reinsurance arrangements;

- (k) the Interest Rate Margin for Liabilities is the change in the actuarial value of the Interest Rate Sensitive Liabilities using the valuation discount rate less the interest rate factor shock, subject to a minimum discount rate of zero per cent;
- (l) with effect until the 1<sup>st</sup> day of January, 2023, the Interest Rate Risk Component is equal to the Interest rate Margin for Interest rate Sensitive Asset Portfolio;
- (m) with effect after the 31<sup>st</sup> day of December, 2022, the Interest Rate Risk Component is equal to the absolute value of the Interest Rate Margin for Assets minus the Interest rate Margin for Liabilities.”; and

(ee) by inserting next after paragraph (72), the following –

- “Margin for operational risk.** (73) To calculate the operational risk component, a factor of ten per cent is applied to the sum of the capital required for asset risk, plus capital required for insurance risk plus the capital required for regulated financial institution

subsidiaries that are located in a jurisdiction recognized by the Commission.

**Diversification credit.**

(74) The insurer and branches of foreign insurers carrying on general insurance business in Jamaica, may, in the calculation of credit risk, market risk and insurance risk under this regulation, apply a diversification credit in accordance with the formula specified in paragraph (75) to reduce the amount of capital required.

(75) The diversification credit referred to in paragraph (74) is calculated applying the following formula –

$$(A+I) - \text{square-root of } (A^2 + I^2 + 2*R*A*I)$$

Where:

A is capital required for asset risk

I is capital required for insurance risk

R is the correlation factor of 50%.”.

**Amendment of regulation 35 of principal Regulations.** 4. Regulation 35 of the principal Regulations is amended by deleting –

(a) paragraph (1), and substituting therefor the following –

“ (1) Every –

- (a) broker who is a sole proprietor, partnership or corporation shall maintain, at all times, a minimum paid up capital and unimpaired surplus of the greater of \$10 million; and
- (b) corporate agent shall maintain, at all times, a minimum paid up capital and unimpaired surplus of the greater of \$5 million,

or 2.5% of annual premiums generated for the preceding year, whichever is greater.”;

(b) paragraph (2) and substituting therefor the following –

“ (2) Every broker who is a sole proprietor, partnership or corporation, and every corporate agent shall maintain, at all times, a minimum professional indemnity insurance coverage limit –

(a). in the case of a broker or agent in operation for less than one year, in an amount equivalent to five per cent of the projected aggregate annual premium income generated by the broker or agent for the twelve-month period of coverage in respect of any one occurrence;

(b) in every other case, in an amount equivalent to five per cent of the aggregate annual premium income generated by the broker or agent for the twelve months immediately preceding the date of commencement of the insurance coverage in respect of any one occurrence and the broker or agent shall provide the Commission with the particulars of the aggregated annual premium income so generated within the twelve-month period.”; and

(c) paragraph (3) and substituting therefor the following –

“ (3) Every broker who is a sole proprietor, partnership or corporation, and every corporate agent shall maintain fidelity insurance against losses arising from the dishonesty of their employees with a coverage limit, in the case of –

(a) a broker, of not less than \$10 million;

(b) an agent, of not less than \$1 million,  
or in an amount equivalent to one per cent of the annual  
premium generated, whichever is greater.”.

**Amendment of  
regulation 38  
of principal  
Regulations.**

5. Regulation 38 of the principal Regulations is amended –
- (a) by deleting paragraph (1); and
  - (b) in paragraph (2), in paragraph (a) of the definition of “fair market value”, by deleting the word “either” and substituting therefor the word “neither”.

**Amendment of  
regulation 40  
of principal  
Regulations.**

6. Regulation 40 of the principal Regulations is amended by deleting paragraphs (4), (5) and (6).

**Amendment of  
regulation 42  
of principal  
Regulations.**

7. Regulation 42(1) of the principal Regulations is amended by deleting the word “five” and substituting therefor the word “ten”.

**Repeal of  
regulation 45  
of principal  
Regulations.**

8. The principal Regulations are amended by repealing regulation 45.

**Amendment of  
regulation 47  
of principal  
Regulations.**

9. The principal Regulations are amended by deleting regulation 47 and substituting therefor the following –

**“Investment in  
obligations of  
solvent  
institutions.**

47. – (1) An insurer may invest in obligations issued, assumed or guaranteed by any solvent institutions created or existing under the laws of Jamaica and which are obligations –

- (a) secured by adequate collateral security and bear fixed interest;
- (b) assessed to be of investment grade by an established investment ratings agency recognized by the Commission;

(c) issued, assumed or guaranteed by any solvent public company which in the last two years has had net earnings of not less than two times the sum of the company's fixed charges and maximum contingent interest;

(d) issued by any company listed on the Jamaica Stock Exchange or on any other stock exchange recognized by the Commission.

(2) An insurance company may invest in any equity and debt securities of a private company that is incorporated under the Companies Act, in an amount not exceeding five per cent of the insurance company's total assets."

**Amendment of regulation 48 of principal Regulations.**

10. The principal Regulations are amended by deleting regulation 48 and substituting therefor the following –

**"Investment in shares of solvent institutions.**

48. An insurer may invest in preference shares or guaranteed stocks or shares of solvent institutions created or existing under the laws of Jamaica."

**Amendment of regulation 49 of principal Regulations.**

11. Regulation 49 of the principal Regulations is amended by deleting all the words after the words "to ensure that" and substituting therefor the words "the issuing companies are qualified".

**Amendment of regulation 50 of principal Regulations.**

12. Regulation 50 of the principal Regulations is amended by deleting the words "an aggregate amount not exceeding two per cent of its assets,".

**Amendment of regulation 51 of principal Regulations.** 13. Regulation 51 of the principal Regulations is amended by deleting the words “an aggregate amount not exceeding ten per cent of its assets,”.

