

SRS Barbados

**Regulated Environment Facilitating
Global Insurance Business**

History – Over 40 Years' Experience with International Insurance Business

The most easterly island in the chain of Caribbean Islands, Barbados has established itself as a competitive business hub for over 40 years. Throughout these years, Barbados has received further recognition among the top developing nations in the world as an international financial center of repute. The ease of access to the island - with airlift from major hubs in North and South America, Europe, Asia, and Africa - has made Barbados attractive for the leisure traveler and, in conjunction with its regulatory regime, attractive to international businesses.

The formation of international self-insurance vehicles (called "captive insurances") commenced in Barbados in 1984 with the signing of US-Barbados Double Taxation Treaty. Over the past four decades, Barbados evidenced the creation of an attractive environment for foreign investment and international business. The country has, for example, established a network of taxation treaties with several countries including, Canada, the UK, Switzerland, and China which has allowed not only for the establishment of insurance companies, but also for the establishment of regular Barbados companies and other legal entities with international operations, including International Trusts and Mutual Funds. Barbados remains an important domicile given the many fluctuations in the commercial insurance market space over the subsequent decades. As such, **Barbados remains one of the world's leading domiciles for international insurance business.**

Why Barbados as a Leading Domicile for International Insurance – Regulation & Taxation Regime

Decidedly, Barbados has sought to actively engage with international bodies such as the G7, OECD, EU, and FATF to ensure that its regulatory and taxation regimes align with the globally recognized practices. Over the years, Barbados has strengthened its monitoring controls and enhanced regulation to secure its international business sector. What **Barbados therefore offers owners and clients of international insurance entities is certainty of legislation, transparency, and regulatory compliance within the framework of international best practice.**

Insurance Licensing Regime

The Insurance Division of the Financial Services Commission (FSC) is responsible for the supervision and regulation of insurance business conducted, in or from within Barbados, as authorized by the Financial Services Commission Act, 2010-21 and the Insurance Act, Cap. 310, or as amended by the Insurance (Amendment) Act, 2018-52 (together herein referred to as the "Act").

The FSC is a member of the following insurance-related regional and international organizations:

- Caribbean Association of Insurance Regulators (CAIR)
- International Association of Insurance Supervisors (IAIS); and
- Group of International Insurance Centre Supervisors (GIICS).

There are three (3) classes of insurance entities regulated by the FSC:

1. Class 1 Licensee - an insurance company that underwrites related party business.
2. Class 2 Licensee - an insurance company that underwrites risks of third parties.
3. Class 3 Licensee - comprising of insurance holding and management companies, as well as insurance intermediaries.

To become a licensed registrant, a company that intends to carry on non-domestic insurance business must submit a formal

application to the FSC for registration. The regulatory authority must be satisfied that at least 90% of the company's premiums do, or will, originate outside of CARICOM (the regional organization of 15 Caribbean nations and dependencies), and that at least 90% of the company's risks insured are located outside of this same region.

Apart from this, the application process involves the **vetting of all interested parties** by the FSC including beneficial owners, shareholders, director and officers and proposed bank signatories. This vetting is done in accordance with the provisions of the Money Laundering and Financing of Terrorism (Prevention and Control) (Amendment) Act, 2019-58 (and the country's issued AML/CFT/PF Guidelines (the "AML Guidelines") **that occurs throughout the legal existence of each registered entity.**

Statutory Reporting & Monitoring

Key to the execution of the FSC's supervisory oversight is the **requirement for the submission of audited financial statements**, along with an annual return, with a reconciliation of any material differences. This is a requirement **for all insurance** registrants. The specific filing requirements for financial statements of subsidiaries, parent companies, and foreign insurance companies include:

- Submission of returns in electronic form.
- Maintenance of supporting information and working papers for regulatory review.
- Disclosure of material changes and events in separate explanatory notes.
- Compliance with standards of accepted actuarial practice and guidelines issued by the FSC.
- Currency and rounding requirements for values reported in the returns.

The specific guideline issued by the FSC in relation to the form and substance of these filings speaks to the:

- Reporting of material changes, events, or transactions
- Requirement to provide both quarterly and annual filings in relation to the financial year end.
- Certification of actuarial liabilities by an approved actuary, specifically for long-term and for disclosures to be included where estimates are used. In such circumstances the estimates are evaluated to conclude their reasonableness.
- **Submission of an actuarial report on valuation**, a signed certificate on the policy valuation of liabilities, and a report from the external auditor with the annual return.

Insurance Business Conduct

The Act defines **"insurance business"** as the business of effecting and carrying out contracts of insurance that provide **for the protection of persons against loss or liability in respect of risk to which such persons may be exposed.** In Barbados, there are no exclusions for registrants assuming any class of insurance risk.

