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Dear Regulators

Comments on the ECCU [Uniform] Insurance Bill 2014 Draft Rev II

Further to our letter sent in July 2014, the Caribbean Actuarial Association (“CAA”) is pleased to be given the opportunity to comment on the revisions to the ECCU [Uniform] Insurance Bill 2014 Draft Rev II (“the Bill”) dated July 4, 2014. Our comments are attached for your attention and are provided in the context of actuaries who practice in the Caribbean and who are guided by the CAA’s Standards of Practice.

The attached document was prepared by its technical committees on Life Insurance, Property and Casualty Insurance and Pensions and reviewed internally before distribution. In the main, the document covers differences from the previous version, detailed comments on which were sent to you with our letter referred to in the first paragraph, although there are some repetitions.

We understand that several requirements – solvency, capital requirements and investment rules – will be addressed in the Regulations. The CAA would welcome the opportunity to comment on these Regulations.

We thank you for the opportunity to comment on the proposed legislation. I can be contacted at lwade@eckler.ca or at caasecretariat@gmail.com if you wish to discuss the attached document any further.

Yours sincerely

A handwritten signature in blue ink that reads 'Lisa Wade'.

Lisa Wade FFA, FSA
President
Caribbean Actuarial Association

Executive Council:

Lisa Wade – President; Marcus Bosland – President Elect; Neil Dingwall – Immediate Past President; Janet Sharp – Vice President; Leah Major – Secretary; Bertha Liverpool - Treasurer; Catherine Allen, Ravi Rambarran – Council Members; Pedro Medford – Student Representative



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Section / Schedule No	Section/ Schedule Title	Comment / Feedback
Section 2	Interpretation	<p>In the term “actuary,” replace “accreditation body” with “actuarial association.” The “actuarial associations” are the accreditation bodies as there is no external actuarial accreditation body in most countries.</p> <p>In the term “appointed actuary,” we recommend appointed actuaries for all insurers. Other countries in the Caribbean have considered and put in place an Appointed Actuary for all insurers, sometimes with a transition period subsequent to enactment of the legislation.</p> <p>The term “annuity” should be defined. We assume that it includes both deferred and immediate annuities. However, it should stipulate whether all of the annuity benefit could be paid in a lump sum. Also, is there a distinction between annuities that are registered (i.e. tax preferred) and unregistered (not tax preferred). In other words, will insurers be allowed to sell deferred annuities that are not required to be annuitized? We note that the term “variable annuity” is defined in section 349.</p> <p>The term “financial product” is used in the definition of ‘unit linked’ and in section 383(4). Are insurers allowed to sell stand alone financial products or should they always be attached to an insurance product? We recommend that the term financial product is defined in Section 2.</p> <p>The maximum premium collection period of two months in the term “industrial life policy” should be amended to the maximum premium collection period of forty days stated in Schedule 1 for ‘Industrial Life Insurance Business – or vice versa.</p>
Section 58 (4) (d)	Unit-linked products, segregated funds and assets	<p>The term “investment-linked products” is used but not defined. Perhaps the term should be replaced by “unit-linked”; alternatively the term “investment linked products’ should be defined.</p>



Section 62 (4)	Appointment of Auditor	<p>This section needs to be re-worded – it appears to be incomplete</p> <p><i>‘Subject to section 63, an insurer may, following the expiry of a term of the auditing firm, renew the appointment of an auditing firm except that an auditing firm.’</i></p>
Section 76 (and sections through 89)	Appointment of Actuary (inter alia)	<p>The CAA recommends that all insurers have an appointed actuary. If the ECCU agrees, the entire discussion of “Actuarial Requirements for long-term insurers” will change to “Actuarial requirements for insurers” and reference will be made only to insurers. It may also be appropriate to have a phase-in period of two to three years as insurers assemble actuarial databases and identify actuarial resources to supply the required actuarial services. The transition from no actuarial involvement to full actuarial involvement in one financial reporting cycle may put undue strain on all stakeholders.</p>
Section 102	Methods for calculating reserves	<p>Substitute the language below, replacing the current section under the assumption that actuarial requirements in sections 76 to 89 apply to all insurers:</p> <p><i>1) As specified in Section 84 items 1 and 2, the insurer must submit an actuarial report regarding the technical provisions reported by the insurer</i></p> <p><i>2) The Commission may direct an insurer to amend any method used in calculating the provisions referred to in subsection (1) if, based on sound actuarial evidence, the Commission is satisfied that the method does not result in the provision of adequate reserves.</i></p>
Section 103	Liabilities for long-term business	<p>The basis for the section is unclear and we recommend that the section is deleted. For insurers, the technical provisions would represent the future financial consequences of policies written or claims occurred prior to the financial reporting date and would be a liability under normal accounting conventions.</p>
Section 140	Establishment of statutory fund	<p>Sections (4) and (5) of Section 140 can imply the need for a quarterly estimation of IBNR and other actuarial items. Although it is important for stakeholders to understand the financial condition of insurers more frequently than in annual reports, a full actuarial estimation process at quarterly intervals could be difficult to manage and might not result in a benefit of significance relative to the cost. Nevertheless, to satisfy good corporate governance, the actuary should establish interim monitoring and reporting procedures as an ancillary service connected with annual actuarial reviews.</p>