**Amendment of regulation 57 of principal Regulations.** 14. Regulation 57 of the principal Regulations is amended –

- (a) in paragraph (2), by deleting the words “of fifty” and substituting therefor the words “or fifty”;
- (b) in paragraph (3), by –
  - (i) inserting next after the words “insurer may invest,” the words “, directly or indirectly,”; and
  - (ii) deleting the words “in real property acquired” and substituting therefor the words “in real property situated in Jamaica and acquired”; and
- (c) by re-numbering the seventh paragraph, numbered as second paragraph (6), as paragraph (7).

**Amendment of regulation 59 of principal Regulations.** 15. Regulation 59 of the principal Regulations is amended by inserting next after paragraph (3), the following –

“ (4) This regulation shall only apply to an insurer that is a local company with branches outside of Jamaica.”.

**Amendment of regulation 61 of principal Regulations.** 16. Regulation 61 of the principal Regulations is amended by deleting the word “checking” and substituting therefor the word “current”.

**Amendment of regulation 62 of principal Regulations.** 17. The principal Regulations are amended by deleting regulation 62 and substituting therefor the following –

**“Ordinary shares.** 62. An insurer may invest in ordinary shares of solvent corporations listed on a recognized stock exchange approved by the Commission.”.

**Amendment of regulation 63 of principal Regulations.** 18. Regulation 63 of the principal Regulations is amended by –

- Regulations.**
- (a) deleting the words “an aggregate not exceeding ten per cent of its assets”;
  - (b) deleting the words “, collective investment scheme or unit trust registered” and substituting therefor the words “or collective investment scheme”;
  - (c) inserting next after the word “subsidiary” the words “or a related party”;
  - (d) inserting the word “an” next after the words “of the insurer, is”;  
and
  - (e) inserting the word “a” next after the words “advisor or”.

**Amendment of regulation 71 of principal Regulations.** 19. The principal Regulations are amended by deleting regulation 71 and substituting therefor the following –

**“Investments not deemed ineligible.** 71. An investment shall not be deemed ineligible for the reason that it is in excess of the amount permitted to be invested in the category of investments to which it belongs under this Part.”.

**Amendment of regulation 72 of principal Regulations.** 20. Regulation 72 of the principal Regulations is amended by deleting the words “shall be as permitted by the laws of its domicile, but”.

**Insertion of new regulations 72A, 72B, 72C, 72D, 72E, 72F, 72G, 72H, 72I, 72J, 72K, 72L and 72M in principal Regulations.** 21. The principal Regulations are amended by inserting next after regulation 72 the following –

**“ PART VIIA. Risk Management**

**Interpretation.** 72A. In these Regulations –  
“base scenario” means a set of realistic assumptions that are consistent with the insurer’s business plan;

“Enterprise Risk Management Programme” or

“ERMP” means the programme established and implemented under section 72B for the management of all material risks and the interactions among those risks which threaten, or pose a threat to, the financial position and condition of a registered insurer;

“Own Risk Solvency Assessment” or “ORSA” means the methodology to be applied under section 72C(2) and (3) for assessment of the risk solvency policies and strategies of the ERMP;

“plausible adverse scenario” is a set of credible assumptions that exposes potential threats to an insurer’s financial position and condition over a forecast period;

“risk appetite statement” means a statement as to the amount and type of risk that the insurer is willing to take in order to meet its strategic objectives;

“risk tolerance statement” means a statement outlining, in both quantitative and qualitative terms, the limits of the insurer’s tolerance for overall risk and for each material category of risk, taking into account the interaction among risk categories;

“senior manager” means a person exercising the functions of a chief executive officer, a president, a vice-president, a general manager, an executive director, a chief financial officer, a chief operating officer, an executive vice-president, a senior director or any office or position, however designated, in which the holder thereof exercises similar functions.

**Enterprise  
Risk  
Management  
Programme.**

72B. – (1) A registered insurer shall establish and implement a risk management programme (referred to as the “Enterprise Risk Management Programme” or “ERMP”) in accordance with these Regulations and the board of directors of the registered insurer shall be directly responsible therefor.

(2) The board of directors of the registered insurer shall cause the ERMP established and implemented under paragraph (1), to –

- (a) be integrated into the governance and decision-making framework of the insurer, in particular, in relation to core business areas such as product development, pricing, underwriting, investment, finance corporate planning and performance assessment;

- (b) be developed on the basis of –
- (i) the insurer's stated risk appetite and risk tolerance;
  - (ii) all of the insurer's material risks and the interactions among those risks;
  - (iii) the nature, scale and complexity of the insurer's risks, risk appetite, business strategy and potential stress scenarios, operating and economic environment, as well as any foreseeable changes in relation thereto;
  - (iv) sound analysis of the risks identified to assess the underlying causes of each risk, the inter-relationship between risks, and the relationship between the risks and exogenous factors;
  - (v) quantification of the level of risk (including embedded options) using stress testing and other risk metrics and techniques, where appropriate;
  - (vi) the establishment of –
    - (A) internal targets which  
' exceed the targets issued

in directions by the  
Commission or prescribed  
referred to in paragraph  
(c);

(B) limits which are more  
stringent than the limits  
required pursuant to  
paragraph (c);

(C) regular monitoring,  
assessment and reporting  
of risk metrics against  
internal targets and limits;

(D) underwriting and risk  
management policies and  
strategies implemented to  
control risk exposure  
within established internal  
targets and limits;

(c) comply with prescribed requirements;

(d) include the following risk management  
elements, namely –

(i) Capital Adequacy Management  
("CAM");

(ii) Asset-Liability Management  
("ALM");

(iii) Liquidity Management ("LM");

(iv) risk management elements

required by the Commission; and

- (v) any other risk management elements utilized by the registered insurer.

(3) The board of directors shall cause to be designated such number of senior managers of the registered insurer –

- (a) to carry out the development and the implementation of the ERMP and any modification thereof approved by the board;
- (b) to undertake periodic reviews of the effectiveness of the programme;
- (c) implement the policies, procedures and strategies approved by the board of directors for the ERMP; and
- (d) cause the allocation by the registered insurer of the necessary resources, including qualified and competent staff to administer and monitor the implementation of the ERMP.

(4) Where models are applied to the ERMP, the models applied shall be appropriate to the circumstances of the insurer.