The Act, however, describes "long-term insurance business" as insurance business of all or any of the following classes:

- a. ordinary life insurance
- b. industrial life insurance
- c. bond investment
- d. any insurance business that is incidental to any of the classes of business specified in paragraphs (a) to (c)

The Act specifies that for a registrant to maintain its insurance license, it must be conduct insurance business and **actively demonstrate that there is transfer of risk**. The transfer of risk is the receipt of a premium by each registrant, who in turn accepts responsibility for future losses to an acceptable level of retention, whereupon reinsurance is purchased to spread the risk.

The FSC directly through its oversight of each registrant's business plan, and indirectly through the external audit function is responsible for ensuring that true risk transfer occurs, whereby there is indemnification by each registrant of the financial burden of the purchaser of the insurance. This involves the **review of the policies of insurance** at setup and during the normal course of business, to ensure that true risk transfer occurs and not merely changing or shifting the distribution of the risk by way of a contract clause.

Annual Audits Required by Legislation

The Act prescribes that **the report from the external auditor must be performed and signed off by a member of the Institute** of Chartered Accountants of Barbados who holds a practicing certificate from that Institute to satisfy the FSC that the person is suitably qualified for such an appointment by reason of knowledge and experience. Provisioned in the Act are **punitive charges** for any director, officer, employee or agent of a registrant or its insurance manager who either demonstrates an intent to deceive by way of making false or misleading statements or entry in a book, account, record, report or statement or fails to make any entry that should be made therein, or obstructs the carrying out by an auditor of his functions under the Act.

For a "clean" audit opinion to be obtained from the external auditor in relation to a registrant conducting of insurance business, the auditor must be satisfied that the reporting entity transfers substantially all the significant risks and rewards associated with any asset, liability, or contractual agreement to a third party. This includes a **certified independent actuarial review** at least annually.

In Barbados, the default reporting standard is the International Financial Reporting Standards (IFRS). Under this standard, there is the expectation that there must be the shifting of significant insurance risk, and not just financial risk, meaning that an uncertain future event could cause a registrant to pay substantial amounts thereby creating an adverse impact for the insurance purchaser. The external auditor determines the level of significance whether through scenario analysis or quantitative or qualitative tests and/or factors. Risk transfer can be deemed not to have occurred if the contract is assessed to be primarily transferring financial risk, as happens with investment contracts, or if the payout of the claim is not linked to an uncertain, adverse event.

Statutory & Risk Capital

At start-up and in the first year of operations, there is a minimum statutory capital requirement that each licensee must adhere to. Thereafter, **further risk capital in excess of the minimum statutory requirement must be maintained up to an amount equivalent to 20% of the insurer's prior year's premium income**.

Therefore, for each insurance company to maintain its license, the total of all injected capital and assets accrued must cover all liabilities, including actuarial liabilities, known and unknown claims by 20% or more.

Capital Adequacy Testing

In simple terms, capital adequacy for insurance companies means having sufficient of their own funds (or capital) to cover potential losses, including insurance claims, interest payments, statutory solvency for the ultimate protection of policyholders. To achieve this objective, the FSC established statutory calculations to determine a "required capital" based on the various

risk, while assessing whether the registrant can withstand the stress testing. Ultimately the available capital is compared to an assessed required capital, and usually provisions are made in statute to ensure that each registrant's actual capital exceeds the requirement, with the provision to mandate a capital increase if an inadequacy is highlighted. The Act defines this required capital as a **minimum solvency requirement** and also mandates a capital injection in instances where inadequacy has been highlighted.

Underwriting

Insurance registrants that do not have a physical presence within the domicile can elect certain tasks to be performed by a resident and licensed insurance manager. The services that insurance managers can perform are defined in the Act and typically involve financial management, administration, underwriting, and general insurance services.

The insurance manager will usually act as the principal representative pursuant to the Act, while ensuring adherence to various other statutory requirements including:

- The Companies Act Cap. 308
- The Companies (Economic Substance) Act, 2019-43
- The Money Laundering and Financing of Terrorism (Prevention and Control) (Amendment) Act, 2019-58 and the AML/CFT/PF Guidelines (the "AML Guidelines")

The insurance manager provides underwriting and other insurance services, some of which include:

- Direct interaction with the Underwriting and Claims Committees as established by each registrant's Board of Directors, as applicable;
- Review and approval of policies of (re)insurance, including the appropriateness of policy wordings;
- Review underwriting documentation and the provision of feedback as required.
- Issuance of insurance policies,
- Issuance of certificate of insurance, invoices, and general policy administration; and
- Processing of claims files;

Insurance registrants are expected to have **detailed policy documents** outlining processing of an insurance application and the underwriting of the insurable risk. As resident Barbados entities, each insurance registrant will not only be required to ensure that both its management and control reside in Barbados, but that the insurance policies are issued and registered within the domicile. The process of issuing a policy remains the same in every respect, and involves securing a quote, confirming the quote, providing payment details, creating the policy, and providing confirmation of cover.

