

**A GUIDE TO THE
LEGISLATION AND REGULATIONS
FOR INTERNATIONAL INSURANCE COMPANIES
DOING BUSINESS IN BARBADOS**

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Enabling Legislation

The following statutes govern the way in which international insurance companies or “captive insurers” do business in Barbados:

1. The Exempt Insurance Act, 308A, as amended 2001 and 2004

This act governs the operations of international insurers that are licensed as an Exempt Insurance Company (“EIC”). An EIC is an international insurer which only insures risks located outside of Barbados, where the premium is paid from outside of Barbados. (See the Exempt Insurance Act Section 3(1))

2. The Insurance Act 1996-32, as amended 2004

Under Section 2(1) of the Insurance Act, an international insurer can be licensed as a Qualifying Insurance Company (“QIC”), if no more than 10% of its gross revenue from insurance premiums originates from within the Caribbean Single Market and Economy. QICs can be newly-formed insurers or branch insurers registered under the Insurance Act, or an insurer previously registered as an EIC. (See Section 13A(1) of the International Businesses Miscellaneous Provisions Act of 1998-31, as amended 2004-7).

3. The Companies Act

All types of international insurance companies must be registered in Barbados under the Companies Act, as amended.

Insurance and Company Regulations

The following regulations apply to international insurance in Barbados:

1. Exempt Insurance (Delegation of Functions)

Establishing the authority of the Supervisor of Insurance to regulate international insurers, pursuant to Section 9(3) of the Exempt Insurance Act.

2. Exempt Insurance (Forms and Fees)

This sets forth the form of application and application fees to license an exempt insurer (Form A) or a variable life insurer (Form AA1). Qualified insurers use Form A-1 for domestic insurers (pending revision of Form A) (See Appendix A for copy of Form A)

3. Exempt Insurance (Tax concessions)

4. Exempt Insurance (Holding companies)

5. The Companies Regulations

The laws and regulations are posted on the web at www.barbadosbusiness.gov.bb

Follow the links to “Legislation”, and select “Investment Acts”

Responsibility and Authority

~~✍~~ Registrations under the Companies Act are administered by the Registrar of

Companies: **Maureen Crane-Scott**, 246-228-2556 (email: mcranescott@caipo.gov.bb)

~~✍~~ Insurance Licenses are issued by the Supervisor of Insurance: **Carlos Belgrave**, 246-228-8092 (email: carlosbelgrave@gob.bb). The Deputy Supervisor is Mrs. Vernese Brathwaite, 246-437-3985.

Key Provisions of the Acts and Regulations

(The following provisions apply to both Exempt and Qualified International Insurers.)

Registration and Incorporation

Following preliminary approval of their proposed business plan by the Supervisor of Insurance, international insurers proposing to transact insurance business from Barbados will be registered under the Companies Act. Except for Branch insurers, which are incorporated outside of Barbados, the international insurer will be incorporated in Barbados. Following registration, the applicant will be licensed to transact the classes of insurance or reinsurance business previously approved by the Supervisor. (See Appendix

B “Company Formation Procedures”, for additional information about the process of forming a Barbados International Insurer.)

Forms of Organization

The Exempt Act and Insurance Act allow international insurers to form as stock companies with paid in capital, or mutual insurers with contributed reserves.

Under Division G of the Companies Act, the exempt or qualified insurer may register as a Segregated Cell or Segregated Account Company.

Names

The international insurer must select a name that includes a descriptive term selected from both (i) and (ii) below:

- i. Insurance, Assurance, Reinsurance, Reassurance, Indemnity or Guaranty;
- ii. Ltd., Limited, Incorporated, Inc., Corporation, Corp. or (in the case of a segregated cell company) SCC.

Please provide three names to the Registrar, in order of preference.