(5) A registered insurer shall –

- (a) in relation to the ERMP, cause to be kept proper records and other documentation of

the development, implementation, including policies, procedures and strategies in relation thereto, other assessments and reviews undertaken of the ERMP, including ORSA; and

(b) subject to paragraph (6), submit to the Commission the ERMP, including the risk management policy in respect of each risk element –

(i) not later than six months after the date of publication of the Insurance (Amendment) Regulations, 2022;

(ii) any revision of a policy for the ERMP within two weeks of the approval by the board of directors of that revised policy; and

(iii) in relation to the CAM risk element, the submission shall include the internal target levels accompanied by the detailed analysis required under section 72G;

(6) The Commission may extend the periods specified in paragraph (b).

**Assessment  
of ERMP.**

72C. – (1) The board of directors shall cause the ERMP to be assessed in accordance with these

Regulations.

(2) The assessment of the ERMP under paragraph (1) shall be done primarily through application of a risk solvency assessment (referred to as an “Own Risk and Solvency Assessment” or “ORSA”) to –

- (a) assess all risk management elements;
- (b) assess all reasonably foreseeable and material risks;
- (c) identify the relationship between risk management and the adequacy of the insurer’s financial and capital resources;
- (d) assess the insurer’s resilience to severe but plausible macroeconomic stresses;
- (e) assess aggregate counterparty exposures;
- (f) assess the insurer’s current and likely future solvency position;
- (g) be done in compliance with prescribed requirements.

(3) An ORSA programme established by the registered insurer under paragraph (1) shall be –

- (a) developed and implemented on consideration of prescribed requirements and any directions of the Commission under regulation 72E;
- (b) conducted, at least annually, at the end of

the financial year by a person specified in regulation 72F; and

(c) conducted, notwithstanding any routinely conducted ORSA under paragraph (b), on the occurrence of any of the following circumstances –

- (i) upon or in anticipation of a significant change in the products, assets, business activities or the strategic direction of the registered insurer;
- (ii) upon a significant adverse material change in the circumstances or business environment of the registered insurer;
- (iii) upon a significant threat, or potential threat, to solvency;
- (iv) at the request of the Commission and the requested report shall be made in accordance with such other requirements as the Commission may determine.

**Report on ORSA.**

72D. – (1) Where an ORSA is completed, the person who conducted the ORSA shall make a report of the findings to the board of directors of the registered insurer, and the report shall –

- (a) identify any –

- (i) internal targets not met or limits exceeded;
  - (ii) adverse findings and trends; and
  - (iii) material increase in risk exposure;
- (b) include recommendations to –
- (i) improve the adequacy of the financial and capital resources;
  - (ii) implement risk management measures to reduce risk exposures and to improve risk management policies, processes and metrics,
- to reduce the likelihood of or to mitigate threats to the financial and economic resilience of the insurer;
- (c) be made in writing and prepared in compliance with –
- (i) prescribed requirements; and
  - (ii) in accordance with the actuarial practice and the directions of the Commission under regulation 72E; and
- (d) be submitted to the Commission within the periods specified in paragraph (2).

(2) The report to the Commission referred to in paragraph (1)(d) shall be submitted to the Commission –

- (a) in the case of a report on an ORSA at least

annually, at the end of the financial year –

- (i) in the first instance –
  - (A) in respect of insurers registered prior to the 1<sup>st</sup> day of January, 2025, within four months after 31<sup>st</sup> day of December, 2025; or
  - (B) in respect of insurers registered after the 31<sup>st</sup> day of December, 2024, within four months after the 31<sup>st</sup> day of December of the first whole calendar year after registration; and
- (ii) thereafter, not later than the 30<sup>th</sup> day of April of the immediately succeeding financial year; and
- (b) in the case of an ORSA conducted in the circumstances specified in regulation 72C(3)(b) or other than at the end of the financial year, not later than two weeks after the report is made to the board of directors.

**Specified standards, etc., for ORSA programme.**

72E. The establishment, development and implementation of an ORSA shall be conducted in accordance with generally accepted actuarial

practice and with such directions as may be given by the Commission.

**ORSA assessors.**

72F. The assessment of the ORSA shall –

- (a) be carried out by the appointed actuary, a suitably qualified internal auditor or other suitably qualified person; and
- (b) not be carried out by a member of the board of directors or a person who is involved in the implementation, administration or the day-to-day operations of the ERMP.

**Capital adequacy management.**

72G. – (1) The risk management element of CAM for inclusion in the ERMP for the registered insurer, is to be developed –

- (a) utilizing stress testing techniques to investigate the financial position and condition of the registered insurer and includes, the impact of changes to single factors and of scenarios on risk metrics; and
- (b) based on internal capital target levels which are –
  - (i) expressed as non-zero number of percentage points that are greater than the prescribed minimum capital ratios;
  - (ii) determined on consideration of

the nature, scale and complexity of the insurer's risks, risk appetite, business strategy, potential stress scenarios, operating and economic environment, as well as foreseeable changes in relation thereto; and

- (iii) determined based on a detailed analysis conducted by the appointed actuary in accordance with paragraph (2).

(2) The detailed analysis –

- (a) of the financial position and condition of the insurer using stress testing techniques that examine the impact of the plausible adverse scenarios in compliance with conditions set out in regulation 72H(2);
- (b) on which the internal capital target levels set under paragraph (1)(b) are determined, shall not include consideration of –

- (i) any guarantees from a company of which the registered insurer is a related party;
- (ii) potential future injections of capital; or
- (iii) any other potential management

action that changes the business  
or risk profile of the registered  
insurer.