Section 149	Local Asset Ratio	We assume that the prescribed assets (to be included in the Regulations?) would also address any foreign assets including associated limits / restrictions.
Section 353 Section 354	Insurer to file policy terms and other standard documents Premium rates to be approved by an actuary	<p>Sections 353 and 354 for general insurance business are equivalent to sections 311 and 312 for long-term insurance business; and both sections, especially 312 and 354, will require actuarial review. There will be new insurers formed as an unwinding of composite insurers or simply as new local or ECCU insurers. The actuarial resources serving the region may be insufficient to handle the filing, review and approval process required for a large number of new product filings. Although actuarial involvement is key for good insurance products, we recommend that thought be given as to the resources required. both by insurers and by regulators.</p> <p>Please also note our previous comments on replacing premium rates with pricing of products which will, inter alia, include premium rates where appropriate.</p>
Section 362	Qualifications for Registration	In some jurisdictions, there is sometimes confusion over whether a retirement savings arrangement is subject to the local pension plan Regulations. It appears that new pension plans must set aside funds in trust in order to be registered but existing pension funds that are not set up under trust can be registered under section 362(3). On this basis, arrangements such as ex-gratia unfunded pension promises and, possibly, savings arrangements that pay out a lump sum on leaving, would be fall outside of the scope of the legislation.
Section 366 (3)	Registration of Plans	A period of fourteen days to notify the Commission of a change to a plan's amendment is very short as we expect that an amendment would need to be drafted and reviewed before submission.
Section 366 (3)	Cancellation of registration of Plan	We are not sure who would be executing the board resolution and do not understand why reasons for the winding-up must be given when, for example, an employer has the right to wind-up the plan.
Section 368 (4)	Additional powers of the Commission	This seems to repeat section 368(3)(a) unless this section is trying to pinpoint one trustee rather than the trustees as a group.
Section 369 (4)	Penalties for default	The alternative imprisonment penalty has been changed to a fixed term of one year. We think that some discretion regarding the penalty should be made so that the penalty can be commensurate with the offence.



Section 370 (1)	Submission of annual accounts and balance sheet	A deadline of four months for the submission of audited accounts is very short. We recommend that the deadline for submission is changed to six months – the typical time allowed in the region.
Section 371	Actuarial investigation of defined benefit plan	<p>Section 370 (1) states that only actuarial valuations of defined benefit pension plans are required. Whilst this appears reasonable, we note that actuarial valuations of defined contribution pension plans are required in some ECCU territories. In light of the uncertainty as to what constitutes a defined benefit or defined contribution pension plan, we recommend that a definition of a defined benefit pension plan is included in section 360. It is sometimes simpler to define a defined benefit plan on the grounds that it is not a defined contribution pension plan.</p> <p>The CAA defines a defined contribution pension plan as a pension scheme in which::</p> <ol style="list-style-type: none"> a. the employer pays a fixed contribution into the scheme and has no legal or constructive obligation to pay further contributions into the scheme in relation to past periods of service; and b. the total investment earnings on the assets backing the members’ accounts are credited to their accounts by means of unitisation or otherwise; and c. each member’s benefit is based solely on the value of his account which is made up of contributions paid by and/or on behalf of the member plus investment earnings as well as any other components which may arise from forfeitures or transfer payments; and d. on retirement, the risk of paying the pension is transferred to an insurance company by purchasing annuities or transferred to an approved retirement arrangement. <p>In Section 370 (3), whilst we are aware of other Caribbean countries with a 9 months deadline, we believe that this is short (it is shorter than the equivalent period in the UK for example). There is therefore a risk that the valuation report may be turned into a minimum compliance document which does not fully address all of the issues that would normally be considered.</p> <p>We request clarification of Section 370 (4). A pension plan invested with an insurance company in a deposit administration contract, say, should be subject to the same actuarial valuation requirements as set out in section 371(1). Very few pension plans are 100% “insured” in that</p>



		benefits are often secured by purchase of annuities as they become due.
Section 476	Protection for whistle-blowers	The CAA Code of Conduct sets forth a procedure for a CAA member to follow in cases “when a member becomes aware of a breach in the codes of conduct by another member and the member decides that the nature of the breach is such that action is called for...” The Proposed legislation extends the obligation to non-actuaries and offers limited protection to whistle-blowers.
Schedule 1	Classes of Business	<p>Group Life Business – clarification is needed to ensure that Creditor’s Group Insurance is included in this category;</p> <p>Ordinary Life Insurance – clarification that Variable Life Insurance and Unit-Linked insurance are included in this category;</p> <p>If ‘financial product’ and ‘investment-linked products’ are eventually defined in the Act, the type of business under which they would fall should be clarified.</p>
Schedule 3 Part IV	Assets in which registered pension plan may be invested	This states that investments will not be permitted outside of CARICOM unless the country’s minister approves and even then permission will be restricted to bonds. Whilst this is the case for most ECCU countries, St Lucia amended its Act to allow pension plans to invest up to 20% of their assets outside of CARICOM. This was a welcome amendment and we hope that the uniform legislation would look to extend this change to other ECCU territories rather than reverse it in St Lucia. This is because one of the key problems faced by ECCU pension plans is the lack of availability of appropriate long term investments. With this in mind, we recommend that the investment restrictions for ECCU pension plans will be revisited and relaxed.
Schedule 5	Administrative Penalties, Part A	There are multiple references to administrative penalties for offences involving actuaries and actuarial services. The CAA takes an interest in such offenses and penalties. Our interest centres on whether the fines are fair and reasonable to the insurers or the actuaries who commit the offenses cited i.e. “whether the punishment fits the crime.”