Licensing Requirements

International insurers (including Branch insurers) are required to file the appropriate application form, and the following supporting documentation, with the Supervisor of Insurance:

- (1) Certified copy of certificate of Incorporation
- (2) Certified copy of Memorandum and Articles of Association
- (3) For segregated cell companies, a copy of the shareholder, member or participant agreement for each cell
- (4) Letters of acceptance of responsibility by Barbados Registered Agent, and by the Resident Representative (if other than the Captive Manager)
- (5) Auditor’s certificate in respect of paid up capital
- (6) Certified copy of balance sheet after incorporation and capitalization

- (7) Copy of contract with management company
- (8) List of Directors and Officers; in respect of each, state
 - Name
 - Permanent Address
 - Country of Birth
 - Nationality
 - Date of Birth
 - Business Experience
 - Position with Applicant Company
 - Other directorships held
- 8. Photocopy of Insurance Supervisor' s receipt for application fee
- 9. A business plan, providing details of the source of business and reinsurance programme, with a minimum 3-year financial projection for general (non- life) business and 5-year projection for long term (surety and life insurance) business.
- 10. Names and addresses of the Common Shareholder(s), and unless waived by the Supervisor, audited financial statements or personal net worth statements of the Applicant' s beneficial shareholder(s).

License applications must be signed by at least two Directors of the Company. A copy of Application Form A is included as **APPENDIX A** of this document. **APPENDIX B**, "Formation task listing" can guide the international insurer applicant through the formation process.

Formation Costs

An international insurer will pay the Barbados dollar equivalent of the following government fees:

Application fee:	US\$ 250
Incorporation fee:	US\$ 400
Annual license fee:	US\$ 2,500

Additional formation expenses include a Barbados attorney retainer for incorporation expenses and a Barbados auditor' s fee for certification of the opening balance sheet.

Currency

The Barbados dollar is fixed at 200% of the US dollar. (BDS\$2.00 = US\$1.00).

Types of Business Written

An international insurer may be licensed to write any type of general business (property, casualty, liability etc.) and long term (life insurance, bonds, etc.).

The same company may underwrite both general and long-term risks (no separate license required).

Unrelated Risks

There are no restrictions upon the amount of unrelated (non-shareholder) business that is written.

Sources of Risk

The exempt international insurer (EIC) may only insure or reinsure risks outside of Barbados, where the premium is paid from outside of Barbados. Up to 10% of the risks underwritten by a qualified insurer (QIC) may be from within Barbados.

Ownership and Governance

The international insurer may be owned by its insureds, or by non-affiliated parties (both individuals or legal entities such as corporations, partnerships, trusts or holding companies). There is no prohibition against ownership by insurance or reinsurance companies, or insured service providers, agents or brokers.

Boards, Board Meetings

The international insurer must have a minimum of two directors, but there is no requirement for a Barbados resident director.

The international insurer board must meet annually in a place of its choosing, within or outside of Barbados

Domicile Presence

The international insurer appoints a registered agent within Barbados, uses a Barbados licensed insurance manager, and maintains copies of corporate, underwriting and financial records in Barbados.

Registered Office

The international insurer must have a registered office in Barbados. This may be the office of the selected Barbados attorney, or the licensed Barbados manager. Changes in the registered office must be notified to the Registrar of Companies.

Insurance managers

Any person that provides accounting, administrative, brokerage or underwriting services, or processes claims, from within Barbados, must be licensed by the Barbados Supervisor of Insurance.

Resident representatives

The international insurer must have a resident representative, which is either the insurance manager, or another party approved for that purpose by the Supervisor. The representative is required to report to the Supervisor and the international insurer's auditors in writing within 14 days of becoming aware of the likelihood of the international insurer insolvency. The resident representative must be notified of all international insurer shareholder and board meetings and may inspect the corporate records at any time.

Surveillance

Business Plan Approval

The insurer may only underwrite the line of insurance specified in its license.

The following transactions require prior approval in writing from the Supervisor:

?? Entering into a merger or consolidation

- ?? Transferring, other than in the ordinary course of business, including reinsurance, assets or liabilities¹
- ?? Pledging assets (unless for reinsurance security and collateralized by a Letter of Credit)
- ?? Name change
- ?? Writing classes of business not specified in the license
- ?? Changing articles of incorporation

Reports and Filings

Within 6 months from the close of its fiscal year, the international insurer files audited statements with the Supervisor's office. Long term (life) insurers must annually file an actuarial certificate of adequacy of reserves. If the liabilities of a general business insurer are more than 200% of its equity, an actuarial review to determine adequacy of reserves is required.

The Supervisor must be notified within 30 days of changes in Directors, and a filing of all changes in Directors and Officers will also be made with the Registrar of Companies.

Year End

International insurers are permitted to operate on a fiscal as well as calendar year basis.

Auditors

The auditor must be a member of the Institute of Chartered Accountants of Barbados or otherwise approved by the Supervisor. Audited statements follow International Accounting Standards (which includes US GAAP). Audits are filed for the SCC as a whole, with detail of the accounts on a cell by cell basis.