- Stress testing.** 72H. – (1) A stress testing study is to be conducted by the registered insurer's appointed actuary, in accordance with the standards specified under paragraph (2) –
- (a) annually at the end of each financial year;
  - (b) in the event of any of the circumstances specified in regulation 72C(3)(c); and
  - (c) on any other occasion, as the Commission may require.
- (2) The appointed actuary, in conducting a stress testing study shall –
- (a) not use a comfortable surplus or liquidity level to justify doing little or no stress testing;
  - (b) apply stress testing to all product and business lines and activities of the registered insurer in and outside of Jamaica;
  - (c) consult with the directors and senior managers of the registered insurer to determine the assumptions, risks and sensitivities applicable to the registered insurer, base scenario and other plausible adverse scenarios, to identify any material

threat to the insurer's financial position and condition;

- (d) establish standards of materiality which are no less stringent than the standards of materiality used in the valuation of the registered insurer's liabilities;
- (e) establish a base scenario;
- (f) apply assumptions and methods that are compliant with the minimum requirements that the Commission may specify, from time to time;
- (g) investigate the impact of a wide range of risks, sensitivities and scenarios, taking into account system-wide interactions and ripple effects;
- (h) on identification of a material and plausible threat to the registered insurer's financial position and condition and on consideration of volatility or stressors in the insurer's economic environment, examine scenarios to determine plausible management solutions to reduce the likelihood of or to mitigate threats to the financial and economic condition of the insurer;
- (i) apply a projection period, in the case of a general insurer, of three years, and a life

insurer, of five years.

**Duty to  
report stress  
tests findings.**

72I. – (1) After the conduct of a stress testing study as required under regulation 72H, the appointed actuary shall –

- (a) make a report on the stress testing study to the board of directors and the report shall include the results of the stress tests and the conclusions and recommendations of the appointed actuary in relation to the financial position and condition of the registered insurer;
- (b) present to the board of directors the significant results of the stress tests conducted and the significant conclusions and recommendations of the appointed actuary stated in the report.

(2) Upon review by the board of directors of a report made under paragraph (1), the board of directors shall, under the hand of each director of the board, signify that the board of directors –

- (a) has reviewed the report on the stress testing study and the date on which the review was completed; and
- (b) understand the threats identified and the mitigation actions recommended in the report.

(3) The stress testing study report,

signified as having been reviewed by each member of the board of directors, shall be submitted –

- (a) by the registered insurer to the Commission and
- (b) in the case of a stress tests conducted –
  - (i) under regulation 72H(1)(a), not later than the 31<sup>st</sup> day of March; and
  - (ii) under regulation 72H(1)(b), within three months, or such shorter period as the Commission may specify.

**Asset-liability Management.**

72J. – (1) The risk management element of Asset-liability Management for inclusion in the ERMP of the registered insurer, shall be –

- (a) developed to maintain assets and identify investment activities that are appropriate for the registered insurer on consideration of the liabilities, risk profiles and solvency position of the registered insurer; and
- (b) established based on the economic value and any changes in economic value of assets and liabilities of the registered insurer that result or may result from a range of plausible adverse scenarios.

(2) In this regulation “economic value”

means the value of the future cash flows of the registered insurer derived in such manner so as to be consistent with observable market prices or by using market-consistent principles, methodologies, and parameters.

**Liquidity  
Management.**

72K. The risk management element of Liquidity Management for inclusion in the ERMP of the registered insurer to inform the maintenance of sufficient liquid assets by the registered insurer to meet the obligations of the registered insurer and to safeguard against the effect of routine fluctuations in the level and timing of obligations and reasonable adverse deviations affecting cash flow, shall --

- (a) forecast cash flows from its assets and liabilities that include assumptions on the likely behavioural responses of counter parties and policyholders to changes in business and economic environmental conditions and any other tools to monitor the registered insurer's liquidity position;
- (b) require active monitoring of the liquidity position and structure of the assets of the registered insurer in actual cash flows compared to the forecasts prepared by the insurer;
- (c) include a contingency plan setting out the

manner of dealing with any unexpected cash outflows or conditions that are capable of impairing the capacity of the registered insurer to liquidate assets at a reasonable price, identifying diversified sources of liquidity support.

**Failure to submit ERMP, reports on ORSA, etc., an offence.**

72L. Where there is a failure to submit to the Commission –

- (a) the ERMP, including the risk management policy in respect of each risk element under regulation 72B(5)(b);
- (b) a report on ORSA under regulation 72D;
- (c) a report on the stress testing study under regulation 72I (3)(a), or within the time specified by regulation 72I (3)(b),

the registered insurer commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding three million dollars.

**Commission to review reports.**

72M. On review of any reports made to the Commission on the ERMP, ORSA, the risk management policy in respect of each risk element or stress tests, the Commission may require that the insurer revise the ERMP, ORSA, the risk management policy in respect of each risk element or conduct other additional assessment, testing or analysis, as the case may be.”

**Amendment of regulation 74 of principal Regulations.** 22. Regulation 74(1) of the principal Regulations is amended by inserting next after --

- (a) the words “registered insurer” the words “and a registered insurance intermediary”; and
- (b) the word “themselves” the words “, respectively,”.

**Amendment of regulation 78 of principal Regulations.** 23. Regulation 78 of the principal Regulations is amended by deleting --

- (a) the words “adhere to and be guided by Actuarial Regulations, 2001,” and substituting therefor the words “comply with regulations made under the Act,”;
- (b) the words “Guidelines, Technical papers and Bulletins” and substituting therefor the word “directions”.

**Amendment of regulation 142 of principal Regulations.** 24. Regulation 142(1) of the principal Regulations is amended by deleting the definition of “insurer” and “person”.

**Insertion of new regulations 142A, 142B, 142C, 142D, 142E, 142F, 142G, 142H, 142I, 142J, 142K, 142L, 142M, 142N, 142O, 142P, 142Q, 142R and 142S in principal Regulations.** 25. The principal Regulations are amended by inserting next after regulation 142, the following --

**PART XIII. Market Conduct**

**Duty to conduct business with integrity and fairness.** 142A. – (1) Every insurer and insurance intermediary shall establish organizational policy standards and procedures (hereinafter referred to as market conduct standards) in accordance with the requirements of these Regulations.

(2) The insurer and the insurance intermediary shall --

- (a) in their dealings with members of the public, including policyholders, beneficiaries and other customers, conduct

insurance business with integrity and fairness; and

- (b) promote an organizational culture in which the fair treatment of all customers is paramount.

