

FINANCIAL SERVICES REGULATORY AUTHORITY
سلطة تنظيم الخدمات المالية

Captive Insurance Business Rules (CIB)

*In this attachment underlining indicates new text and striking through indicates deleted text.

2.3 Prudential Requirements – reporting obligations

2.3.1 Purpose

- (1) In this Rule 2.3 and the forms as specified by the Regulator from time to time, unless the term 'Annual Regulatory Return' or 'Quarterly Regulatory Return' is used, the term 'Return' includes both of those Returns.

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2.3.2 Annual Regulatory Return

- (1) A Captive Insurer must, at the end of each reporting period, prepare an Annual Regulatory Return.
- (2) The Annual Regulatory Return must comprise the statements set out in this Rule 2.3, together with any Supplementary Notes pertaining to those forms, and including a Statement by Directors.
- (3) The form and content of the statements comprising the Annual Regulatory Return (including the Statement by Directors) is set out in this Rule 2.3 and the Electronic Prudential Reporting System (EPRS) of the Regulator.
- (4) Where a Captive Insurer includes in its Annual Regulatory Return a value for General Insurance Liabilities or for assets associated with those liabilities which is inconsistent with the amount referred to in Rule 7.2.3(b), the Captive Insurer must notify the Regulator in writing of:
- (a) the reasons for not including in its Annual Regulatory Return the value of General Insurance Liabilities or of associated assets as reported by the Actuary; and
 - (b) details of the alternative assumptions and methodologies used for determining the value of General Insurance Liabilities or of associated assets.
- (5) Where a Captive Insurer includes in its Annual Regulatory Return a value for Long-Term Insurance liabilities which is inconsistent with the amount referred to in Rule 7.3.6(e), the Captive Insurer must notify the Regulator in writing of;
- (a) the reasons for not including in its Annual Regulatory Return the value of Long-Term Insurance liabilities as reported by the Actuary; and
 - (b) details of the alternative assumptions and methods used by the Captive Insurer for determining the value of Long-Term Insurance liabilities.

2.3.3 Quarterly Regulatory Return

- (1) Except as otherwise provided in this Rule 2.3, a Captive Insurer must, at the end of March, June, September and December in each year, prepare a Quarterly Regulatory Return in respect of the period commencing at the start of the Captive Insurer's reporting period and ending on that date.

- (2) The Quarterly Regulatory Return must comprise the statements set out in this Rule 2.3, together with any Supplementary Notes pertaining to those forms, and including a Statement by Directors.
- (3) The form and content of the statements comprising the Quarterly Regulatory Return (including the Statement by Directors) are set out in this Rule 2.3, and EPRS.
- (4) Class 1 Captive Insurers are not required to prepare a Quarterly Regulatory Return unless required in writing by the Regulator to do so.

2.3.4 Audit of Annual Regulatory Return

- (1) Subject to Rule 2.3.4(2), the Annual Regulatory Return of every Captive Insurer must be audited in accordance with International Standards on Auditing relevant to the audit of the Annual Regulatory Return, by the Captive Insurer's Auditor.
- (2) The statements in the Annual Regulatory Return that are not subject to audit are set out in this Rule 2.3, and EPRS.
- (3) The report of the Auditor on the Annual Regulatory Return must be made in writing to the Directors of the Captive Insurer and to the Regulator and must state whether, in the opinion of the Auditor and so far as concerns those parts of the Annual Regulatory Return that are subject to audit:
 - (a) the Annual Regulatory Return has been prepared in accordance with this Chapter;
 - (b) the statements in the Annual Regulatory Return present fairly, in accordance with the basis of preparation prescribed in this Chapter, the financial position of the Captive Insurer as at the reporting date and financial performance of the Captive Insurer during the reporting period ended on that date, and the other information required to be presented; and
 - (c) the statements in the Annual Regulatory Return are in accordance with the books and records of the Captive Insurer.

