

CAYMAN ISLANDS



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**THE INSURANCE LAW, 2010
(LAW 32 OF 2010)**

**THE INSURANCE (PORTFOLIO INSURANCE COMPANIES)
REGULATIONS, 2015**

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**THE INSURANCE LAW, 2010
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**THE INSURANCE (PORTFOLIO INSURANCE COMPANIES)
REGULATIONS, 2015**

In exercise of the powers conferred by section 40 of the Insurance Law, 2010 the Cabinet makes the following Regulations -

1. These Regulations may be cited as the Insurance (Portfolio Insurance Companies) Regulations, 2015. Citation

2. (1) In these Regulations - Definitions
“admissible assets” includes class 1 assets, class 2 assets, class 3 assets, class 4 assets, class 5 assets, class 6 assets, class 7 assets and class 8 assets unless otherwise approved by the Authority;

“class 1 assets” means -

- (a) cash and cash equivalents including time deposits and money market funds rated AA or higher;
- (b) investment grade obligations of government or central banks rated AA or above;
- (c) incoming irrevocable letters of credit where acceptable by the Authority;
- (d) loans or notes receivable where supported by irrevocable letters of credit acceptable by the Authority;
- (e) income tax receivables; or
- (f) instalment premiums not yet due;

“class 2 assets” means -

- (a) high investment grade bonds or paper rated AA or higher (or equivalent);
- (b) exchange rate derivative contracts, designated and accounted for as hedging, with a maturity of one year or less and interest rate derivative contracts, designated and accounted for hedging, regardless of the maturity date;
- (c) receivables from insurers or highly rated reinsurers;

- (d) unearned premiums recoverable from insurers or highly rated reinsurers;
- (e) unpaid claims and adjustment expenses recoverable from insurers or highly rated reinsurers outstanding for less than one year; or
- (f) gold and other commodities acceptable to the Authority;

“class 3 assets” means -

- (a) bonds, and debentures, including commercial paper, rated investment or bank grade that mature or are redeemable in less than one year;
- (b) accounts receivable outstanding ninety days or less from agents, brokers, subsidiaries and policyholders, including installment premiums and other receivables;
- (c) investment income due and accrued; or
- (d) unpaid claims and adjustment expenses recoverable from licensed insurers or highly rated reinsurers, outstanding for over twelve months;

“class 4 assets” means -

- (a) term deposits, bonds, and debentures, including commercial paper, rated investment or bank grade, that mature or are redeemable in one year or more;
- (b) investment grade bonds or paper rated A or equivalent; or
- (c) receivables and recoverables for medium rated reinsurers outstanding for less than twelve months;

“class 5 assets” means -

- (a) investment grade bonds or paper rated BBB;
- (b) investment grade obligations of government or central banks rated BBB;
- (c) related party loans not yet called for; or
- (d) receivables and recoverables for medium-rated reinsurers outstanding for twelve months or more;

“class 6 assets” means -

- (a) mortgage-backed securities rated A or higher;
- (b) common shares;
- (c) exchange traded funds;
- (d) exchange traded derivatives;
- (e) non-cumulative preference shares;
- (f) investments in collective investment schemes, unit trusts, hedge funds, mutual funds or other similar assets; or
- (g) real estate;

“class 7 assets” means -

- (a) accounts receivable outstanding over ninety days from agents, brokers, subsidiaries, associates and policyholders, including installment premiums and other receivables;
- (b) other recoverables including salvage and subrogation on unpaid claims;
- (c) residential mortgages;
- (d) cumulative preferred shares;
- (e) unlisted equity securities;
- (f) private equity funds;
- (g) limited partnerships;
- (h) mortgage-backed securities rated lower than A; or
- (i) commercial mortgages;

“class 8 assets” means -

- (a) deferred policy acquisition expenses;
- (b) commissions, net of an adjustment for unearned commissions (net value) and if the net value is negative, report zero;
- (c) other intangible and non-financial assets up to a limit of one per cent of total assets and for this purpose any excess over the limit is included in the amount deducted from capital available;
- (d) other loans; or
- (e) term deposits, bonds and debentures, including commercial paper, rated not-investment grade, that mature or are redeemable in one year or more;

“filing date” means the date on which a portfolio insurance company is required to submit the annual return required in the Law;

“gross premium written” means total written premiums prior to any deductions;

“highly rated reinsurer” means reinsurance in which the counterparty is rated A- or higher or equivalent in the latest rating of a recognized rating agency or as approved by the Authority;