(3) For the purpose of these Regulations, market conduct standards developed and implemented by insurers and insurance intermediaries are satisfactory if –

- (a) the business conducted, in accordance with the market conduct standards, demonstrate the exercise of due care, skill and diligence in dealing with customers;
- (b) customer complaints and grievances are addressed effectively, in a fair and timely manner utilizing accessible, efficient and transparent complaints and grievance resolution procedures;
- (c) insurance services and products are developed and offered are informed by the needs of the customer;
- (d) policyholder insurance claims are settled fairly and payments made without undue delay, utilizing transparent and effective insurance claims procedures;
- (e) the offer of insurance products and services to a specific individual by a sales

representative is relevant to the needs and interests stated by that customer;

- (f) market conduct standards protect the privacy of customers;
- (g) market conduct standards enable the provision of relevant accurate, clear and timely information to customers;
- (h) the market conduct standards include employment policies and procedures to prevent the recruitment or retention of employees who are not fit and proper persons;
- (i) provision is made for the management of conflicts of interest;
- (j) quality of service delivery standards are established and implemented, effectively communicated to and clearly understood by employees; and
- (k) the delivery of service by employees is continuously monitored and regularly assessed against the applicable quality of service standards.

**Duty of insurance intermediary to market conduct standard.**

142B. – (1) An insurance intermediary shall not act in a manner that is contrary to or inconsistent with the market conduct standard of an insurer with which, or on behalf of which, the insurance intermediary has business dealings.

(2) Where an insurer has notice or believes that an insurance intermediary has acted in a manner that is contrary to or inconsistent with the market conduct standard of the insurer, the Commission shall be notified by that insurer, in writing, within 30 days after the insurer having notice of, or forming the belief.

(3) A notification to the Commission under paragraph (2) shall include the details of the acts of which the insurer has notice or informing the belief that the insurance intermediary is acting, or has acted in a manner inconsistent with the market conduct standards.

**Training and equipment.**

142C. – (1) Insurers and insurance intermediaries shall equip and provide training for their respective employees, agents, brokers, sales representatives, adjusters, any insurance consultants and any other persons carrying on activities in furtherance of their respective insurance business to –

- (a) provide timely, relevant, accurate information and sound explanation of –
  - (i) the terms and conditions of insurance contracts, insurance policies, and the conditions and features of equity linked products;
  - (ii) the procedures of the insurer or the insurance intermediary, as the case

may be, for addressing the customer transactions, claims or complaints;

- (b) carry out functions and discharge their responsibilities in accordance with market conduct standards and the duty of care required of insurers and insurance intermediaries;
- (c) perform verification procedures, recognise and appropriately respond to transactions which constitute, or appear to constitute, a transaction that may be related to the commission of money laundering or fraud;
- (d) identify and respond appropriately to conflicts of interest.

*Duty of Care to Customers*

**Duty of insurer and insurance intermediary.** 142D. – (1) An insurer and an insurance intermediary shall exercise due care, skill and diligence in their insurance business dealings with policyholders, beneficiaries, claimants, customers and the public.

(2) For the purposes of paragraph (1), insurers and insurance intermediaries shall inform and explain the terms, conditions and effect of every insurance business related transaction affecting or involving a person referred to in paragraph (1).

(3) An insurance business related

transaction, includes –

- (a) the making of or proposing to make an insurance contract;
- (b) making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a business and not merely incidental to any other of the guarantor's or surety's legitimate business or activity;
- (c) taking or receiving an application for insurance;
- (d) receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for insurance or any part thereof;
- (e) issue or delivery in Jamaica of contracts of insurance to persons resident in Jamaica or authorized to do business in Jamaica;
- (f) solicitation, negotiation, procurement or effecting of insurance or renewals thereof;
- (g) dissemination of information relating to insurance coverage or rates;
- (h) forwarding of applications, delivery of policies or insurance contracts;
- (i) inspection of risks, fixing of rates or investigation or adjustment of claims or losses;
- (j) transaction of matters subsequent to or

arising out of the effecting of an insurance contract;

- (k) representing or assisting a person or insurer in the transaction of risks with respect to properties, risks or exposures located or to be performed in Jamaica;
- (l) transaction of any class of insurance business;
- (m) offering of insurance or transacting of insurance business;
- (n) offering an agreement or contract which purports to alter, amend or void coverage of an existing insurance contract.

*Duty to Provide Information*

**Duty of insurers and insurance intermediaries to provide information.**

142E. – (1) Insurers and insurance intermediaries shall, in writing, provide customers and prospective customers with current, relevant, accurate information, including –

- (a) sound explanation of the terms and conditions of insurance contracts, insurance policies, and the conditions and features of equity linked products;
- (b) in relation to insurance coverage –
  - (i) the disclosure of the main terms of the insurance contract, the insurance policy, including the benefits, the

liabilities of the insured and obligations under the policy, the terms of the insurance coverage, and as applicable, the average clause, deductibles, excess, warranties, exclusions or restrictions on coverage and the payment of claims and applicable fees;

- (ii) the avoidance or limitation of the liability of the insurer to settle claims arising as a consequence of the failure of the policyholder or the insured to make accurate and full disclosure to the insurer or insurance intermediary of facts material to the assessment of risk on which the insurance coverage is based;

(c) in relation to –

- (i) the payment of premiums, the total premium payable under the insurance contract, periodically and in total;
- (ii) the determination of the premium rates, the computation methodology for determination of the insurance premiums payable, periodically and in total; and

- (iii) payment of fees, the total amount of the fees chargeable for the duration of the policy and otherwise, from time to time;
- (d) in the case of equity linked products –
  - (i) the anticipated increase in the premium rate and the amount of premiums payable, periodically and in total;
  - (ii) the disclaimer that investment returns may vary, that past investment returns are not an indicator of future investment returns and that the investment risks are borne by the insured; and
- (e) the procedures for the investigation, adjustment and settlement of claims, including the rights of the parties under the insurance contract and the principles relating to subrogation;
- (f) the duty of the insurer and the insurance intermediary to provide information under these Regulations, the procedures of the insurer and the insurance intermediary, as the case may be, for providing information, effecting customer transactions, including processing claims and making payments to

the insured and beneficiaries, and  
addressing customer complaints; and

- (g) information in any specific case, which shall be provided in such manner so as to protect the privacy and confidentiality of personal information.

