

BELIZE

INSURANCE (AMENDMENT) (NO. 2) ACT, 2014
ARRANGEMENT OF SECTIONS

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16. Amendment of section 101.
17. Amendment of section 133.
18. Amendment of section 178.



No. 16 2014

I assent

Sir Colville N. Young
Governor-General

15th October, 2014

AN ACT to further amend the Insurance Act (No. 11 of 2004) to provide for matters in respect of corporate governance and ownership of an insurer or insurance intermediary in accordance with international standards for insurance; and to provide for matters connected therewith or incidental thereto.

(Gazetted 15th October, 2014.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows,

1. This Act may be cited as the

INSURANCE (AMENDMENT) (NO. 2) ACT, 2014

Short title.
Act 11 of 2004
S.I. 81 of 2004
S.I. 117 of 2008
Act 11 of 2014

and shall be read and construed as one with the Insurance Act, which is hereinafter referred to as the principal Act.

Amendment of
section 2.

2. The principal Act is amended in section 2,

(a) by inserting, in the appropriate alphabetical order, the following definitions,

“controlling interest” has the meaning given in section 2B;

“divestment directive” means a directive issued under section 7F;

“financial group” means a related group, the members of which are incorporated in Belize and are limited in their activities to,

(a) the business of insurance;

(b) the business of banking;

(c) financial business;

(d) international banking;

(e) trading in securities; and

(f) subject to the approval of the Supervisor, providing necessary services to support the activities of the members of the related group,

and includes a financial holding company;

“financial holding company” means a local company that is the holding body corporate of an insurer or insurance intermediary required by section 7J;

“holding body corporate” means a body corporate that has a controlling interest in another body corporate;

“insurance company” or “insurer” means a body corporate which is licensed to carry on insurance business in Belize, pursuant to this Act;

“related group” means,

- (a) two or more bodies corporate that are controlled by the same person;
- (b) the direct and indirect subsidiaries of the bodies corporate referred to in paragraph (a); and
- (c) the controlling person referred to in paragraph (a);

“subsidiary” means a company in which fifty per cent or more of its shares are held directly or indirectly by another company, or whose board of directors is controlled directly or indirectly by another company; and

“substantial investment” has the meaning given in section 2C;”;

- (b) in the definition of “actuary” by inserting immediately after the words “in Scotland,” the words “of the Canadian Institute of Actuaries,”;
- (c) in the definition of “auditor”, in paragraph (b), by inserting immediately after the words “from time to time”, the words “and who holds a current

practicing certificate from that association”; and

- (d) in the definition of “overseas company” by inserting immediately after the words “overseas company”, the words “or “foreign company””.

Insertion of sections 2B and 2C.

3. The principal Act is amended by inserting immediately after section 2A, the following,

“Controlling interest.

2B.—(1) For the purpose of this Act,

- (a) a person has a controlling interest in a body corporate if,

(i) shares of the body corporate to which are attached more than twenty five per cent of the votes that may be cast to elect directors of the body corporate are controlled or beneficially owned by the person and the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the body corporate;

(ii) the person can appoint or remove a majority of the board of directors of the body corporate; or

(iii) the person is able to exert a significant influence over the body corporate;

- (b) a person has a controlling interest in an unincorporated entity, other than a limited partnership, if,
 - (i) more than twenty five per cent of the ownership interests, however designated, into which the unincorporated entity is divided are controlled or beneficially owned by the person and the person is able to direct the business and affairs of the unincorporated entity; or
 - (ii) the person is able to exert a significant influence over the unincorporated entity; and
- (c) the general partner of a limited partnership has a controlling interest in the limited partnership.

(2) A person who has a controlling interest in an entity is deemed to have a controlling interest in any entity that is controlled by the entity.

(3) A person is deemed to have a controlling interest, within the meaning of paragraph (1)(a) or (b), in an entity if the aggregate of,

- (a) the shares or ownership interests of the entity that are beneficially owned by the person; and

- (b) the shares or ownership interests of the entity that are beneficially owned by any entity controlled by the person,

is such that, if that person and all of the entities referred to in paragraph (b) that beneficially own shares or ownership interests of the entity were one person, that person would have a controlling interest in the entity.

Substantial investment.

2C.—(1) A person has a substantial investment in a body corporate if,

- (a) the voting rights attached to the aggregate of the voting shares of the body corporate controlled or beneficially owned by the person and by an entity in which the person has a controlling interest, exceed ten per cent of the voting rights attached to all of the outstanding voting shares of the body corporate; or
- (b) the aggregate of any shares of the body corporate controlled or beneficially owned by the person and by an entity in which the person has a controlling interest, represents ownership of greater than ten per cent of the shareholders' equity of the body corporate.

(2) A person has a substantial investment in an unincorporated entity where the aggregate of the ownership interests, however

designated, into which the entity is divided, controlled or beneficially owned by the person and by an entity in which the person has a controlling interest, exceeds twenty five per cent of all of the ownership interests into which the entity is divided.”.

4. The principal Act is amended in section 4,

Amendment of section 4.

- (a) in subsection (1), by inserting, immediately after the words “public office”, the words “and who may only be removed from office for cause”; and
- (b) by inserting, immediately after subsection (4), the following,

“(5) Nothing in subsection (4), in this Act or any other law of Belize, prevents the Supervisor from disclosing or sharing information with a local or foreign regulatory body or agency that regulates or supervises financial entities, including insurers, for the purpose of such regulation or supervision.

(6) For the purpose of subsection (5), “financial entity” has the meaning assigned to it in section 2 of the Domestic Banks and Financial Institutions Act.”.