¹ Inter-company transactions are regulated under these prior approval requirements of the Act.

Actuaries

Actuaries must be qualified and a member in good standing of a professional association of actuaries, or otherwise approved by the Supervisor.

Taxes and Fees

The income earned by an exempt insurer, or a Barbados holding company of an exempt insurer, or a licensed insurance manager, is not subject to Barbados income tax, or premium tax. The annual license fee is US\$2,500

Paid in Capital and Solvency Ratios

1. Year 1, minimum paid in capital for all types of international insurers:
US\$125,000. Additional surplus may be required based on the amount and type of business written.
2. Year 2 forward, General Business Solvency Ratios:
 - ~~1/2~~ US\$125,000 if premium written (net of reinsurance) is less than US\$750,000
 - ~~1/2~~ A minimum capital of 20% of net premium, if net premium is between US\$750,000 and \$5,000,000
 - ~~1/2~~ If net premium in the preceding year is greater than US\$5,000,000 minimum, capital is US\$1,000,000 plus 10% of the amount of premium above the US\$ \$5,000,000 minimum
3. Long term (life) insurers are solvent if assets exceed liabilities.
4. Capital can be cash or a valid and irrevocable letter of credit drawn on or confirmed by an approved bank
5. Admitted assets for purposes of solvency compliance include deferred acquisition costs, irrevocable Letters of Credit drawn or confirmed by a bank licensed in Barbados and inter-company receivables, if approved by the Supervisor.
6. For segregated accounts companies, the assets attributable to a variable life insurance contract will not be counted as an asset of the insurer, for purposes of calculating solvency compliance.

Banking and Investments

An international insurer may place deposits with a Barbados bank or investment company registered in Barbados under the Offshore Banking Act, or with a bank or investment

company outside of Barbados. The investment policy of the exempt insurer will be established by its board of directors. The investment policy for the investment of assets attributable to the Barbados risks underwritten by a qualified insurer will be subject to the investment regulations applicable to Barbados domestic insurers.

To open a bank account in Barbados, character references are required. The shareholder of the Applicant Company should provide a reference on the letterhead of their existing bank, with a contact name and contact information. Two copies of a notarized picture identification should be provided for each signatory.

Branch Insurers

Insurance companies, in good standing with their state or country of domicile, can be licensed as an EIC (See Exempt Insurance Act Amendment 2001 4(b)).

A Barbados branch may operate as a separate account or segregated cell company.

Segregation of Insurer Assets and Liabilities

An international insurer may segregate its assets and liabilities in two distinct manners:

Separate Account Companies (SAC)

If an insurer provides long term (life or annuity) contracts, they may use a separate account structure. Each contract (policy) is a separate account, and assets in one account cannot be used to pay liabilities under another. Core capital cannot be eroded by trading losses within an account. The beneficiary of the policy or annuity contract is not required to be a shareholder of the international insurer.

Segregated Cell Companies (SCC)

Both insurance and non-insurance entities (e.g. banks) may be organized as a segregated cell company. Assets in one cell may not be used to satisfy liabilities in another cell. Core capital is at risk (although the business plan of each cell and the agreement between the SCC and its Participants may limit the risk to core

capital.) The cell participant may own shares (ordinary and/or preference). Directors are not personally liable for the segregation of assets and liabilities. The SCC will notify the Supervisor when a new cell is populated, providing information about the Participant and the Source of Business.

Solvency ratios apply to the SCC as a whole.

Appendix A: Application Form

FORM A – EXEMPT INSURANCE ACT, 1983

APPLICATION FOR A LICENSE TO ENGAGE IN EXEMPT INSURANCE BUSINESS

APPLICATION is made on behalf of

for a license to carry on from within Barbados the following class or classes of insurance business in accordance with the provision of the Exempt Insurance Act, 1983.

1. **NAME OF COMPANY** _____
2. **ADDRESS** of registered office in Barbados _____

3. **APPLICATION FEE** paid to the Accountant General
Amount of Fee
Date and Receipt No.