(2) The written information referred to in paragraph (1) –

- (a) shall, in the case of general information, include the disclaimer that the information provided may not be exhaustive and may not reflect all matters relevant to the case of a specific customer;

(b) in the case of fees, shall be provided –

- (i) in the case of a new insurance contract, prior to the formation of that insurance contract;

- (ii) before the anticipated date for demand for payment of fees at an increased rate;

- (iii) at the request of the insured, the policyholder, customer or prospective customer;

(c) in the case of premiums payable, the information shall be provided, at the request of the insured, the policyholder, customer or prospective customer and in

the case of an increase in premium rates,  
before the anticipated date of demand for  
payment of premiums at the increased rate;

- (d) may be made available in printed form or  
by electronic means, so, however, that the  
written information is not provided  
exclusively as an electronic document.

(3) Where the information referred to in  
paragraph (1) is being provided to a specific  
person, in response to that person's enquiry or  
concern –

- (a) the information shall be provided within  
three days after the need for the information  
arose, whether upon request or otherwise in  
connection with or pursuant to the  
insurance policy or equity linked product;  
or  
(b) in the case of situations of emergency,  
electronic transactions or telephonic trans-  
actions, as soon as practicable.

**Misleading  
information  
prohibited.**

142F. – (1) An insurer and an insurance  
intermediary shall not –

- (a) fail to provide information required to be  
provided under these Regulations; or  
(b) provide information required to be  
disclosed –  
(i) that is false in a material

particular;

(ii) in such manner so as to mislead or misinform; or

(iii) in a manner calculated to, or which is reasonably likely to, mislead, misinform or deceive a customer or prospective customer.

(2) An insurer or an insurance intermediary who contravenes paragraph (1) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding three million dollars or to a term of imprisonment not exceeding one year.

**Electronic transactions.**

142G. – (1) Where an insurer and insurance intermediary provide business infrastructure to facilitate electronic transactions and access to electronic documents through their electronic communications system, the insurer and insurance intermediary, as the case may be, shall cause the system to make available or to provide for the benefit of customers and prospective customers, the following information –

(a) the address of the registered office, or the head office;

(b) contact information, including branch office addresses, telephone numbers, facsimile numbers, email addresses and

contact details for access to customer assistance;

- (c) procedures for the submission of enquiries, making of claims, payment of premiums and fees;
- (d) the name, address and contact details for the Commission and a statement that the Commission is the regulator for the insurance industry;
- (e) as applicable, the information specified in paragraph (2); and
- (f) any other useful information the provision of which is consistent with the duty of care owed by an insurer and an insurance intermediary.

(2) Where there are changes in the incorporation status, name, the business portfolio, the situation or circumstances of the insurer or the insurance intermediary such that the information specified under paragraph (1) is inaccurate or incorrect, the insurer and insurance intermediary, as the case may be, shall make the accurate or correct information available to the public.

(3) In these Regulations –

“electronic document” has the meaning assigned to it by section 2 of the Electronic Transactions Act;

“electronic communications system” has the meaning assigned to it by section 2 of the Electronic Transactions Act;

“electronic transactions” has the meaning assigned to it by section 2 of the Electronic Transactions Act.

*Protection of Customer Information*

**Duty to protect personal information.** 142H. – (1) Insurers and insurance intermediaries shall establish policies, procedures and practices, including security procedures, in accordance with law, to protect all personal information in the custody or under the control of the insurer or insurance intermediary and the highest security precautions shall be applied for the protection and secure disclosure of confidential personal information.

(2) Insurers and insurance intermediaries shall implement record management systems, controls and procedures, including cybersecurity measures, to –

- (a) secure and restrict access to customer information, and in particular any personal information in the custody and control of the insurer or insurance intermediary;
- (b) permit disclosure only to the extent necessary for the purpose of the conduct of the insurer’s business, including the

settlement of claims with the consent of the person to whom the information relates and in accordance with law.

(3) The insurer and insurance intermediary shall not use electronic technology or equipment which, by virtue of the terms of any licence, contract or other arrangement, will expressly or otherwise operate to deprive the insurer or the insurance intermediary of the capacity to exercise control and custody of customer information, in particular confidential personal information such as medical history.

(4) Where an insurer or an insurance intermediary is associated with another insurer or with other companies in a group, the insurer and insurance intermediary shall not distribute customer information, and in particular confidential personal information, among the companies within the group unless, the conduct of insurance business in relation to the specific customer necessitates disclosure of that customer's information to another company within the group.

(5) An insurer or insurance intermediary shall disclose customer information upon the request of another registered insurer or registered insurance intermediary, as the case may be, if the requesting insurer or insurance intermediary

requires the customer's information –

- (a) upon assumption by that insurer or insurance intermediary of obligations under or pursuant to an insurance contract to which the customer was not a party at the time of contract formation; and
- (b) for insurance business continuity consequent on the purchase, merger, acquisition, consolidation, winding up, liquidation, bankruptcy or other restructuring of the requesting insurer or insurance intermediary.

**Customer's right of access to own information.**

142I. Where information is held in the custody and under the control of an insurer, an insurance intermediary or both, that information shall –

- (a) be provided by the insurer or insurance intermediary, as applicable, upon the customer's request for the information, to that customer; and
- (b) if the customer gives notice of any erroneous information, or out-dated particular, the insurer and insurance intermediary, as applicable, shall make the necessary correction and up-date the information recorded.