No. 11 of 2012

5. The principal Act is amended by inserting, immediately after section 7, the following,

Insertion of Part 1A.

“Part IA

Ownership of Insurer or Insurance Intermediary

Acquisition and holding of shares.

7A.—(1) A person shall not acquire or hold any share in an insurer or insurance intermediary, unless he is fit and proper.

(2) A person shall not, unless the prior written approval of the Supervisor is obtained, acquire,

(a) a substantial investment or controlling interest in an insurer or insurance intermediary; or

(b) the right to exercise control, in any manner, over any voting share of an insurer or insurance intermediary where such acquisition would give the right to exercise control over more than ten per cent of,

(i) any class of voting shares, or

(ii) the total votes attached to all outstanding voting shares.

(3) Notwithstanding subsection (2), an intermediary licensed under Part IV may not acquire a substantial investment in an insurer.

(4) A person who has obtained the written approval of the Supervisor to acquire a substantial investment in an insurer or insurance intermediary pursuant to subsection (2), shall not increase that substantial investment, by ten percent or more unless the prior written approval of the Supervisor is obtained.

(5) The Supervisor shall not grant approval for the purpose of subsection (2)

and (4) unless the Supervisor is satisfied that following the acquisition, the person who, acquires the substantial investment, increase in substantial investment; or the right to exercise control over voting shares is fit and proper.

Transfer of substantial investment.

7B.—(1) A person who owns or holds a substantial investment in an insurer or insurance intermediary shall not sell, transfer, charge or otherwise dispose of his substantial investment in the insurer or insurance intermediary, or any part of his substantial investment, unless the prior written approval of the Supervisor has been obtained.

(2) The Supervisor shall not grant approval for the purpose of subsection (1) unless the Supervisor is satisfied that, following the sale, transfer, charge or other disposal, the person who acquires a substantial investment is fit and proper.

Duties of insurer and insurance intermediary, share issue and transfer.

7C.—(1) An insurer or insurance intermediary shall not, unless the prior written approval of the Supervisor has been obtained,

- (a) cause, permit or acquiesce in the acquisition referred to in section 7A (2), (3) or (4);
- (b) cause, permit or acquiesce in a sale, transfer, charge or other disposition referred to in section 7B (1); or
- (c) issue or allot any shares or cause, permit or acquiesce in

any other reorganisation, including of its share structure, that results in,

- (i) a person acquiring a substantial investment or controlling interest in the insurer or insurance intermediary; or
- (ii) a person who already owns or holds a substantial investment in the insurer or insurance intermediary, increasing the substantial investment by ten per cent or more.

Application for approval.

7D.—(1) A person who seeks the approval of the Supervisor for the purposes referred to in sections 7A (2),(3) and (4) and 7B (1), shall submit to the Supervisor an application containing such information and in such form as the Supervisor may specify.

(2) The Supervisor may refuse to accept an application which does not contain all information specified under subsection (1).

Determination of application.

7E.—(1) The Supervisor, in considering an application received in accordance with section 7D shall make such investigations and inquiries, as necessary, and shall consider,

- (a) the terms and conditions of the proposed acquisition, sale, transfer, charge or other disposal;

- (b) the financial resources and history of the shareholder or proposed shareholder;
- (c) the financial condition and capitalisation of the insurer or insurance intermediary;
- (d) any proposed change in the business, corporate structure, or management of the insurer or insurance intermediary;
- (e) the completeness and truthfulness of the information submitted by the shareholder or proposed shareholder; and
- (f) any other matters that the Supervisor considers appropriate.

(2) The Supervisor shall determine an application received in accordance with this section and give the applicant written notice of the decision within one hundred and twenty days of the acceptance of the application.

(3) Notwithstanding subsection (2), the Supervisor may, upon giving the applicant written notice that further investigation or inquiry is needed, extend the time period for determination and giving the decision by a maximum of sixty days.

(4) The Supervisor may specify further procedures for the implementation of this section.

(5) Where the Supervisor is of the opinion that the interests of a group of two or more persons are so interrelated that they should be considered as a single unit, the total shareholdings in an insurer or insurance intermediary of that group shall be combined and deemed to be the holdings of a single person for purposes of this section.

**Divestment
directive.**

7F.—(1) The Supervisor may by written directive require a person who holds a substantial investment or controlling interest in an insurer or insurance intermediary to divest all or a specified proportion of the shares held by that person if,

- (a) the section 7A (2), (3), (4) or 7B (1) have been violated;
- (b) the person is not fit and proper;
- (c) the information provided in the application for approval under section 7D, was materially inaccurate or misleading; or
- (d) a circumstance exists or existed at the time of the application for approval, for which the Supervisor would not have granted approval if the Supervisor was aware of it at the time of approval.

(2) The Supervisor shall, prior to issuing a divestment directive notify the insurer or insurance intermediary and the shareholder

in writing of the intention to issue the directive and shall afford them an opportunity to make representations to the Supervisor within fifteen days after the date of the notice, or within any longer period that the Supervisor permits.

(3) If the Supervisor is of the opinion that the public interest may be prejudiced by the shareholder continuing to exercise any shareholder rights attached to the shares to be divested, including, but not limited to, the right to attend or vote at meetings of the shareholders, during,

- (a) the period for making representations specified in subsection (2);
- (b) the period preceding the decision of the Minister under section 7G (2);
- (c) the period preceding the decision of the Supreme Court where an application has been made to the Supreme Court by the Supervisor under section 7H; or
- (d) the period preceding the decision of the Court of Appeal or the Caribbean Court of Justice where an appeal has been made to that court,

the Supervisor may prohibit the shareholder from exercising any such rights until final determination of the matter.