2.3.5 Completion of forms for global and Fund reporting units

- (1) A Return must be completed in respect of each of the reporting units set out in this Rule that applies to the Captive Insurer.
- (2) There are two types of reporting units in respect of which a Captive Insurer may be required to submit a Return. These are referred to in this Chapter and the forms as the global reporting unit and the Fund reporting unit. In the case of a Captive Insurer which is a Cell Company, the global reporting unit shall apply separately at a cellular and non-cellular level as provided in Rules 2.3.5(3)(b) and 2.3.5(4) below. The Returns in respect of these reporting units are referred to respectively in this Chapter and the forms as the Global Return (along with, in the case of a Cell Company, a Cell Return in respect of each Captive Cell) and the Fund Return.
- (3) Every Captive Insurer that is required by Rule 2.3.2 or Rule 2.3.3 to complete a Return must complete a Global Return. A Global Return has the following characteristics:

- (a) subject to Rule 2.3.5(3)(b), a Global Return includes all of the assets, liabilities, equity, revenues and expenses of the Captive Insurer, regardless of the residency status or location of the Captive Insurer, of the customer or of any asset or liability; and
 - (b) the Global Return of a Cell Company does not include any assets, liabilities, equity revenues or expenses that are attributable to a Captive Cell.
- (4) Except as provided otherwise in this Chapter, a Captive Insurer that is a Cell Company must, each time a Global Return is completed as provided in Rule 2.3.5(3)(b), separately complete a Cell Return in respect of each Captive Cell that it maintains. A Cell Return includes all of the assets, liabilities, equity, revenues and expenses attributable to the Captive Cell, regardless of the residency status or location of the customer or of any asset or liability. A Captive Insurer that is a Cell Company is not required to complete a Cell Return each time a Quarterly Regulatory Return is completed in respect of any Cell maintained by it that is a Class 1 Captive Cell unless required by the Regulator to do so.
- (5) Except as provided otherwise in this Chapter, a Captive Insurer that maintains any Long-Term Insurance Fund must complete a Fund Return in respect of each Long-Term Insurance Fund that it maintains. A Fund Return includes all of the assets, liabilities, revenues and expenses attributable to the Fund, regardless of the residency status or location of the customer or of any asset or liability. A Captive Insurer to which this Rule applies is not required to complete a Fund Return in the following cases:
- (a) where the Captive Insurer is deemed to constitute a single, Long-Term Insurance Fund, such that the information contained in the Fund Return would be identical to that in the Global Return; and
 - (b) where, in the case of a Captive Insurer which is a Cell Company, a Captive Cell of the Captive Insurer is deemed to constitute a single, Long-Term Insurance Fund, such that the information contained in the Fund Return would be identical to that in the Cell Return.

2.3.6 Content of Returns

- (1) The Annual Regulatory Return comprises the prudential reporting forms specified by the Regulator, together with any Supplementary Notes pertaining to those forms specified in these Rules or by the Regulator and the Statement by Directors referred to in Rule 2.3.10.
- (24) Items must be disclosed in the Returns in accordance with the instructional guidelines and the prudential reporting systems specified by the Regulator, subject to the effects of other provisions of this Chapter.
- (35) Where an item is described in a Return as the result of a mathematical calculation, that mathematical calculation must be used to determine that item except where these Rules or the relevant instructional guidelines require otherwise.

2.3.7 Submission of Returns to the Regulator

- (1) ~~Subject to Rule 2.3.7(2), a~~ Captive Insurer must submit its Annual Regulatory Return in writing to the Regulator within four months of the Captive Insurer's reporting date.
- (2) ~~When the Regulator has issued a notice announcing that EPRS is in operation, a~~ A Captive Insurer must, ~~from the date specified in the notice,~~ prepare and submit its Annual Regulatory Return in the following manner:
 - (a) the Annual Regulatory Return must be submitted to the Regulator using EPRS:
 - (i) in accordance with any instructions set out in the notice and any instructions provided through such a system or specified in this Chapter; and
 - (ii) within four months of the Captive Insurer's reporting date;
 - (b) the Statement by Directors need not be submitted to the Regulator, but must be signed and a copy maintained in accordance with Rules 2.3.7(3) and 2.3.7(4); and
 - (c) the Global Return for a Branch must be submitted in the manner provided in Rule 2.3.7(1).
- (3) The Statement by Directors forming part of the Annual Regulatory Return must be signed before the time of submission by:
 - (a) the Senior Executive Officer; and
 - (b) a Director of the Captive Insurer not being the Senior Executive Officer.
- (4) An original signed hard copy of the Statement by Directors, together with a copy of the Annual Regulatory Return submitted to the Regulator using EPRS, must be kept for at least six years for inspection by the Regulator.
- (5) The Auditor's report on the Annual Regulatory Return and any actuarial report prepared as at the reporting date must be submitted in writing by the Captive Insurer to the Regulator within four months of the Captive Insurer's reporting date.
- (6) An Auditor's report or an actuarial report submitted to the Regulator must be signed by the Auditor or the Actuary preparing that report.
- (7) Subject to Rule 2.3.7(8), a Captive Insurer must submit its Quarterly Regulatory Return in writing to the Regulator within two months of the end of each period in respect of which the Captive Insurer is required to prepare a Quarterly Regulatory Return.
- (8) When the Regulator has issued a notice announcing that EPRS is in operation, a Captive Insurer must, from the date specified in the notice, prepare and submit its Quarterly Regulatory Return in the following manner:
 - (a) the Quarterly Regulatory Return, excepting the parts of the Quarterly Regulatory Return referred to in 2.3.7(8)(b) and 2.3.7(8)(c), must be submitted to the Regulator using EPRS:

- (i) in accordance with any instructions set out in the notice and any instructions provided through such a system or specified in this Chapter; and
 - (ii) within two months of the Captive Insurer's reporting date;
 - (b) the Statement by Directors must be signed and a copy maintained in accordance with Rules 2.3.7(9) and 2.3.7(10); and
 - (c) the Global Return for a Branch must be submitted in the manner provided in Rule 2.3.7(7).
- (9) The Statement by Directors forming part of the Quarterly Regulatory Return must be signed before the time of submission by one Director of the Captive Insurer.
- (10) An original signed hard copy of the Statement by Directors, together with a copy of the Quarterly Regulatory Return submitted to the Regulator using EPRS, must be kept for at least six years for inspection by the Regulator.
- (11) If within twenty-four months of the date that an Annual Regulatory Return or Quarterly Regulatory Return is submitted to the Regulator, the Regulator notifies the Captive Insurer that a Return appears to be inaccurate or incomplete, the Captive Insurer must consider the matter and within one month of the date of notification it must correct any inaccuracies, make good any omissions and re-submit the relevant parts of the Return.
- (12) A Captive Insurer must submit, at the same time as every Annual Regulatory Return of that insurer or as soon as practicable thereafter, any report on the affairs of the Captive Insurer submitted to the shareholders or policyholders of the Captive Insurer in respect of the reporting period to which the Annual Regulatory Return relates.

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2.3.9 General provisions relating to the completion of forms

- (1) Supplementary Notes must be presented in accordance with any instructions specified by the Regulator, including instructions provided through the prudential reporting system specified by the Regulator. Each Supplementary Note must identify the form to which it relates.
- (2) Returns must be presented in English.
- (34) Where the format of a form requires the presentation of comparative information, the comparative information shall be presented according to the following principles:
 - (a) in the case of a form forming part of the Annual Regulatory Return, the comparative information shall be that presented in the Annual Regulatory Return for the previous reporting period;
 - (b) in the case of a form forming part of the Quarterly Regulatory Return, the comparative information shall be that presented in the Quarterly Regulatory Return for the corresponding quarter in the previous calendar year;

- (c) comparative information shall be presented unless:
 - (i) the Captive Insurer did not exist at any time during the comparative period (whether or not it was a Captive Insurer); or
 - (ii) in the case of a Cell Return or a Fund Return, the Captive Cell or the Long-Term Insurance Fund to which the Return relates did not exist at any time during the comparative period;
 - (d) a Captive Insurer that is required to present comparative information in a Return, and that was not required to prepare a Return in respect of the comparative period, must present comparative information that would have been presented in the Return covering the comparative period, if the Captive Insurer had been required to prepare that Return; and
 - (e) comparative information shall not be changed from the time it was first presented, unless re-presentation is necessary for the interpretation of the Return. Where comparative information is changed, the Captive Insurer must include in the Return a Supplementary Note showing the nature of the change and the reason for it.
- (45) The Annual Regulatory Return, including the Statement by Directors, is subject to audit, except where this Chapter 2 or the form instructional guidelines state that a form is not subject to audit.
- (56) Each page of the Statement by Directors must show:
- (a) the words 'Annual Regulatory Return' or 'Quarterly Regulatory Return', as applicable;
 - (b) the Captive Insurer's licence number;
 - (c) the Captive Insurer's name;
 - (d) the reporting period to which the Return relates;
 - (e) whether the Return is a Global, Cell or Fund Return; and
 - (f) where the return relates to a Captive Cell or a Long-Term Insurance Fund, sufficient information to identify the Captive Cell or Long-Term Insurance Fund in question.
- (67) Where this Chapter 2 or the form requires information to be presented for different Classes of Business or for different types of insurance contract (for example, direct insurance, facultative reinsurance, proportional reinsurance treaty and non-proportional reinsurance treaty), a Captive Insurer required to complete the form must present the relevant information in respect of all Classes of Business and types of contract, except under the following circumstances so far as concerns businesses other than Direct-Long Term Insurance Business of an ADGM Incorporated Insurer:
- (a) where an item of numerical information in respect of a Class of Business for a type of insurance contract is less than 2% of the total such numerical information in respect of all Classes of Business for that type of insurance

