



**Practice Direction Number 3 of 2006,
Issued under section 40 of the Financial Services Commission Act, 2001.**

Books and Records for Captive Insurance Companies

1 Introduction

- 1.1 Section 21(1)(a) of the Insurance Act, 1994, Regulation 11 of the Insurance Regulations, 1995 and Sections 7 and 8 of the Anti-Money Laundering Code of Practice, 1999 (as amended) all make reference to the requirement to maintain books and records at the insurer's principal office in the Territory. The full text of the relevant requirements is shown in Appendix A.
- 1.2 In regulating and supervising insurers carrying on insurance business from within the Territory the primary objectives of the BVI Financial Services Commission (the "Commission") in setting the requirement that books and records are maintained in the Territory are to ensure that the:
 - o business carried on by the insurer from within the Territory is in line with the business plan lodged with and the licence issued by the Commission;
 - o insurer is financially strong and is able to meet all its liabilities and maintain the required margin of solvency at all times;
 - o insurer and its compliance officer are aware of the source and recipient of all transactions relating to the insurer.

2 Application

- 2.1 For the purposes of this Practice Direction a Captive Insurance Company ("insurer" or "Captive Insurer") is defined as being an insurer licenced by the Commission to carry on insurance business from within the Territory.
- 2.2 This Practice Direction applies to all Captive Insurers and their Insurance Managers licensed under the Insurance Act, 1994. It sets out the minimum information that the Commission would expect captive insurers to maintain at their principal office in the Territory.
- 2.3 As part of its supervisory responsibility, the Commission will apply this Practice Direction when undertaking on-site inspections of insurance managers.

3 Books and Records

- 3.1 In order that an Insurer and its Insurance Manager can demonstrate to the Commission that the minimum requirements for maintaining books and records at the principal office in the Territory are met the following information should be held, in paper or electronic format and where applicable, for each insurer:
- o Policy documents – Copies of all policies, endorsements/riders and renewal notices issued by the insurer. Where the insurer issues numerous policies of the same type the Commission would expect to see a copy of the standard policy wording that is issued plus details of all such policies issued. In such cases the minimum information should include policy number, name of insured, period of insurance, type of cover provided, sums insured or limits of indemnity and premium paid.
 - o Claim payments – Information on all claims payments made, including claim number, policy number, date of loss, cause of loss, recipient of the claim payment, date of the claim payment and amount of the claim payment.
 - o Claim reserves – For known outstanding losses the type of information described above for claim payments should be maintained for each claim outstanding. If separate IBNR, or similar, reserves have been established following input from an actuary there should be a copy of the actuarial report. Otherwise, a report from the person establishing the IBNR, or similar, reserves setting out the assumptions that they have used to establish the reserve should be available.
 - o Reinsurance – Copies of all inward and outwards reinsurance agreements and related accounts.
 - o Bank accounts – Copies of all bank account statements. The Commission would expect statements to be produced a minimum of once a quarter.
 - o Investments – Where the insurer uses the services of an outside asset manager copies of all the asset manager's statements. The Commission would expect statements to be produced a minimum of once a quarter. For all other investments there should be a register of such investments. The register should contain details of the type of asset, name of counterparty, date of purchase, value when purchased and current valuation. The period in which the register should be updated will depend on the volume and frequency of transactions. The Commission would expect registers to be updated a minimum of once a quarter.
 - o Loan agreements – Copies of all loan agreements.
 - o Letters of Credit – Copies of all Letters of Credit issued.

- o General Ledger – The period in which the ledger should be updated will depend on the volume and frequency of transactions. The Commission would expect ledgers to be updated a minimum of once a quarter.
- o Board and Shareholder Meeting minutes – Copies of the minutes of all meetings and written resolutions should be maintained.
- o Registers of Shareholders and Directors/Officers – Up-to-date copies of all registers should be maintained.
- o Verification of Identity – Evidence of the identity of all shareholders and Directors of the insurer. This should include, but need not be restricted to, copies of passports, drivers' licences, social security numbers, utility bills or other suitable correspondence identifying the individuals' home address.
- o Service providers – Where relevant, details of service providers that provide underwriting, pricing, claim settlement, claim reserving, investment, banking, accounting, auditing, actuarial and legal services. Copies of all agreements with the service provider and reports provided to the insurer by those service providers should be available.
- o Management agreement – A signed copy of the management agreement between the insurer and the insurance manager that sets out the requirements of the insurer to ensure its compliance with all relevant financial services legislation.
- o Other material facts – Details of any material contractual commitments or contingent liabilities that are not included in the insurer's balance sheet.

The Official Seal of the Commission is affixed hereto this 29th day of August, 2006.



Robin Gaul
Chairman of the Board of Commissioners
Financial Services Commission



APPENDIX A

Insurance Act, 1994

Principal office and appointment of insurance manager.

21. (1) Every insurer licensed under this Act shall -

(a) maintain a principal office in the Territory at which it shall maintain permanently full and proper books and records of its insurance business as may be prescribed by the regulations;

Insurance Regulations, 1995

Books and records to be maintained at the insurer's principle office.

11. (1) Every licenced insurer shall maintain permanently at its principal office in the Territory such books and records of its insurance business and financial affairs -

(a) as will show adequately the type and classes of insurance business carried on by the insurer in or from within the Territory; and

(b) as will enable the Commission at any time to conduct a proper examination of the insurer's affairs and to ascertain with reasonable accuracy its financial position.

(2) Without prejudice to the generality of the provisions of sub-regulation (1) the books and records to be kept by every licenced insurer at its principal office in the Territory shall include -

(a) financial statements;

(b) a record of premium income and claims paid including reinsurance;

(c) a register of the insurer's directors and officers showing their names and addresses;

(d) minutes of all proceedings of the insurer's general meetings, meetings of its directors and of its Committees;

(e) general and subsidiary ledgers and general journals;

(f) a record of the insurer's reinsurance programs or treaties showing underwriting limits by each class of insurance and amounts retained by the insurer;

(g) an up-to-date list of all the insurer's agents; and

(h) any other registers or records as may be directed or authorised by the Commission.

APPENDIX A continued

Anti-Money Laundering Code of Practice, 1999 (as amended)

Maintaining a record of verification of identity.

7. Where a relevant person is required under this Code to verify the identity of a person, the relevant person shall establish and maintain a record in the Territory which:

- (a) indicates the nature of the evidence obtained; and
- (b) comprises a copy of the evidence or, where this is not reasonably practicable, contains such information as would enable a copy of the evidence to be obtained.

Maintaining a record of transactions.

8. Where a relevant person is required under this Code to verify the identity of a person, the relevant person shall maintain a record of all transactions carried out by or on behalf of that person (such as records sufficient to identify the source and recipient of payments from which investigating authorities will be able to compile an audit trail for suspected money laundering).