4. **PARTICULARS OF THE COMPANY**

DATE OF INCORPORATION:

PLACE OF INCORPORATION:

SHARE CAPITAL:

AUTHORIZED:

PAID UP:

CONTRIBUTED RESERVES: N/A

GUARANTOR: N/A

SUMMARY OF MAIN OBJECTIVES:

5. **MANAGEMENT**

NAME AND ADDRESS of person resident in Barbados on whom documents may be served:

State whether the Company will manage its own business or use the services of a management company: Financial accounting, underwriting and administrative services will be provided by

NAME AND ADDRESS of management company in Barbados:

NAME AND ADDRESS of Auditors:

- (1) In Barbados
- (2) Outside Barbados

NAME AND ADDRESS of Actuary:

NAME AND ADDRESS of Bankers:

- (1) In Barbados
- (2) Outside Barbados

6. **BUSINESS PLAN**

DATE OF COMMENCEMENT OF BUSINESS:

PROPOSED SOURCE OF BUSINESS (BY CLASS) (**Names and addresses of insured affiliates must be provided**)

ESTIMATED GROSS PREMIUM INCOME (1st year) US \$

ESTIMATED NET PREMIUM INCOME (1st year) US \$

COMPANY' S FINANCIAL YEAR commences _____

ends _____

7. **REINSURANCE PROGRAMME (by class)**

SUPPORTING DOCUMENTS TO BE ATTACHED:

- (1) Certified copy of certificate of Incorporation
- (2) Certified copy of Memorandum and Articles of Association
- (3) Letter of acceptance of responsibility by Barbados Resident Agent
- (4) Auditors certificate in respect of paid up capital
- (5) Certified copy of balance sheet after incorporation and capitalization
- (6) Copy of contract with management company
- (7) List of Directors, in respect of each, state
Name:
Permanent Address
Country of Birth
Nationality
Date of Birth
Business Experience
Other directorships held
- (8) Photocopy of Accountant General' s receipt for application fee
- (9) Copy of reinsurance cover notes and contracts.

Appendix B: Company Formation Procedures

FORMATION TASK LISTING AND TIME LINE

(This task listing and time line illustrates the process of forming an international insurance company in Barbados. Circumstances may differ for individual companies.)

TASK	Timing
1. Develop Business Plan Description of business purpose Coverage form Terms of fronting, reinsurance agreements Loss and expense projections Rate development Premium allocations Solvency compliance Operating procedures Service providers Fronting costs Financial projections Tax status of international insurer income Dividend policy	Week 1 - 3
2. Domicile Visit A visit to the international insurer's domicile is optional, but provides an opportunity to meet with regulators to discuss the proposed international insurer program, and interview insurance managers and lawyers, if not already selected.	Week 4
3. Develop Corporate Documentation Working with an Barbados attorney, prepare: Articles, bylaws Shareholder agreements Participation agreement Select: Directors ² and officers Name of company	Week 5

² Barbados does not require a resident director, but an attorney, or management company representative, will fulfill that requirement if deemed necessary to achieve the international insurer's business objectives.

TASK	Timing
<p>4. Preparation of the Application Package</p> <ul style="list-style-type: none"> Plan of operations with 3-5 year financial projection Financial information for international insurer shareholders Biographical information on the international insurer's officers and directors Copies of incorporation documents Name and address of resident representative Letter of acceptance of responsibility by resident representative Name and address of management company Copy of management contract Name and address of banks, investment managers (if applicable)³ Name and address of auditors (approved in Barbados) 	Week 6
<p>5. Submission of the Application (allow 2 weeks for approval)</p> <p>The insurance manager or attorney will submit the application to the Insurance Supervisor with the application and license fee.</p>	Week 7
<p>6. Formation</p> <p>Following approval of the application by the Supervisor, the attorney will incorporate the company. The formation process includes:</p> <ul style="list-style-type: none"> Approval of bylaws, election of officers Adopt banking and investment policies Open bank account(s) Contribute capital and surplus⁴ Issue shares Sign management and claims handling agreements 	Week 9
<p>7. Commencement of Business</p> <p>Following the formation process, and upon receipt of the Auditor's certificate of opening balance sheet, the Supervisor of Insurance will issue a license and the insurer will:</p> <ul style="list-style-type: none"> Issue policies, sign reinsurance agreements Invoice premium Meet collateral requirements 	Week 11

³ US owned international insurers that have taken the 953(d) election may choose US banks, however a Barbados bank will be used by international insurers that are not engaged in trade of business onshore.

⁴ The statutory capital required for licensing is US\$125,000. In year two forward the international insurer operates on a 5:1 premium to capital and surplus ratio.