(4) The Supervisor shall, upon affording the shareholder and the insurer or insurance intermediary an opportunity to make representations in accordance with subsection (2), notify them without delay if the Supervisor issues the divestment directive.

**Appeal of
divestment
directive.**

7G.—(1) The shareholder may appeal the issue of the divestment directive to the Minister within thirty days after the date of receipt of notice of the divestment order under subsection (4), or within any longer period that the Minister allows, provided that the extension shall not exceed sixty days.

(2) The Minister may upon hearing the appeal dismiss the appeal or set aside the divestment directive.

Enforcement.

7H.—(1) If a shareholder, does not appeal to the Minister in accordance with section 7G or appeals and the appeal is dismissed and the shareholder fails to comply with the divestment directive, the Supervisor may, without prejudice to any other remedy available under this Act or any other law, apply summarily to the Supreme Court for such orders as may be necessary for enforcing the divestment order.

(2) Without limiting the generality of subsection (1), the order of the Court may include an order conferring on the Registrar of the Court authority to do any act or take any step necessary to secure compliance with the divestment order.

(3) A person commits an offence and is liable on summary conviction, to a fine of ten

thousand dollars for every day the offence continues and, to imprisonment for a term not exceeding six months, in the case of an individual, if that person,

(a) contravenes section 7A (2), (3), (4) or 7B (1); or

(b) fails to comply with a divestment directive.

(4) The authority conferred on the Supervisor under this section shall be in addition to and shall not derogate from any other authority, power or duty conferred on the Supervisor under this Act or any other law.

**Disclosure of
shareholders,
beneficial
owners and
agreements.**

7I.—(1) The Supervisor may by notice in writing require an insurer or insurance intermediary to submit within such period and in such form as may be specified by the Supervisor, a list of shareholders on its register of any class of its issued share capital, and the names of the ultimate beneficial owners of such shares.

(2) An insurer or insurance intermediary may by notice in writing require its registered shareholders to submit, within such time and in such form as may be specified by the insurer or insurance intermediary, the names of the ultimate beneficial owners of the shares registered in their names.

(3) If an insurer or insurance intermediary has reason to believe that a registered shareholder has transferred or

agreed to transfer to any other person ownership or control of any of the rights associated with the shares, including, but not limited to, the right to attend or vote at meetings of shareholders, the insurer or insurance intermediary may, by notice in writing, require any such shareholder or other person to submit to the insurer or insurance intermediary within such time and in such form as may be specified,

- (a) a statement disclosing the particulars of any such transfer or agreement to transfer; and
- (b) copies or particulars of any agreement, transfer form, correspondence, writing or other document in the possession, control or knowledge of the person relative to such transfer or agreement to transfer.

(4) A person who fails to comply with the requirements of a notice issued under subsection (2) or (3) or who knowingly provides inaccurate, incomplete or misleading information or a document in response to the notice commits an offence and is liable on summary conviction to a fine of five thousand dollars for every day the offence continues and to imprisonment for a term of six months.

**Requirement
for financial
holding
company.**

7J.—(1) If an insurer or insurance intermediary or proposed insurer or proposed insurance intermediary is, or is about to become, a member of a related group in which,

- (a) the activities of one or more member, in addition to the insurer, insurance intermediary, proposed insurer or proposed insurance intermediary is limited to those permitted to a member of a financial group; and
- (b) the activities of one or more member is not limited to those permitted to a member of a financial group,

a person who has a controlling interest in the insurer, insurance intermediary, proposed insurer or proposed insurance intermediary is required to be a financial holding company described in subsection (2) or (3) and to register the financial holding company in accordance with section 7M.

(2) For the purposes of subsection (1), if the person who, directly or indirectly, has a controlling interest in the related group is a holding body corporate, the financial holding company is required to be another holding body corporate that is the immediate subsidiary of the first mentioned holding body corporate.

(3) For the purposes of subsection (1), if the person who, directly or indirectly, has a controlling interest in the related group referred to in subsection (1) is an individual or unincorporated entity, the financial holding company shall be a holding body corporate of which the shares shall be directly held by that individual or unincorporated entity.

(4) If, a person referred to in subsection (1) is not a financial holding company in accordance with subsection (1) and (2) at the time this section comes into force, that person shall, within a period of two years,

(a) comply with subsections (1) to (3); or

(b) divest itself of its controlling interest in the insurer or insurance intermediary.

(5) A financial holding company required by this section shall apply to the Supervisor for registration pursuant to section 7M.

(6) Notwithstanding subsection (1) to (5), if the person who has a controlling interest in an insurer or insurance intermediary is itself an insurer or insurance intermediary under this Act, this section shall not apply.

**Exception,
overseas
controlling
interest.**

7K.—(1) Subject to subsection (2), section 7J shall not apply if an insurer, insurance intermediary, proposed insurer or proposed insurance intermediary is, or is about to become, a member of a related group and,

(a) the members of the related group whose activities are restricted to the activities permitted to members of a financial group described in section 7J (1) are directly controlled by,

- (i) an insurance company or other financial institution that is an overseas company; or
 - (ii) a foreign holding body corporate described in subsection (2); and
- (b) the insurer or insurance intermediary or proposed insurer or insurance intermediary is, or will be, directly controlled by the overseas company referred to in paragraph (a).