**Customer complaints.**

142J. Insurers and insurance intermediaries shall –

- (a) on receipt of a complaint from a customer, acknowledge receipt of the complaint and advise the customer of the anticipated time-frame and applicable procedure for resolution of the customer's complaint;
- (b) make efforts, in a timely manner, to resolve a complaint received from a customer;
- (c) keep records of all customer complaints received, the efforts made to resolve each complaint and whether the complaint was resolved to the satisfaction of the customer;
- (d) at the request of the Commission, make available those records and furnish to the Commission any reports requested on customer complaints received, efforts taken to resolve those complaints and the outcome of those efforts;
- (e) analyse complaints received to identify and assess recurring complaints demonstrating or indicating trends which require resolution at a systemic level.

**Premium financing by insurer or insurance intermediary.**

142K. – (1) Subject to section 23(1)(c) of the Act, an insurer or an insurance intermediary may offer a loan to finance the payment of insurance premiums in accordance with any directions of the Commission.

(2) An insurer or an intermediary that

fails to comply with paragraph (1) commits an offence and is liable on summary conviction before a Judge of a Parish Court to a fine not exceeding three million dollars or imprisonment for a term not exceeding one year.

**Advertisements.**

142L. – (1) Where an insurance intermediary makes or permits to be made any statement or issues, or permits to be issued, an advertisement, circular, descriptive booklet or other document, in relation to its insurance business that statement, advertisement, circular, descriptive booklet or other document –

(a) shall include, in each case –

- (i) the full name of the broker or agent;
- (ii) the identity of the applicable insurer underwriting the insurance policies and equity linked products being offered by the named broker or agent;

(b) shall not include –

- (i) present in such manner, or omit any information so as to convey to a person reading, hearing or viewing the statement, advertisement, circular, descriptive booklet or other document that a broker or

- agent is an insurance company;
- (ii) any statement, representation or depiction that states or implies that a broker or agent may alter the terms of any insurance policy or equity-linked product being offered, including any representation that discounts or premium financing is available at the election of the broker or agent;
  - (iii) statements prohibited under section 146 of the Act;
  - (iv) any reference to insurance policies, services or equity linked products that are not approved by the Commission or which are only available through a facultative placement broker pursuant to section 20 of the Act;
  - (v) any reference to an unregistered insurer, unregistered insurance intermediary or any insurance policies underwritten by an unregistered insurance company.

(2) An insurer and an insurance intermediary, respectively, shall not cause or permit a statement, advertisement, circular,

descriptive booklet or other document to be published, broadcast or distributed, including by electronic means, or otherwise made available to the public, unless the insurer or the insurance intermediary, as applicable –

- (a) is satisfied that the statement, advertisement, circular, descriptive booklet or other document is in conformity with the requirements of these Regulations; and
- (b) has approved its publication, broadcast, or distribution to the public.

*Management of Insurance Claims*

**Settlement of claims.**

142M. – (1) Insurers and insurance intermediaries shall implement and maintain an efficient, fair and transparent process for the settlement of insurance claims and that process shall be developed based on the factors which may affect the anticipated duration for settlement of claims.

(2) The procedures referred to in paragraph (1) shall –

- (a) be set out in writing for the guidance of customers and prospective customers, the parties to the settlement, employees of the insurer and the insurance intermediaries;
- (b) include procedures for the resolution of any grievance or disputes arising in relation to the insurance claim made.

(3) The process for the settlement of insurance claims to be established and maintained under paragraph (1), requires that, on receipt of a claim, insurers and insurance intermediaries –

- (a) effect all communication with the policyholder in writing;
- (b) if there is any limitation on the insurance coverage affecting the claim, explain the limitation to the policyholder as soon as practicable;
- (c) advise the policyholder of the principles of subrogation and its application to the policyholder's claim;
- (d) where the settlement of the claim requires the services of a loss adjuster or other insurance intermediary, advise the policyholder of the retention of such services, the reason therefor and the implications on the procedure for settlement of the claim;
- (e) on completion of an assessment of the damage or loss sustained, provide the policyholder with a copy of the estimate of damage applied to calculate the amount payable in satisfaction of the claim;
- (f) if the claim involves other insurers, to engage with those insurers, without delay,

resolve settlement of the claim between or among the insurers; and

- (g) notwithstanding paragraph (f), settle the claim.

**Designation of qualified persons for settlement of claims.**

142N. Insurers and insurance intermediaries shall designate suitably qualified and trained persons to perform the functions and tasks required for the settlement of claims.

**Insurer's duty to give proper consideration to claim.**

142O. – (1) An insurer –

- (a) shall give proper and fulsome consideration to every claim made and shall not decline to settle a claim under an insurance policy unless the insurer --

- (i) determines, after conduct of a thorough investigation, the facts applicable to the claim;
- (ii) considers the terms of the specific insurance policy and the insurance coverage to which the policyholder is entitled under the insurance contract;

- (b) shall not discourage a claimant from obtaining –

- (i) the services of a claims adjuster;
- (ii) legal advice from or retaining the services of an attorney-at-law;

- (c) shall make payment to settle the proved

claim made under the insurance contract with the insured in accordance with the insurance contract and the insured's policy, and to do so, notwithstanding any agreement among insurers for the settlement of claims involving those insurers, including any facility for the recovery of payments made by one insurer from any other insurer;

- (d) shall not settle or attempt to settle a claim by payment of an amount less than the amount the claimant is entitled to receive under the insurance contract;
- (e) shall make the payment to settle a proved claim and shall not transfer the responsibility for the settlement of a claim to another insurer unless, the insurance contract expressly provides for such transfer of liability to make payment in settlement of a claim.

(2) Where a claim is made under a motor vehicle insurance policy as a result of an accident involving a third party, if the insurer at risk under the insurance contract accepts responsibility to make payment in settlement of the claim, the insurer for the third-party shall not decline to make the payment of the claim –

- (a) on the ground that the third-party insured

has not reported the motor vehicle accident giving rise to the claim;

- (b) on the ground that no report of the motor vehicle accident has been made to the police; or
- (c) on any other ground that is inconsistent with the terms of a third party's insurance contract.

(3) Where insurers fail to agree which of them is responsible to make payment in settlement of a proven claim made under a motor vehicle insurance policy within thirty days of the date on which the claim was proved, the insurers shall refer the matter to mediation and the determination of the mediator shall be final.