In many instances a power of attorney (POA) is used in the issuance of each policy. This involves the applicant explicitly granting an agent the authority to purchase, manage, or change their insurance policy. The POA document must be legally valid, meaning it is signed by an authorized representative known to, and approved by the insurer in Barbados, and, properly witnessed and/or notarized. Once the insurer confirms the agent's authority, the agent can proceed with the application process on behalf of the applicant, including signing of the application and related documents in a prescribed format. In this process, the applicant is still the "insured" and will still be required to meet the insurer's underwriting requirements, which may also include the provision of health information.

The **registration of an insurance policy** is a key aspect of preventing insurance fraud; it confirms the legitimacy of the policy, agent, and the insurer and by creating a verifiable record of coverage. In Barbados, the registration is performed at the Corporate Affairs and Intellectual Property Office.

The process of registration implies that registrants are subject to regulatory requirements that place expectation on them to conduct the appropriate due diligence, thereby protecting customers, while assisting the overall AML framework. This oversight is intended to act as a deterrent, in that it allows the authorities to act if fraud is suspected.

Corporate Income Tax

Each insurance licensee is required to register with the Barbados Revenue Authority as a corporate tax payer. The following corporate income tax rates apply to the various classes of insurance licensees:

Qualification	Rate
Insurance Companies:	
Class 1 Insurer (pure captive)	0%
Class 2 Insurer (3rd-party insurer; rent-a-captive)	2%
Class 3 Insurer (intermediary; broker; management company holding company)	2%

As of January 1, 2024, Barbados changed its corporate tax regime, in keeping with its position of having joined the international consensus in the two-pillar plan to reform the international taxation rules. These changes involved:

- Increasing the Corporation Income Tax Rate to 9%, except for:
 - Entities with revenue at or below USD 1 million – that is those entities registered under the Small Business Development Act and which will instead be subject to corporation tax at the rate of 5.5%
 - Insurance entities – that will continue to be subject to tax at the current rates of 0% for Class 1 Licensees and 2% for Class 2 Licensees
 - Shipping entities – that are out of the scope of Pillar Two rules and that will continue to be subject to the existing regime at a sliding scale from 5.5% down to 1%, depending on their level of income
- Implementing a Qualified Domestic Minimum Top-Up Tax (QDMTT) – to top up the Barbados effective corporation tax payable by an in-scope multinational enterprise to 15%. The top up tax will not apply to in-scope multinational enterprises where the ultimate parent entity is in a jurisdiction which has not implemented an Income Inclusion Rule (IIR) or where the Constituent Entities are not subject to an IIR or an Undertaxed Profits Rule (UTPR).

Tax returns for insurance registrants are filed annually.

Other Insurance Services

The Insurance Manager also performs a financial management service on the basis that financial statements with full arrangement for, and participate in, the Investment and Audit Committees, where applicable. The requirements that can be readily identified would include:

- Notification and implementation of agreed changes in accounting reporting requirements that affect the company
- Preparation of monthly accounting financial statements including, statement of profit and loss, statement of financial position, and statement of cash flows, in conformity with IFRS for SMEs, and/or the requirements of the UBO and with Barbados insurance laws and regulations
- Preparation of accounting schedules and other ad hoc reports in support of these financial statements.
- Preparation of the annual report filings on the reporting forms required by the insurance regulator's office in accordance with the Act and/or acknowledged practice directives.

- Maintenance of bank accounts at various financial institutions in the name of the client.
- Administration of these bank accounts, under the guidance established banking mandates, processing cash receipts and disbursements including claims payments, and performing such other cash handling functions as may be required by the group, but not including investment management, discretionary investment services, or trust services.
- Preparation of monthly bank reconciliations of accounts held with financial institutions in accordance with timelines established by management.
- Review and implementation of Investment Policies and Guidelines and the review of investment performance and strategy.
- Estimation of loss experience and funding requirements.
- Management of the annual audit and actuarial opinions working closely with the appointed audit and actuarial firms, including the preparation of financial statements and related footnotes for the annual audit, as well as being the primary contact for audit-related matters.
- Engagement of tax advisors in the preparation of income tax returns.

About Strategic Risk Solutions

SRS is the world's largest independent insurance company manager. With over 25 years' experience, SRS provides management and consulting services to a wide range of insurance company structures, from single-parent captives to complex commercial insurers and reinsurers. SRS has operations in North America, South America, Europe, Barbados, Bermuda, Cayman Islands, and South Africa.

For more information contact:

Kirk Cyrus

kirk.cyrus@strategicrisks.com

(246) 231-5183