(2) Subsection (1) shall apply where the Supervisor is satisfied that,

- (a) the overseas company referred to in subsection(1)(a),
 - (i) is subject to regulation and supervision acceptable to the Supervisor; and
 - (ii) is not directly or indirectly affiliated with any entity that carries on any business other than an activity permitted to a member of a financial group, except for its link through common ownership by the person who controls it directly or indirectly; and

- (b) there is no obstacle to the Supervisor obtaining information from the overseas company referred to in subsection(1)(a), or from the relevant regulatory authority.

Restriction on activities of financial holding company.

7L.—(1) A financial holding company referred to in section 7J shall not,

- (a) carry on any activity other than administering its holding of shares in members of its financial group;
- (b) directly or indirectly control any member of another financial group, whether through establishment or acquisition, without the prior approval of the Supervisor; or
- (c) directly or indirectly, acquire or hold any share or ownership interest in any commercial, agricultural or industrial company or unincorporated entity, except as may be prescribed.

(2) For the purpose of subsection(1)(c), the Minister, after consultation with the Supervisor, may prescribe regulations which may include,

- (a) the maximum percentage of shares of any class or the maximum value of ownership

interests that may be acquired or held;

- (b) the maximum aggregate value of any such shares and ownership interest; and
- (c) the requirement for the prior approval of the Supervisor.

Application for registration.

7M.—(1) A person who is required under this Part to register as a financial holding company shall apply for registration in writing and in the prescribed form and manner, together with the prescribed non-refundable application fee and the following,

- (a) the capital resources and capital structure of the body corporate that is the proposed financial holding company, including identification of the person who controls it and of any person who holds more than ten percent of any class of shares;
- (b) organisational and managerial structures;
- (c) composition of the board of directors;
- (d) whether the directors and officers of the proposed financial holding company are fit and proper;
- (e) whether the person controlling the proposed financial holding company is fit and proper;

- (f) audited financial statements for the past three years, if applicable;
- (g) strategic and operational business plans;
- (h) financial plans, including projections for the next three years;
- (i) sources of funds for initial and ongoing costs; and
- (j) any other information that the Supervisor may require.

(2) The Supervisor shall consider the information referred to in subsection (1) and shall not register an applicant as a financial holding company unless,

- (a) the person controlling the proposed financial holding company is fit and proper and is not likely to prejudice the interests of policyholders and other customers of the insurers or insurance intermediary; and
- (b) ownership of shares by the person controlling the proposed financial holding company, given the corporate affiliations or structure of that person, is not likely to,
 - (i) hinder effective supervision under this Act; or

- (ii) prejudice the interests of policyholders and other customers of an insurer or insurance intermediaries.

(3) The Supervisor may attach conditions to the registration of a financial holding company under this section, including, without limitation, conditions to ensure that,

- (a) the capital available to the financial group is adequate and will not jeopardize the financial position of an insurer or insurance intermediary, bank or financial institution within the financial group;
- (b) no double or multiple gearing or excessive leveraging of capital exists or will take place;
- (c) the financial group is structured and managed in such a manner that it may be supervised by the Supervisor;
- (d) each member of the financial group maintains adequate control mechanisms enabling it to provide to the Supervisor any data or information relevant to its supervision; and
- (e) activities or overseas locations of operations that may be injurious to the insurer or

insurance intermediary or other licensees that are members of the financial group are prevented.

(4) The Supervisor may, at any time and from time to time, vary, remove or add further conditions to the registration of a financial holding company under this section.

Control by bank.

No. 11 of 2012

7N. In the event that an insurer or insurance intermediary is controlled by a bank to which the Domestic Banks and Financial Institutions Act applies and that bank also controls all other members of the related group, the financial holding company required under section 7J shall be a financial holding company referred to in the Domestic Banks and Financial Institutions Act or the International Banking Act, as the case may be.

Register of financial holding companies.

70. The Supervisor shall maintain a register of the financial holding companies registered under this Act.”.

Amendment of section 16.

6. The principal Act is amended in section 16, subsection (1) by inserting immediately after the word “cancel” in the chapeau, the words “or suspend”.

Amendment of section 23.

7. The principal Act is amended in section 23, subsection (2) by deleting the words “Any licensed insurer or insurance intermediary” and substituting the words “A person”.

Insertion of sections 37A, 37B, 37C, 37D, 37E, 37F, 37G and 37H.

8. The principal Act is amended by inserting immediately after section 37 the following,

“Directors and Officers

Minimum number of directors.

37A. An insurer or insurance intermediary licensed under this Act, shall have at least four directors.

Duties of directors and officers.

37B.—(1) A director, officer and the principal representative of an insurer or insurance intermediary or financial holding company, in exercising the powers and discharging the duties of the person’s office, shall,

- (a) act honestly, in good faith and in the best interests of the insurer or insurance intermediary or financial holding company and the policy holders; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) Without limitation to the duties of the directors, officers or the principal representative, and in addition to the requirements of the Companies Act, the directors, officers and the principal representative of an insurer or insurance intermediary or financial holding company shall,

- (a) manage or supervise the management of the business and affairs of the insurer, intermediary or financial holding company;

- (b) maintain a high standard of conduct in relation to the insurer, intermediary or financial holding company;
- (c) notify the Supervisor of any developments that pose material risks to the insurer or intermediary or financial holding company, including breaches of legal and prudential requirements;
- (d) establish appropriate risk management policies and systems to promptly identify, measure, assess, report and control risks undertaken by the insurer or insurance intermediary, and establish adequate levels of premiums and reinsurance with respect to those risks;
- (e) designate an officer or committee of directors to monitor the policies and systems referred to in paragraph (d);
- (f) establish appropriate policies, standards and procedures for the investment of the assets of the insurer or insurance intermediary, in a manner expected of a prudent person considering the nature of the liabilities of the insurer or

intermediary that avoid undue risk of loss and obtain a reasonable return and that are in compliance with the requirements of the applicable regulations;

