

## Article

### Insurers Are First to be Registered under New Bermuda ISAC Act

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**The first company and incorporated segregated account (ISA) to be registered in Bermuda under the Incorporated Segregated Accounts Company Act 2019 (ISAC Act) have been licensed as insurance companies. Conyers advised on the incorporation of both the ISAC and ISA and their registration as insurers, working closely with the Bermuda Monetary Authority and the Registrar of Companies.**

The ISAC Act, which became operative in January 2020, is companion legislation to the Segregated Accounts Companies Act 2000 (SAC Act). Bermuda segregated account companies (SACs) are well known and widely accepted structures that have been used by Bermuda insurance companies for many years.

The first Bermuda ISAC and ISA were registered as a Special Purpose Insurers to run a specialised insurance programme. An incorporated segregated account structure was chosen for this programme because of the added security and understanding that the separate legal status of each ISA provides.

Conyers has also recently advised on and assisted with the registration of the second Bermuda ISAC, which is not expected to be registered as an insurer or investment fund, demonstrating that there is an interest in this space beyond the major regulated industries and that the Registrar of Companies is willing to register entities that are not interested in operating as an insurer or investment fund as incorporated segregated account companies.

#### How is an ISAC different from a SAC?

Both the SAC Act and the new ISAC Act ring-fence the assets of each individual account from the creditors of other accounts and allow for the winding up or termination of individual accounts without affecting any of the others, a protection that has consistently been upheld by the Bermuda Supreme Court under the SAC Act. As with segregated accounts, each incorporated segregated account (ISA) of an incorporated segregated accounts company (ISAC) will be able to contract with one another and/or the ISAC itself.

The two pieces of legislation differ in that under the SAC Act the statutory divisions between the segregated accounts do not create separate legal persons, but under the ISAC Act each ISA is a separate legal entity in its own right. As such, each ISA has many of the attributes of a company, including the ability to hold assets, sue and be sued in its own name, be subject to winding up proceedings with no impact on other ISAs or on the ISAC, and most importantly, legal segregation of the ISA from the ISAC and other ISAs. Each ISA also has its own bye-laws and board of directors, separate from the board of the ISAC, though the same directors can sit on both if so desired.

#### Benefits for insurers

ISACs may be advantageous for insurance and reinsurance structures in that, due to the separate legal personality of each account, it is possible for each ISA to function as an independent licensed insurer and obtain separate tax elections (if relevant) or credit ratings, which may be an attractive feature for some. An ISAC may also have ISAs which hold different classes of insurance licenses which will allow ISAs to be tailor-made as necessary for the risks insured, while also taking into account the interests of the company at large.

Like SACs, one of the primary benefits of an ISAC is that it renders it unnecessary to incorporate multiple companies with limited liability to hold separate assets. This provides efficiencies in terms of legal and other administration fees. Centralising administrative control in the same entity may also provide cost savings with respect to ongoing corporate administrative fees and general operating costs.

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