**Duty to avoid conflicts of interest.**

142P. – (1) In relation to insurance intermediaries, this regulation applies only to the insurance intermediaries specified in sub-paragraph (7) (hereinafter referred to as the specified insurance intermediary).

(2) An insurer and a specified insurance intermediary, shall avoid circumstances which, whether directly or indirectly, constitute a conflict of interest or may result in a conflict of interest between any of the following persons –

- (a) the policyholder and the insurer;
- (b) the policyholder and the insurance

intermediary;

(c) the insurer and the insurance intermediary.

(3) The duty under subsection (1) applies in particular to the exploitation of information or opportunity (and it is immaterial whether the insurer or the specified insurance intermediary could take advantage of the information or opportunity).

(4) The duty referred to in subsection (1) is not infringed if –

- (a) the circumstances cannot reasonably be regarded as likely to give rise to a conflict of interest;
- (b) the matter giving rise to the circumstances has been approved by the conduct review committee;
- (c) in the case of an unavoidable conflict of interest, it is disclosed in accordance with paragraph (6), and steps taken to address the conflict; and
- (d) within thirty days of having notice of the conflict of interest, a report is made to the Commission by the insurer or the specified insurance intermediary, as the case may be, on the conflict of interest identified, the related circumstances and the manner in which the conflict was addressed.

(5) An insurer or a specified insurance intermediary, as the case may be, shall not accept a benefit from a third party, an affiliated or associated insurer or specified insurance intermediary, unless –

- (a) the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest;
- (b) the insurer or specified insurance intermediary has made full disclosure to the customer of the relationships and circumstances in conflict with, or likely to result in conflict with, the interests of the customer.

(6) Insurers and specified insurance intermediaries shall not advise policyholders to surrender or permit to lapse or otherwise determine an insurance policy and enter into new insurance contracts on the same or substantially the same terms, unless such advice is given solely on the basis of the interests of the customer.

(7) Where the conflict of interest is unavoidable, the insurer and specified insurance intermediary, respectively, shall disclose in writing to the policyholder, the directors of the insurer or specified insurance intermediary, as the case may be, the interest held and the nature and extent of the

conflict of interest.

(8) This regulation applies to the following insurance intermediaries –

- (a) insurance agents;
- (b) insurance brokers; and
- (c) sales representatives.

(9) Any reference in this section to a “conflict of interest” includes a conflict of interest and duty and a conflict of duties.

*Controls against Fraud and  
Money laundering*

**Fraud and  
money  
laundering  
prevention  
training.**

142Q. – (1) Insurers and insurance intermediaries in the conduct of insurance business shall establish and maintain policies and procedures to verify insurance claims, including the identity of policyholders, beneficiaries and claimants, for the establishment and maintenance of proper record-keeping and internal reporting procedures to prevent fraudulent transactions and money-laundering.

(2) Insurers and insurance intermediaries shall provide employees, from time to time, with training in the recognition and handling of transactions which constitute, or appear to constitute, a transaction that may be related to the commission of money laundering or fraud.

(3) An insurer or an intermediary that

fails to comply with paragraph (1) or (2) commits an offence and is liable on summary conviction before a Judge of a Parish Court to a fine not exceeding three million dollars or to a term of imprisonment not exceeding one year.

*Arrangements between Insurance Intermediaries and Insurers*

**Dealing with unregistered insurance intermediary.**

142R. – (1) An insurer shall not engage the services of an insurance intermediary –

- (a) unless that insurance intermediary is registered under the Act;
- (b) in respect of any class of insurance business in relation to which the insurance intermediary is not registered.

(2) An insurer that contravenes paragraph (1)(a) or (b) commits an offence and is liable on summary conviction before a Judge of a Parish Court to a fine not exceeding three million dollars.

**Arrangements to be in writing, etc.**

142S. – (1) The business arrangement between an insurer and a registered insurance intermediary in respect of the conduct of the insurance business in respect of that insurer shall –

- (a) be an agreement in writing; and
- (b) set out the terms of the arrangement in accordance with paragraph (2).

(2) The terms of an agreement referred to

in paragraph (1) shall include performance standards and procedures for –

- (a) the notification of claims by the registered insurance intermediary to the insurer;
- (b) the remittance to the insurer of premiums paid to the registered insurance intermediary in respect of the insurance business of that insurer, including any time-lines for the paying over to the insurer the insurance premiums received by the insurance intermediary;
- (c) terms of credit;
- (d) standards and procedures for the notification of and to address –
  - (i) requests for information and complaints made by customers and claims adjusters, which shall be in accordance with regulation 142B; and
  - (ii) any concerns of an insurer in relation to the conduct of insurance business by the insurance intermediary in relation to that insurer;
- (e) record-keeping by the registered insurance intermediary in respect of the conduct of business activities relating to that

insurer.”.

**Amendment of Fifth Schedule to principal Regulations.**

26. The principal Regulations are amended by deleting the Fifth Schedule and substituting therefor the following –

“ **FIFTH SCHEDULE (Regulation 28)**

MINIMUM CAPITAL TEST (MCT) RATIO CALCULATIONS

Part I.

Before the 1<sup>st</sup> day of January, 2023 –

*[HERE, INSERT SPREADSHEET]*

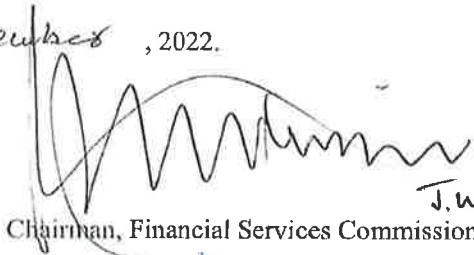
Part II.


After the 31<sup>st</sup> day of December, 2022 –

*HERE, INSERT SPREADSHEET]*

”.

Dated this 22<sup>nd</sup> day of December, 2022.

  
J.W. ROBINSON  
Chairman, Financial Services Commission

Approved by:   
Minister of Finance and the Public Service