- (g) designate an officer or committee of directors to monitor the policies, standards and procedures referred to in paragraph (f);
- (h) adopt policies and procedures that provide for identification and monitoring of transactions between the insurer or intermediary and related parties;
- (i) establish policies and procedures concerning the fair treatment of policyholders and potential policyholders and establish procedures for dealing with complaints and claims effectively and fairly;
- (j) designate an officer or committee of directors to monitor the policies and procedures referred to in paragraph (i);
- (k) perform any other duties and responsibilities that the Supervisor may prescribe from time to time; and

- (l) exercise independent and informed judgment in the performance of their duties.

(3) A director, officer and the principal representative of an insurer or insurance intermediary or financial holding company shall ensure that a copy of the policies, systems, standards and procedures referred to in subsection (2) is filed with the Supervisor, who may require such changes as appropriate.

**Limits on
directors and
officers.**

37C.—(1) A person shall not serve or continue to serve as a director, officer or principal representative of an insurer or insurance intermediary, if that person is,

- (a) not fit and proper;
- (b) an appointed auditor for the insurer or insurance intermediary or is an officer of an entity which is such an appointed auditor;
- (c) an appointed actuary for the insurer;
- (d) an agent of the insurer or an insurance broker; or
- (e) less than eighteen years of age.

(2) An insurer or insurance intermediary shall not elect, appoint or employ a person as a director, officer or principal representative of the insurer or insurance

intermediary unless the prior written approval of the Supervisor is obtained in accordance with section 38.

(3) A person, insurer or insurance intermediary who,

(a) wilfully contravenes this section; or

(b) fails to remedy the contravention within 21 days after receipt of a written notice of the contravention from the Supervisor,

commits an offence and is liable on summary conviction to a fine of ten thousand dollars for each day the offence continues.

Committees.

37D.—(1) The directors of an insurer shall appoint from their number,

(a) an audit committee; and

(b) such other committee or committees as the Supervisor or the insurer considers necessary or desirable.

(2) The audit committee appointed under subsection (1) shall consist of at least two directors, who are not officers of the insurer.

Delegation of directors' duties.

37E.—(1) The directors of an insurer may delegate to a committee or to the chief executive officer such duties and powers of the directors, as the directors consider

appropriate or the Supervisor considers necessary or desirable.

(2) Without limitation to the generality of subsection (1), the audit committee of an insurer shall,

- (a) review the consolidated annual statement of the insurer before it is approved by the directors;
- (b) review such reports of the insurer as the Supervisor may specify;
- (c) require the management of the insurer to implement and maintain appropriate internal control procedures, and review, evaluate and approve those procedures;
- (d) review such investments and transactions that could adversely affect the well-being of the insurer as the auditor or any officer of the insurer may bring to the attention of the committee;
- (e) recommend the external auditor;
- (f) review the internal audit functions and approve all audit plans;
- (g) meet with the auditor to discuss the consolidated annual

statement and the reports and transactions referred to in this subsection;

- (h) meet with the chief internal auditor of the insurer or insurance intermediary, or the officer or employee of the insurer acting in a similar capacity, and with management of the insurer, to discuss the effectiveness of the internal control procedures established for the insurer or insurance intermediary;
- (i) meet with the appointed actuary to discuss the parts of the annual statement and reports prepared by the actuary;
- (j) ensure compliance with policies, laws, regulations and circulars; and
- (k) report to the directors following each meeting of the audit committee.

(3) In the case of the consolidated annual statement and reports of an insurer that under this Act must be approved by the directors of the insurer, the audit committee of the insurer shall report thereon to the directors before the approval is given.

(4) The audit committee of an insurer may call a meeting of the directors of the

insurer to consider any matter of concern to the committee.

Meetings of directors.

37F.—(1) The directors of an insurer shall meet at least four times during each financial year.

(2) Three-quarters of the total number of directors shall constitute a quorum at any meeting of directors, and two directors shall constitute a quorum at any meeting of a committee of directors, or such greater number in either case as may be established by the by-laws of the insurer.

Conflicts of interest.

37G.—(1) A director or officer of an insurer or insurance intermediary who,

(a) is a party to a material loan, contract or transaction, or a proposed material loan, contract or transaction with the insurer or insurance intermediary; or

(b) is a director or officer of, or has a material interest in or a material relation to, any person who is a party to a material loan, contract or transaction, or a proposed material loan, contract or transaction with the insurer or insurance intermediary,

shall disclose in writing to the insurer or intermediary the nature and extent of the material interest or relation.

(2) The disclosure required by subsection (1) shall be made by the director or officer to the board of directors in writing when the matter or proposed contract comes or ought reasonably to have come to the attention of the director or officer.

(3) Notwithstanding subsection (2), a director or officer sufficiently discloses a material interest in relation to a contract if that director or officer gives a written notice to the board of directors which,

(a) discloses every person with whom the director or officer has a commercial, financial, agricultural, industrial or other business or family interest,

(i) at the time the director or officer is appointed or employed; and

(ii) from time to time, not being less than annually; and

(b) indicates that the director or officer is to be regarded as having a material interest in any material contract between the insurer or insurance intermediary and the person disclosed under paragraph (a).