“manager” means a person, other than the approved insurance manager, who handles, controls or directs the business operations of a portfolio insurance company;

“margin of solvency” means the excess of the value of prescribed assets over prescribed liabilities;

“MCR” means minimum capital requirement;

“minimum capital requirement” means the minimum capital, as set out in these Regulations, that a portfolio insurance company must maintain in order to operate in accordance with the Law;

“net earned premium” means net written premium applicable to the expired part of the policy;

“net written premium” means gross premium written less the reinsurance premium ceded;

“PCR” means prescribed capital requirement;

“PIC” means portfolio insurance company;

“prescribed capital requirement” means the total risk based capital, as set out in these Regulations, that a portfolio insurance company must maintain in order to operate in accordance with the Law;

“prescribed management letter” means written correspondence from the auditor with respect to any material audit related matters which the auditor should bring to the attention of their client; and

“reinsurance premium ceded” means the premium ceded to reinsurers.

(2) For the purposes of Schedules 2 and 3 of these Regulations, “related PIC business” means business which will originate from the portfolio insurance company’s members or the members of any group with which it is related through common ownership or a common risk management plan or as determined by the Authority.

Application for registration
Schedule 1

3. (1) An application for registration made under section 28B of the Law, shall be in the form prescribed in Form 1 of Schedule 1.

(2) The Authority may require an applicant to provide supplementary information on or a clarification of the information initially provided in the application.

Fees
Schedule 2

4. The fees payable on the grant of a certificate of registration for a portfolio insurance company under section 28B(2) of the Law and the annual fee shall be as set out in Form 1 of Schedule 2.

Determining the margin of solvency

5. For the purposes of determining the margin of solvency to be maintained by a portfolio insurance company under section 28D(e) of the Law -

- (a) assets are prescribed as admissible assets; and
- (b) liabilities are prescribed as liabilities which include -
 - (i) minority interests, calculated and valued on the basis required by the accounting standards in accordance with which the portfolio insurance company’s financial statements are prepared; and

(ii) all liabilities arising out of its contracts of insurance.

6. (1) Subject to regulations 6(3) and (4), the minimum capital requirement and the prescribed capital requirement for portfolio insurance companies are as set out in Form 2 of Schedule 2. Minimum capital and prescribed capital requirement

(2) For the purposes of section 28D(e) of the Law, the minimum margin of solvency for each portfolio insurance company is stipulated as the prescribed capital requirement set out in Form 2 of Schedule 2.

(3) As an alternative to the prescribed capital requirement in Form 2 of Schedule 2, the portfolio insurance company may, upon the review and approval of the Authority, use its own internal capital model and for the purposes of this regulation, this internal capital model shall be deemed to be the prescribed capital requirement. Schedule 2

(4) Notwithstanding the minimum capital requirement and the prescribed capital requirement in Form 2 of Schedule 2, the Authority may, upon request by a portfolio insurance company, review and set a modified minimum capital requirement or a modified prescribed capital requirement in respect of any portfolio insurance company having regard to such facts and circumstances as the Authority may consider appropriate.

7. (1) Where the capital of a portfolio insurance company falls below the prescribed capital requirement but is greater than the minimum capital requirement, the portfolio insurance company shall meet with the Authority and present a remedial action plan to the Authority. Where capital falls below requirement

(2) Where the capital of a portfolio insurance company falls below the minimum capital requirement, the Authority may take any regulatory action.

8. At each filing date, the portfolio insurance company shall calculate and record its prescribed capital requirement using Form 3 of Schedule 2. Prescribed capital requirement

9. (1) Every portfolio insurance company, except as provided by paragraph (2) and as otherwise provided by the Authority in writing, is required to submit within six months of the end of its financial year the following in respect of the company's business - Required documents

(a) audited financial statements prepared in accordance section 28E(1)(a) of the Law and the respective instructions in the Annual Return Form in Schedule 3; Schedule 3

(b) an annual declaration as set out in Form 2 of Schedule 1; Schedule 1

(c) an actuarial valuation of its assets and liabilities including loss and loss expense provisions, certified by an actuary approved by the Authority;

(d) certificate of solvency prepared by a person approved by the Authority; and

(e) such other information as the Authority may request in accordance with section 28E.

(2) A portfolio insurance company that -

- (a) does not conduct long-term business; or
- (b) conducts insurance business of the type described in section 4(3)(c) of the Law,

is not required to make submissions under paragraphs (1)(c) or (1)(d).

