



## New requirements for Bermuda general and composite insurers commence on 1 January 2019

Service area / [Insurance](#)

Location / [Bermuda](#)

Date / [December 2018](#)

Bermuda's Insurance Amendment (No.2) Act 2018 made some important amendments to the Insurance Act 1978 (**Act**). The amendments:

- became operative in respect of insurers carrying on long-term insurance business on 30 July 2018; and
- become operative in respect of insurers carrying on general business and composite insurers on 1 January 2019.

The following represents a high level reminder of the amendments:

### [In respect of winding up of insurers in general:](#)

- the claims of unsecured policyholder creditors of an insurer will be paid before the claims of all other non-preferential unsecured creditors – the existing priority of preferential creditors such as employees and the Government with respect to unpaid taxes and rates remain unchanged.

### [In respect of accounting, attribution and discharge of liabilities of insurers carrying on long-term and general business:](#)

- clarification that the requirements in section 24 of the Act (i.e. to maintain separate accounts for long-term business, discharge long-term liabilities out of a long-term business fund and only pay 'other' business liabilities out of assets attributable to such 'other' business) only apply (with certain limited exceptions) to insurers carrying on both long-term and general business with the reference to 'other' business having been amended to reference general business; and

- clarification that attribution of a liability to either long-term or general business shall depend on how the liability is required to be reported in the insurer's statutory financial statements.

### [In respect of winding up of insurers carrying on long-term and general business:](#)

- the requirement that each business fund (long-term and general) must be applied to pay the respective liabilities attributable to that business remains unchanged;
- policyholders' debts attributable to each particular business shall be paid out of the assets of the relevant business fund before other non-preferential unsecured debts of the insurer are paid;
- surplus in a business fund (after paying preferential and policyholder debts of the relevant business) may be applied to discharge any preferential or policyholder debts attributable to the other business that were not satisfied out of that other business fund as a result of it being in deficit; and
- once all preferential and policyholder debts have been fully paid, the assets of both business funds shall be pooled to pay general unsecured creditors of the insurer (irrespective of the business to which such unsecured creditors' claims relate).

The implementation of the amendments ensures that Bermuda maintains an effective insurance regulatory and supervisory infrastructure.

### OFFSHORE LAW SPECIALISTS



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