(4) A director or officer who has a material interest or a material relation within the meaning of subsection (1) or (3) shall

leave any meeting at which the matter is discussed, and shall refrain from voting on any matter related thereto which becomes the subject of action by the board of directors of the insurer or intermediary, provided that such an interest, if so disclosed, shall not disqualify the interested person for purposes of constituting a quorum.

(5) For the purposes of subsections (1) and (3), a director or officer shall be deemed to have a material interest in, or material relation to, another person, if that director or officer, or the spouse, parent, sibling or child of that director or officer,

- (a) is or was, during the last fiscal year, an officer, director or partner of or had a controlling interest or substantial investment in that person;
- (b) owes money or is otherwise indebted to, or is a guarantor of any obligation of that person in an amount exceeding two per cent of the fully paid-up uncommitted capital referred to in section 11, the deposit referred to in section 24 and the statutory funds referred to in section 26, and that person is an insurer;
- (c) engages or engaged during the last fiscal year in any transaction with that person in an amount which exceeds ten per cent of

the director's or officer's net worth; or

- (d) is the spouse, parent, sibling or child of any person described in paragraph (b) or (c).

(6) If a director or officer fails to comply with this section, the Supervisor may,

- (a) require the insurer or insurance intermediary to suspend the director or officer from office; or
- (b) remove the director or officer from office.

(7) This section shall not apply to the directors or officers outside Belize of an overseas company.

(8) A director or officer who contravenes subsection (1), (3) or (4) commits an offence and is liable on summary conviction to a fine of twenty five thousand dollars or to imprisonment for a term of one year, or to both such fine and imprisonment.

False statements and obstructions.

37H.—(1) A director or officer of an insurer or intermediary who with intent to deceive,

- (a) makes any false or misleading statement or entry, or omits any statement or entry that should be made in any book, account, report or statement of the licensee; or

- (b) obstructs or endeavours to obstruct the proper performance by an auditor of his duties in accordance with the provisions of this Act, or a lawful examination of the insurer or intermediary by the Supervisor or a duly authorised examiner appointed by the Supervisor,

commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand Belize dollars, or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

Amendment of section 38.

9. The principal Act is amended in section 38, in subsection (1), by,

- (a) deleting the words in the chapeau and substituting the words “An insurer or insurance intermediary shall not appoint a person as a director or officer unless,”; and

- (b) deleting the word “unless” in paragraph (a).

Repeal of section 38A.

10. The principal Act is amended by repealing section 38A.

Amendment of section 40.

11. The principal Act is amended in section 40, by inserting immediately after subsection (12), the following,

“(13) An insurance company is required to submit a quarterly unaudited financial statement 30 days after the end of each quarter to the Supervisor of Insurance.”.

Amendment of section 41.

12. The principal Act is amended in section 41, subsection (1) by deleting the words “not less than once in every three years” and substituting the word “annually”.

13. The principal Act is amended by repealing section 49 and substituting the following,

Repeal and substitution of section 49.

“Appointment and qualification of auditors.

49.—(1) The shareholders of an insurer or insurance intermediary shall appoint annually an auditor who is,

- (a) knowledgeable and experienced in the audits of insurers to the satisfaction of the directors or principal representative of the insurer or insurance intermediary and the Supervisor; and
- (b) independent, within the meaning of subsection (3), of the insurer or insurance intermediary, its subsidiaries and other affiliates and the directors and officers of the insurer or insurance intermediary, its subsidiaries and other affiliates.

(2) For the purposes of this section, independence is a question of fact and an auditor is not independent of an insurer or insurance intermediary if he,

- (a) has any financial relationship with the insurer or insurance intermediary other than as a policyholder;
- (b) is a director, officer, employee or agent of the insurer or insurance intermediary or of any of its subsidiaries or other affiliates;

- (c) has any financial relationship with a director, officer, employee or agent of the insurer or insurance intermediary or of any of its subsidiaries or other affiliates;
- (d) owns any share or other security of the insurer or insurance intermediary or beneficially owns or controls, directly or indirectly, a material interest in the shares or other securities of the insurer or insurance intermediary or of any of its subsidiaries or other affiliates; or
- (e) has been a receiver, receiver-manager, liquidator, judicial manager or trustee in bankruptcy of the insurer or insurance intermediary or any subsidiary or other affiliate of the insurer or insurance intermediary within two years immediately preceding the appointment of the auditor, other than a subsidiary or affiliate acquired through a realisation of security.

(3) Upon the appointment of an auditor in accordance with subsection (1), the insurer or insurance intermediary shall immediately give written notice to the Supervisor of the appointment, and if the Supervisor has valid reason to believe that the auditor is not qualified for appointment, he may disapprove

the appointment and notify the insurer or insurance intermediary in writing, whereupon the insurer or insurance intermediary shall immediately remove that auditor and appoint another auditor who is qualified.

(4) If an insurer or insurance intermediary does not or is unable to appoint an auditor qualified under this section, the Supervisor, notwithstanding section 173(6) or any other provisions of the Companies Act, shall have the power to appoint an auditor for the insurer or insurance intermediary, and the remuneration of the auditor so appointed shall be determined by the Supervisor and paid by the insurer or insurance intermediary.

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(5) An insurer or insurance intermediary, immediately upon the resignation or termination of appointment of an auditor for any reason, shall,

- (a) notify the Supervisor in writing giving the reasons for the resignation or termination; and
- (b) appoint another auditor in conformity with the requirements of this section.

14. The principal Act is amended by inserting immediately after section 49, the following,

Insertion of sections 49A, 49B, 49C and 49D.

“Auditor’s right to information.