Certificate of registration
Schedule 4

10. The certificate of registration shall be in the form set out in Schedule 4 and shall be printed on the watermarked paper approved by the Authority.

Forms

11. The forms set out in the Schedules are prescribed for the respective purposes provided for in the Law and as specified in the respective headings to each form.

SCHEDULE 1

(Regulation 3 and 9)

APPLICATION AND ANNUAL DECLARATION FORMS
FORM 1

APPLICATION FOR PORTFOLIO INSURANCE COMPANY
REGISTRATION

(Section 28B(1) of the Insurance Law, 2010)

Please complete all sections as fully as possible, give reasons, for non-completion, if any, and attach appendices where appropriate.

PART A		
General Information		
A1	Name of the exempted company which name shall include the letters "PIC" or "P.I.C." or words "Portfolio Insurance Company"	
A2	Attach evidence of proper incorporation of the applicant or in the case of a portfolio insurance company that is not yet incorporated, the proposed incorporation documentation	
A3	Name of the controlling relevant insurer	
A4	Licence number of the controlling relevant insurer	

A5	Attach the written consent of the controlling relevant insurer		
A6	Business proposed to be transacted	Long-term	General
A7	Date on which applicant intends to commence carrying on insurance business		

PART B			
Key Personnel			
B1	Names of the directors, managers and officers of the exempted company referred to in A1		
B2	For each director, manager and officer attach - (a) personal questionnaire; (b) three references acceptable to the Authority, comprising two character references and one reference verifying good financial standing; (c) police or other certificate satisfactory to the Authority confirming that the person in question has not been convicted of a serious crime or any offence involving dishonesty; (d) photo identification (passport or driver's licence) and proof of home address		

PART C			
Business to be transacted			
Attach a business plan, with financial projections over a three year period, for the insurance business to be transacted including the following -			
C1	Rationale for establishing portfolio insurance company		
C2	Classes of insurance to be written including levels of retention, cessions/limits and programme aggregates, if applicable, by line of business		
C3	Details of any proposed arrangements		

	whereby the portfolio insurance company will reinsure admitted insurance carriers outside the Cayman Islands	
C4	Reserving philosophy with evidence of loss history where available	
C5	Financial projections covering at least three years, by class of business, identifying assumptions (e.g. confidence levels, if applicable) to include - (a) income statement; (b) balance sheet; and (c) statement of solvency at each year-end	
C6	Names of any external providers, for example, Third Party Administrators	
C7	Investment policy	
C8	Dividend policy	

Where section 28R(1) of the Insurance Law, 2010 applies, file the relevant document as required thereunder.

Declaration

1. Have any of the parties connected with this application ever unsuccessfully applied, either individually or in conjunction with others, for authority to transact insurance business in this or any other jurisdiction?

Yes No (Tick the appropriate box.). If yes, please give details -

2. Have any of the parties connected with this application ever applied and thereafter withdrawn an application for authority to transact insurance business in this or any other jurisdiction?

Yes No (Tick the appropriate box.). If yes, please explain -

I understand the obligation to notify or seek prior approval after submission of this application for material changes to matters referenced herein.

An application is hereby made for the registration of the portfolio insurance company specified above and it is certified that all particulars contained in this application and in the documents accompanying it or otherwise furnished in support thereof are true and correct at the date of application.

Dated this _____ day of _____ 20_____

(Name of applicant)

by its Director/ Secretary/Person who is duly authorised by the directors of the applicant *(Delete options that are not applicable)*

Signed: _____

WITNESS: _____

Name:

Occupation:

Address:

Please submit Form with non-refundable application fee to the Cayman Islands Monetary Authority.

FORM 2

**ANNUAL DECLARATION FORM
(Section 28B(1) of the Insurance Law, 2010)**

INSTRUCTIONS:

1. This declaration shall be made within six (6) months of the end of each financial year during the continuation of the portfolio insurance company's registration.

2. Please complete all sections below as fully as possible

We, _____ on behalf of the board of
(Print or type)

(Name of Portfolio Insurance Company)

of _____
(Name of Controlling Relevant Insurer)

situated at _____

and registered under the Insurance Law, 2010 (hereinafter called "the PIC")
declare as follows -

1. (Select one of the options below)

There has been no change to the name of the PIC since it was first registered/since the date of its last annual declaration and its full corporate name is as set out above; or

There was a change to the name of the PIC on _____, 20____ and its full corporate name is now the name set out above.

