

STATUTORY REPORTING OBLIGATIONS OF THE INSURANCE MANAGER

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Statutory Reporting Obligations Of The Insurance Manager

- What are they?
- Why should they be taken seriously?
- Solution to minimize insurer contraventions?



Statutory Reporting Obligations Of The Insurance Manager

- “The Insurance Act defines an insurance manager as a person not being an employee of an insurer who is, or has available to him a person with such insurance knowledge and expertise as the Commission deem necessary for the conduct and management of the insurance business of any one or more insurers in a competent manner”



Functions of an Insurance Manager

- Compliance
- Maintenance of books and records
- Underwriting and claims handling function
- Accounting
- Reinsurance
- Investment management



Insurance Act 1994, Section 64: Reporting Duties of the Insurance Manager

The insurance manager is required to report to the Commission giving particulars of information and documents if it appears to him or her that any of the insurers for which he acts as manager:

- Is conducting its business in a manner that would expose the insurer to
- Becoming insolvent
- Is not complying with any provisions of the Act
- Has defaulted on the payment of its liabilities
- Is experiencing a state of affairs prejudicial to the interest of policyholders or creditors
- Is involved as a defendant in any criminal proceedings in any country or jurisdiction
- Has ceased to carry on business in or from within the territory



Insurance Act 2008, Section 51: Reporting Duties of the Insurance Manager

The insurance manager of a licensed insurer to which Section 23 (appointment of an Insurance manager) applies shall report immediately to the Commission any information as it relating to the affairs of the licensed insurer that he has obtained in the course of acting as its insurance manager that, in his opinion , suggests

- that the licensee is insolvent or is likely to become insolvent or is likely to be unable to meet its obligations;
- that a criminal offense has been or is being committed by the insurer in connection with its business;
- that a serious breach of this Act or the Regulatory Code or such other enactments, guidance or code relating to money laundering or the financing of terrorism as may be prescribed has occurred in respect of the licensee or its business;



Insurance Act 2008, Section 51: Reporting Duties of the Insurance Manager

- that the insurer has defaulted in the payment of any of its liabilities;
- that the insurer is not conducting its business in accordance with sound insurance principles that the insurer is not conducting its business in accordance with sound insurance principles; or
- that the insurer has ceased to carry on business in or from within the Virgin Islands



Seriousness of neglecting reporting duty as an Insurance Manager

- Section 54 A of the FSC ACT states “ where an authorised or a registered agent knows or has reasonable grounds to suspect that a licensee for which he acts as agent has committed a breach the authorised or registered agent commits an offence if it fails to notify the Commission in writing of the breach or offence within a reasonable period after it becomes known”



Seriousness of neglecting reporting duty as an Insurance Manager

- Penalties – “an authorised or registered agent is liable to be fined by the Commission for an amount not exceeding \$7,500”
- Where the Commission is satisfied that a breach or offence committed by the licensee under any FSC legislation is due wholly or partly to the default of the agent a fine not exceeding such amounts prescribed for the breach or offence in respect of the licensee
- Where the penalty prescribed does not comprise a fee the Commission may impose a fine not exceeding \$25,000



Seriousness of neglecting reporting duty as an Insurance Manager

- Liability of the agent does not absolve the licensee from any breach or offence committed by the licensee
- An Agent shall not be liable in any legal proceeding on account of the fact that it notified the commission of a breach or an offence committed by the licensee for which it acts as agent
- This section also applies to Insurance managers



Solution to minimize Insurer contraventions

- Establish and develop direct relationship with client
- Management agreements
- Screening of clients before taking on board
- Providing ancillary services to clients other than just compliance function (underwriting, claims handling, accounting, reinsurance, investment and check signing functions)
- Educate clients on the importance of compliance



Solution to minimize Insurer contraventions

- Commission to partnership with Industry to consider the development of a:
 - Windup fund
 - Administrative fund