49A.—(1) On the request of the auditor of an insurer or insurance intermediary, a present or former director, officers, employee or representative of the insurer or insurance

intermediary shall, to the extent that the person is reasonably able to do so,

- (a) permit access to any record, asset or security held by the insurer or insurance intermediary or any subsidiary of the insurer or insurance intermediary; and
- (b) provide such information and explanation,

as is, in the opinion of the auditor, necessary to enable the auditor to perform the duties of the auditor of the insurer or insurance intermediary.

(2) On the request of the auditor of an insurer or insurance intermediary, the directors of the insurer or insurance intermediary shall, to the extent that they are reasonably able to do so,

- (a) obtain from a present or former director, officer, employee or representative of any entity which the insurer or insurance intermediary controls the information and explanation that such person is reasonably able to provide and that is, in the opinion of the auditor, necessary to enable the auditor to perform the duties of auditor of the insurer or insurance intermediary; and

- (b) provide the auditor with the information and explanation so obtained.

**Duties of
auditors.**

49B.—(1) An auditor appointed under section 49 shall,

- (a) make a full review of the records and accounts of an insurer or insurance intermediary in accordance with international financial reporting standards or generally accepted accounting principles and requirements;
- (b) prepare and submit to the directors and shareholders of the insurer or insurance intermediary, or the principal representative a report on the financial statements and state in that report whether, in the auditor's opinion, such financial statements,
 - (i) are full and fair and properly drawn up;
 - (ii) exhibit a true and correct statement of the affairs of the insurer or insurance intermediary in accordance with international financial reporting standards or generally accepted accounting principles, and requirements; and

(2) If an insurer is an overseas company, the reviews and reports required under subsection (1) shall be in respect of the branch or branches of the insurer in Belize and the conduct of its business in Belize.

(3) For the purpose of performing the duties under subsection (1) or (2), the auditor for an insurer or insurance intermediary shall request from the insurer and review, any instruction, recommendation, requirement, orders or directives issued and other action taken by the Supervisor under this Act in respect of that insurer or insurance.

(4) If the Supervisor, on reasonable grounds, is not satisfied with the annual report of an auditor appointed by an insurer, he may appoint another auditor to make an independent audit report, and in every such case, the Supervisor shall determine the reasonable remuneration to be paid by the insurer or insurance intermediary to that auditor appointed under this subsection.

(5) If, during the course of any review required under this section, an auditor learns of any fact, transaction, action or course of conduct concerning a insurer or insurance intermediary which,

- (a) may pose a substantial risk to the financial condition of the insurer or insurance intermediary;
- (b) may result in a significant loss to the insurer or insurance intermediary;

- (c) may seriously prejudice the interests of the insurer's policyholders or customers;
- (d) is a violation of any provision of this Act or any regulations guideline or instruction made hereunder;
- (e) indicates involvement in fraudulent or criminal activity; or
- (f) indicates that the insurer is or may soon become insolvent, within the meaning of section 50,

the auditor shall, as soon as possible, report such matters to the directors of the insurer, insurance intermediary or the principal representative, and the Supervisor.

(6) An auditor who fails to report his findings to the Supervisor as required under subsection (5), commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

Removals and registration of auditors.

49C.-(1) An insurer or insurance intermediary shall immediately give notice to the Supervisor if,

- (a) the insurer or insurance intermediary proposes to give special notice to its shareholders of an ordinary resolution to remove an auditor

before the expiration of his engagement;

- (b) the insurer or insurance intermediary gives notice to its shareholders of an ordinary resolution to replace an auditor at the expiration of his engagement with a different auditor, or
- (c) an auditor ceases to be an auditor of the insurer or insurance intermediary otherwise than as a consequence a resolution referred to in paragraph (a) or (b).

(2) An insurer that is an overseas company shall immediately give notice to the Supervisor if,

- (a) the insurer removes an auditor before the expiration of his engagement;
- (b) the insurer replaces an auditor at the expiration of his engagement with a different auditor; or
- (c) an auditor otherwise ceases to be an auditor of the insurer.

(3) An auditor of an insurer or insurance intermediary appointed under section 49 shall immediately give written notice to the Supervisor if he,

- (a) resigns before the expiration of his engagement; or
- (b) does not seek to be re-appointed.

(4) An insurer or insurance intermediary or auditor who fails to comply with this section commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars.

Auditor's protection from liability.

49D.—(1) No duty to which an auditor may be subject shall be regarded as contravened by reason of his communicating in good faith to the Supervisor, whether or not in response to a request made by him, any information about a insurer or insurance intermediary or an opinion pursuant to an obligation of the auditor under this Act.

(2) This section applies to any matter of which an auditor becomes aware in the auditor's capacity as auditor and which relates to the business or affairs of the insurer or insurance intermediary or any affiliate of the insurer or insurance intermediary.

Insertion of section 100A, 100B, 100C and 100D.

15. The principal Act is amended by inserting immediately after section 100, the following,

“Appointment and qualification of actuaries.

100A.—(1) An insurer that is licensed to carry on long term insurance business shall appoint an actuary annually.

(2) Upon the appointment of an actuary in accordance with subsection (1), the insurer shall immediately give written notice to the

Supervisor of such appointment, and if the Supervisor has valid reason to believe that the actuary is not qualified for appointment pursuant to the requirements of subsection (2), he may disapprove the appointment and notify the insurer in writing, whereupon the insurer shall immediately remove that actuary and appoint another actuary who is qualified to be appointed.