2. (Select one of the options below)

There has been no change in the Controlling Relevant Insurer of the PIC since it was first registered/ since the date of its last annual declaration and its Controlling Relevant Insurer is set out above; or

The Controlling Relevant Insurer of the PIC changed on _____ 20____ to the Controlling Relevant Insurer set out above.

3. The current directors of the PIC are as follows -

4. The current officers of the PIC are as follows -

5. The current managers of the PIC are as follows -

Signed at _____ Date _____

For _____
(Name of the PIC)

Authorised Signature _____
(Name of signatory)

SCHEDULE 2

(Regulations 4, 6 and 8)

FEES AND CAPITAL REQUIREMENT FORMS

**FORM 1
FEES PAYABLE**

Application fee for registration (non-refundable)	\$1,000
Annual fee	\$250

**FORM 2
MINIMUM CAPITAL REQUIREMENT AND
PRESCRIBED CAPITAL REQUIREMENT**

Per cent of related PIC business written by portfolio insurance company	Minimum Capital Requirement ("MCR")	Prescribed Capital Requirement ("PCR")

At least 95% of the net premiums written will originate from related PIC business	General: US\$100,000 Long-term: US\$200,000	General: PCR = MCR Long-term: PCR = MCR
Over 50% of the net premiums written will originate from related PIC business	General: US\$150,000 Long-term: US\$300,000	General: <ul style="list-style-type: none"> • 10% of net earned premium (“NEP”) to first US\$5,000,000 • 5% of additional NEP up to US\$20,000,000 • 2.5% of additional NEP in excess of US\$20,000,000 Long-term: PCR = MCR
50% or less of the net premiums written will originate from related PIC business, subject to annual NEP being less than US\$ 20,000,000	General: US\$200,000 Long-term: US\$400,000	General: <ul style="list-style-type: none"> • 15% of NEP to first US\$5,000,000 • 7.5% of additional NEP up to US\$20,000,000 Long-term: PCR = MCR
50% or less of the net premiums written will originate from related PIC business, subject to annual NEP being equal to or greater than US\$ 20,000,000	When the NEP is less than or equal to US\$50,000,000 General: US\$1,000,000 Long-term: US\$2,000,000 When the NEP is greater than US\$50,000,000 General: US\$7,500,000 Long-term:	C (premium) <ul style="list-style-type: none"> • 15.0% of NEP to first US\$50,000,000 • 7.5% of additional NEP in excess of US\$50,000,000 C (asset) <ul style="list-style-type: none"> • Class 1 assets: 0.0% • Class 2 assets: 0.5% • Class 3 assets: 2.0% • Class 4 assets: 4.0% • Class 5 assets: 5.0% • Class 6 assets: 10.0% • Class 7 assets: 15.0% • Class 8 assets: 35.0%

	<p>US\$7,500,000</p>	<p>C (reserve)</p> <ul style="list-style-type: none"> • General insurance reserves: 10.0% of gross general insurance reserves • Long-term insurance reserves: 5.0% of gross long-term insurance reserves <p>C (reinsurance) 5.0% of total ceded unearned premium reserve</p> <p>C (catastrophe) 20% of 1 in 100 year event; and 100% of a 1 in 10 year event</p> <p>Important:</p> <p>In the event that a portfolio insurance company has reinsurance recoveries related to assumed reserves, a reduction to the C (reserve) will be allowed up to 100% of any reinsurance recoveries if such recoveries are secured by letters of credit else a reduction of 95% for collateral approved by the Authority else a reduction of 90% if the recovery is from highly rated reinsurers else 50% for all other forms of reinsurance.</p> <p>In the event that a portfolio insurance company has ceded unearned premium reserves,</p>
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		<p>a reduction to the C (reinsurance) will be allowed up to 100% of any ceded unearned premium reserves if such recoveries are secured by letters of credit else a reduction of 95% for collateral approved by the Authority else a reduction of 90% if the recovery is from highly rated reinsurers else 50% for all other forms of reinsurance.</p> <p>In the event that a portfolio insurance company has ceded catastrophe risk, a reduction to the C (catastrophe) will be allowed up to 100% of any reinsurance recoveries if such recoveries are secured by letters of credit else a reduction of 95% for collateral approved by the Authority else a reduction of 90% if the recovery is from highly rated reinsurers else 50% for all other forms of reinsurance.</p>
<p>Insurance business involving the provision of reinsurance arrangements in respect of which the insurance obligations of the portfolio insurance company are limited in recourse to and fully collateralised by the portfolio insurance company's assets</p>	<p>General: US\$500 Long-term: US\$500</p>	<p>General: PCR = MCR Long-term: PCR = MCR</p>

Key: The letter "C" connotes capital charge. The word in parentheses following the letter "C" indicates the aspects to which the capital charge can

be applied, being either premium, asset, reserves, reinsurance or catastrophe.

