



Guide to Licensing of Offshore Insurance Companies

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Preface

Insurance companies may be licensed under The Insurance Law of the Cayman Islands (the "Insurance Law"), which was first enacted in 1979 and most recently amended in 2008. The Insurance Law provides for a licensing regime applicable to all insurers, brokers, agents and insurance managers established in the Cayman Islands.

This memorandum is concerned with the formation and/or licensing of companies that will seek to operate from the Cayman Islands as "exempted" insurers with Class "B" insurance licences, underwriting non-domestic business.

The term "exempted insurer" means an insurer incorporated as a Cayman Islands exempted company, a non-resident company incorporated in the Cayman Islands or a foreign company which has been registered to establish a place of business in the Cayman Islands.

An "exempted insurer" may also be a Cayman Islands "Segregated Portfolio Company" or a foreign insurance company structured (under the laws of its jurisdiction of incorporation) along similar lines, i.e. so that it has capacity to establish separate accounts or "protected cells" each of which is legally segregated in order to protect different insurance contracts or portfolios of risks.

LICENSES

There are two categories of the Class "B" insurance licence:

- Unrestricted Class "B" insurer's licence - this licence permits an exempted insurer to carry on insurance business generally in or from within the Cayman Islands;
- Restricted Class "B" insurer's licence - this licence permits an exempted insurer only to accept insurance business other than domestic business from its member or members or such other persons as may be specifically approved by the Cayman Islands Monetary Authority ("CIMA").

APPLICATION

Applications for an insurer's licence must be made on the prescribed form. The Head of Insurance Supervision at CIMA usually requires a meeting with the sponsors of a prospective insurer (the "Applicant"), prior to submission of the licence application.

The application process will usually be completed in 3 to 6 weeks, commencing from the time of submission of all required information to CIMA.

The names, addresses and nationalities of all proposed shareholders of the Applicant will have to be provided in the application. Where a corporation or corporations will hold the Applicant's shares, the chain of ownership up to the ultimate beneficial owners of the shares of the corporation (s) must be indicated.

Resumes are required for all proposed directors, managers and officers of the Applicant, along with summaries of the experience of such persons in the insurance industry.

The Insurance Law requires the production of not less than three references acceptable to CIMA, including a character reference and a reference verifying satisfactory financial standing of each:

- director, manager, and officer of the Applicant; and
- shareholder or beneficial owner of a shareholder of the Applicant who is a natural person holding more than 10% of the Applicant's issued share capital or voting rights.

For each director, manager, officer or shareholder of the Applicant, a police certificate (or other documentary evidence satisfactory to CIMA) is required to be provided, establishing that such person does not have a criminal record.

The Insurance Law requires a licensed insurer to have appointed, a locally licensed insurance manager. The prospective insurance manager typically assists the Applicant in the development of a Business Plan for its licence application. The Business Plan must indicate the line or lines of insurance business that the Applicant intends to underwrite and give other pertinent details of its planned operations, so that CIMA is provided with comprehensive details of the Applicant's prospective business.

The Insurance Law provides for a minimum net worth requirement in connection with the issue of insurance licences other than Restricted Class B licences. "Net worth" means the excess of an insurer's assets, including any contingent or reserve fund, over its liabilities other than liabilities to partners or shareholders. The minimum net worth requirement is as follows:

- in the case of an insurer effecting general business but not long term business - US\$125,000;
- in the case of an insurer effecting long term business but not general business – US\$250,000;
- in the case of an insurer effecting long term business and general business – US\$375,000.

CIMA will specify a minimum net worth for each Applicant, based upon the planned volume of business indicated in the application and Business Plan. This may well be greater than the minimum net worth referred to above. The application process is the same, whether the Applicant is a Cayman Islands exempted company, a non-resident company incorporated in the Cayman Islands, a foreign company registered in the Cayman Islands or a segregated portfolio-type company.

However, segregated portfolio-type companies will need to submit separate Business Plans for each portfolio, separate account or "protected cell", which will be subject to regulatory approval (including net worth requirements) as if each were a stand-alone insurance company.

CAYMAN ISLANDS INSURERS

The initial step for establishing an insurer, which is to be a Cayman Islands company, is the incorporation of the prospective insurer as a Cayman Islands exempted company. An application to CIMA will then be submitted, seeking to have the prospective insurer licensed with a

Class "B" insurance licence in one of the two categories indicated. Legal costs in relation to the incorporation of an exempted company to be licensed as an insurer will be approximately US\$2,000 and more in the case of a Segregated Portfolio Company. The legal costs will exceed the quoted amount, to the extent additional work is involved, such as the drafting of non-standard Articles of Association or assistance with formulation of the licence application.

There is an annual Government fee of US\$10,366 per licence for Restricted and Unrestricted Class "B" licences.

Additional costs involved in the formation of a Cayman Islands insurance company will include the fees paid to the local insurance manager for its involvement in the licence application process and thereafter, with the management of the company. The insurance manager's fees will vary depending on the complexity of the application and the demands placed upon the manager in managing the company's business once its operations commence.

SUMMARY

Forms - the prescribed application form for a Class B insurer's licence (Restricted or Unrestricted) appears as a separate document on the Legal Guides page of the website. This form must be completed, typically with the assistance of the prospective insurance manager, and the supporting documentation assembled, to complete the licence application to CIMA.

The following is a typical step-by-step outline of the formation/licensing process.

- Sponsors (i.e. proposed owners and / or their professional advisors) engage local licensed insurance manager to assist with development of draft Business Plan, detailing proposed insurance operations.
- Draft Business Plan developed and submitted for review by the Head of The Insurance Division of CIMA.
- Sponsors visit the Cayman Islands to meet with the Insurance Division of CIMA, interview auditors, banks etc., meet with insurance manager, local attorneys.
- Formal licence application completed, compiled and submitted to CIMA.
- Company incorporation commenced and subscription for shares follows.
- The insurance application is submitted to the Executive Council (comprised of Ministers and officials of the Government of the Cayman Islands) – in normal circumstances, in-principle approval of the licence will be granted within six weeks (approximately) after submission.
- In-principle approval to grant the insurance licence received by the insurance manager.
- The Head of The Insurance Division of CIMA issues insurance licence upon notification by the insurance manager that company has been incorporated and its capital subscribed.