(3) If an insurer does not or is unable to appoint an actuary, the Supervisor shall have the power to appoint an actuary for the insurer, and the remuneration of the actuary so appointed shall be determined by the Supervisor and paid by the insurer.

(4) An insurer, immediately upon the resignation or termination of appointment of an actuary for any reason, shall,

- (a) notify the Supervisor in writing giving the reasons for the resignation or termination; and
- (b) appoint another actuary in conformity with the requirements of this section.

Actuary's right to information.

100B.—(1) On the request of the actuary of an insurer, a present or former director, officer, employee or representative of the insurer shall, to the extent that the person is reasonably able to do so,

- (a) permit access to any record, asset or security held by the insurer or any subsidiary of the insurer; and

- (b) provide such information and explanation,

as is, in the opinion of the actuary, necessary to enable the actuary to perform his duties as actuary of the insurer.

(2) On the request of the actuary of an insurer, the directors of the insurer shall, to the extent that they are reasonably able to do so,

- (a) obtain from a present or former director, officer, employee and representative of any entity which the insurer controls the information and explanation that such persons are reasonably able to provide and that are, in the opinion of the actuary, necessary to enable the actuary to perform his duties as actuary of the insurer; and
- (b) provide the actuary with the information and explanation so obtained.

Duties of actuaries.

100C.—(1) The actuary of an insurer carrying on long term insurance business shall value the actuarial and other policy liabilities of the insurer as at the end of each financial year and shall value any other matters specified in any guideline or direction that may be made by the Supervisor, and shall report thereon to the insurer and the Supervisor.

(2) In the case of an insurer that is an overseas company, the valuations and report

required under subsection (1) shall relate to the conduct of the insurance business in Belize.

(3) The valuation of an actuary shall be in accordance with international generally accepted actuarial practice with such changes as may be determined by the Supervisor and any additional directions that may be made by the Supervisor.

(4) The actuary shall, in making any valuation or establishing any provision required by this Act, follow the standards of practice and methodologies that would be required to be followed in respect of corresponding matters by the organisation of actuaries to which he belongs pursuant to subsection 100B(2).

(5) Prior to making the valuations required by this section, the actuary shall request from the insurer and review, any instruction, recommendation, requirement, orders or directives issued and other action taken by the Supervisor under this Act in respect of that insurer or insurance intermediary.

(6) The report of an actuary required under subsection (1) or (2) shall be sent by the insurer to the Supervisor as soon as they are available but not later than four months after the close of the insurer's financial year, or such longer period as the Supervisor may in writing approve.

(7) Every insurer who fails to comply with the requirements of subsection (6) shall be liable to pay, upon being called upon in

writing by the Supervisor to do so, a penalty of five hundred dollars for each day of such failure to comply, except where an extension to the period has been granted in writing by the Supervisor.

(8) If the Supervisor, on reasonable grounds, is not satisfied with the valuations and report of an actuary appointed by an insurer, he may appoint another actuary to make an independent valuation, and in every such case, the Supervisor shall determine the reasonable remuneration to be paid by the insurer to such actuary appointed under this subsection.

(9) If, during the course of any valuation or review required under this section, any actuary learns of any fact, transaction, action or course of conduct concerning an insurer which,

- (a) may pose a substantial risk to the financial condition of the insurer;
- (b) may result in a significant loss to the insurer;
- (c) may seriously prejudice the interests of the insurer's policyholders or customers;
- (d) is a violation of any provision of this Act or any regulation, guideline or instruction made under the Act;
- (e) indicates involvement in

fraudulent or criminal activity;
or

- (f) indicates that the insurer is or may soon become insolvent,

the actuary shall, as soon as possible, report such matters to the directors of the insurer or the principal representative, and to the Supervisor.

(10) Any actuary who fails to report his findings to the Supervisor as required under subsection (9), commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

100D.—(1) An insurer carrying on long term insurance business shall immediately give notice to the Supervisor if,

Removal and
resignation of
actuaries.

- (a) the insurer proposes to give special notice to its shareholders of an ordinary resolution removing an actuary before the expiration of his engagement;
- (b) the insurer gives notice to its shareholders of an ordinary resolution replacing an actuary at the expiration of his engagement with a different actuary; or
- (c) an actuary ceases to be an actuary of the insurer otherwise than as a consequence of a

resolution referred to in paragraph (a) or (b).

(2) An insurer that is an overseas company carrying on long term insurance business in Belize shall immediately give notice to the Supervisor if,

- (a) the insurer removes an actuary before the expiration of his engagement;
- (b) replaces an actuary at the expiration of his engagement with a different actuary; or
- (c) an actuary otherwise ceases to be an actuary of the insurer.

(3) An actuary of an insurer appointed under section 100A(1) shall immediately give written notice to the Supervisor if he,

- (a) resigns before the expiration of his engagement; or
- (b) does not seek to be re-appointed.

(4) An insurer or actuary who fails to comply with this section commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

16. The principal Act is amended in section 101, subsection (1),

Amendment of
section 101.

- (a) in the chapeau, by deleting the words “every three years or at such shorter intervals as the company notifies the Supervisor to be the interval adopted by it for the purpose of this

section” and substituting the word “annually”;
and

(b) in paragraph (a), by inserting immediately after the words “independent actuary” the words “, approved by the Supervisor,”.

17. The principal Act is amended in section 133, subsection (2), by deleting the words “section 131” and substituting “section 132”.

Amendment of section 133.

18. The principal Act is amended in section 178, subsection (1), in paragraph (o) by inserting immediately after the words “qualifications for” the words “auditors, actuaries,”.

Amendment of section 178.