FORM 3

CAPITAL REQUIREMENT TEMPLATE

Capital		(\$'000)
Capital Required for a PIC		
Total Prescribed Capital Requirement (PCR)	A.	
Total Minimum Capital Requirement (MCR)	B.	
Total Capital Available	C.	
Capital in Excess of PCR (C. minus A.)		

SCHEDULE 3

(Regulation 9)

ANNUAL RETURN FORMS

FORM 1

ANNUAL RETURN - SECTION 28E (1)(a)

INSTRUCTIONS:

Name of portfolio insurance company _____

Registration no. _____

Annual return for the year ended _____

Pursuant to the Insurance Law, 2010 provide the following in respect of the company's business -

- (a) audited financial statements prepared in accordance with internationally recognized accounting standards by an independent auditor approved by the Authority, together with a copy of any prescribed management letter issued by the auditor;
- (b) where the insurer writes long term business, an actuarial valuation certified by an actuary approved by the Authority;

- (c) where the insurer writes long term business, certification of solvency prepared by the insurance manager or a person approved by the Authority;
- (d) written confirmation that the information set out in the application for the registrant, as modified by any subsequent changes approved by the Authority, remains correct;
- (e) schematic of insurance programme;
- (f) methodology and supporting evidence as to how the prescribed capital requirement is met;
- (g) completed Form 2 in respect of the PIC's operations; and
- (h) such other information as the Authority may request in accordance with section 28E(1)(a) of the Law.

Note: The annual report filing deadline is 6 months after portfolio insurance company's financial year end. Some items in this form may be waived for certain companies, as determined by the Authority on a case-by-case basis.

DECLARATION VERIFYING ANNUAL RETURNS

We, _____ on behalf of the board of:
(Print or type)

(Name of PIC)

of _____
(Name of Controlling Insurer)

situated at _____
(Address of PIC)

registered under the Insurance Law, 2010, hereinafter referred to as "the PIC", do state to the best of our knowledge that -

- (a) the information set out in the application for the PIC's registration, as modified by subsequent notifications of changes in accordance with the Insurance Law, 2010 remains correct, and gives a comprehensive and fair picture of the said insurer's business;

- (b) the foregoing annual return, together with the statutorily required exhibits, schedules and explanations filed as part thereof, is a full and correct report of all assets, liabilities, income, expenditure and of the condition and affairs of the PIC in respect of its business of insurance, for the year ended _____;
- (c) as far as we are aware, all the assets reported in the said annual return and schedules were, as of the effective date of the annual return, the absolute property of the PIC free and clear from any liens and claims except as therein stated; and
- (d) based on our knowledge as of this date, the PIC is in compliance with the Insurance Law, 2010.

Signed at _____ Date _____

For _____
(name of the PIC)

Authorised Signature _____

FORM 2

INSURANCE BUSINESS RETURN

PART A

Attach the report distributed to shareholders and the audited financial statements in the normal published form.

PART B

UNRELATED BUSINESS ANALYSIS (in United States Dollars (USD))

Net Premiums Written from related PIC business	Net Premium Written from unrelated business	Total Net Premium Written

SCHEDULE 4

(Regulation 10)

CERTIFICATE OF REGISTRATION

No.: _____

(Name of PIC)

is hereby registered under the Insurance Law, 2010 to carry on insurance business under section 28B of the Law as a portfolio insurance company of

(Name of controlling relevant insurer and licence no.)

subject to the provisions of the said Law and in particular, to the condition that the Registrant shall forthwith notify the Authority of any change in the information supplied in the application for this registration.

Given this _____ day of _____ 20__ at George Town, Grand Cayman, Cayman Islands.

Affix
Seal

Signature _____
Managing Director for the Cayman Islands Monetary Authority

Made in Cabinet the 13th day of January, 2015.

Kim Bullings

Clerk of the Cabinet.