contract, the Captive Insurer may aggregate that numerical information for that Class of Business for that type of insurance contract with the same item of information for the Class of Business for that type of contract in which that item of information is the largest; and

- (b) where an item of numerical information in respect of a type of insurance contract for a Class of Business is less than 2% of the total such numerical information in respect of all types of insurance contract for that Class of Business, the Captive Insurer may aggregate that numerical information for that type of insurance contract for that Class of Business with the same item of information for the type of insurance contract for that Class of Business in which that item of information is the largest.
- (78) Where a Captive Insurer arranges its affairs such that a Captive Cell or Long-Term Insurance Fund maintained by it pays or receives income in the form of interest, dividends, rental, recharge of management expenses or other investment income, from another reporting unit of the Captive Insurer, that income must be shown gross as an expense in the reporting unit bearing the expense, and as income in the reporting unit receiving the income. Where, however, the same reporting unit records the income and the expense, the two must be netted.

2.3.10 Statement by directors

- (1) Every Return must include a Statement by Directors, in accordance with this Rule.
- (2) The Statement by Directors forming part of the Annual Regulatory Return must state that:
 - (a) the Annual Regulatory Return has been prepared in accordance with the provisions of PIN, this Chapter 2 and the instructional guidelines and prudential reporting systems specified by the Regulator;
 - (b) proper accounting records have been maintained and adequate information obtained by the Captive Insurer;
 - (c) appropriate systems and controls have been established and maintained by the Captive Insurer over its transactions and records;
 - (d) the Captive Insurer has complied with the provisions of Rule 2.2 of these Rules throughout the reporting period; and
 - (e) the Captive Insurer complies, as at the date of the statement, with those provisions of PIN that are applicable to it.
- (3) The Statement by Directors forming part of the Quarterly Regulatory Return must state that:
 - (a) the Quarterly Regulatory Return has been prepared in accordance with the provisions of PIN, this Chapter 2 and the instructional guidelines and prudential reporting systems specified by the Regulator; and
 - (b) the Captive Insurer complies, as at the date of the statement, with those provisions of PIN that are applicable to it.

- (4) If in the opinion of the directors it would be untrue to make one or more of the statements referred to in Rule 2.3.10(3)(a) or Rule 2.3.10(3)(b) the statements concerned must be omitted and the Captive Insurer must instead state in a Supplementary Note that the directors are unable to make the statements in question, and must give the reasons for that inability.

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7.4 Additional provisions relating to the report

7.4.1 When appointing an Actuary to prepare a report under Rule 7.2 or 7.3, a Captive Insurer must ensure that there is an agreement in writing which legally binds the Actuary in accordance with the following provisions:

- (a) the contract must require the Actuary to prepare his report in accordance with the provisions of Rule 7.2 or 7.3 as the case may be;
- (b) the contract must require the Actuary to prepare the report using assumptions and methods that are appropriate for the purposes of the actuarial investigation and report and which comply with the requirements of these Rules;
- (c) the contract must require the Actuary to deliver the report to the Captive Insurer's Directors within such time as to give the Directors a reasonable opportunity to consider and use the report in preparing the Captive Insurer's Annual Regulatory Return for the reporting period ended on the reporting date;
- (d) the contract must require and permit the Actuary to address the Directors of the Captive Insurer if the Actuary believes that there is a matter relating to the financial position or operations of the Captive Insurer that should be brought to the attention of the Directors; and
- (e) the contract must require and permit the Actuary to address the Regulator if the Actuary believes that a matter will not be adequately dealt with simply by bringing it to the attention of the Directors.

7.4.2 The Captive Insurer must submit the reports referred to in Rule 7.2 and Rule 7.3 to the Regulator at the same time as it submits its Annual Regulatory Return for the reporting period ended on the reporting date.

7.4.3 Abbreviated details may be provided in a report prepared under the requirements of this Chapter in respect of a Class of Business that is not material.

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