



Licensing of Insurers, Agents, Brokers & Managers in the Cayman Islands

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Preface

The Cayman Islands Insurance Law was enacted in 1979 and sets out the licensing requirements for all insurers, brokers, agents and insurance managers. The Cayman Islands Monetary Authority supervises the insurance industry in the Cayman Islands.

The following memorandum sets out information with respect to the licensing of insurers, brokers, agents and managers in the Cayman Islands.

The Cayman Islands Insurance Law (the "Law") was enacted in 1979. The Law introduced licensing requirements for all insurers, brokers, agents and insurance managers. The Cayman Islands Monetary Authority ("CIMA") supervises the insurance industry in the Cayman Islands.

TYPES OF INSURANCE LICENCES

An entity may not conduct insurance business, act as an insurance manager, insurance broker, insurance agent, insurance sub-agent or principal representative (insurance) in, or from within, the Cayman Islands without a licence to do so. The types of licences issued in the Cayman Islands are:

- Class A Insurer's Licence
- Unrestricted Class B Insurer's Licence
- Restricted Class B Insurer's Licence
- Insurance Agent's Licence
- Insurance Broker's Licence
- Insurance Sub-Agent's Licence
- Insurance Manager's Licence
- Principal Representative (Insurance)'s Licence

Under the Law holders of Class A, Unrestricted Class B and Restricted Class B Insurer's Licences are further classified into three different classes: a local insurer, an exempted insurer and an external insurer.

CLASS A LICENCE

A Class A Insurer's Licence allows a local or an external insurer to carry on insurance business in, or from within, the Cayman Islands, including domestic business (insuring person or property that is ordinarily resident in the Cayman Islands).

In practical terms the holder of a Class A Insurer's Licence must be one of the following:

- a local company
- a branch of a foreign company (subject to certain Companies Law restrictions)

The holder of a Class A Insurer's Licence must appoint an insurance manager that is resident in the Cayman Islands and must maintain full and proper records of its business activities at a principal office in the Cayman Islands.

There are certain requirements with respect to the incorporation of a local company (for example it must be at

least 60% Caymanian owned). A branch of a foreign company will only be granted a Class A Insurer's Licence where its principal or registered office is in a place where the legislation for the regulation and supervision of insurers is acceptable to CIMA.

CLASS B LICENCE – UNRESTRICTED OR RESTRICTED

An Unrestricted Class B Insurer's Licence allows an exempted insurer to carry on business, other than domestic business, from within the Cayman Islands. This is the type of licence usually obtained by captive insurance companies.

A Restricted Class B Insurer's Licence allows an exempted insurer to only accept insurance business from its members or persons approved by CIMA. It may not carry on domestic business generally.

In practical terms an exempted insurer is one of the following:

- exempted company
- foreign company registered in Cayman
- segregated portfolio company
- partnership
- an entity approved by CIMA

INSURANCE AGENT

As the name would suggest, an Insurance Agent's Licence allows the holder to solicit domestic business on behalf of one insurer. An insurance agent must either:

- provide CIMA with documentary evidence of the relationship between it and the insurer for whom he acts (such as power of attorney or agency agreement), or
- obtain the same indemnity insurance as an insurance broker (see below).

INSURANCE BROKER

An Insurance Broker's Licence permits the holder to negotiate contracts of insurance (or reinsurance) on behalf of more than one insurer, or for placement with insurers or reinsurers

An insurance broker must maintain professional indemnity insurance with an insurer licenced to do business in the Cayman Islands (ie. holder of a Class A Insurer's Licence). The indemnity must be not less than US\$125,000 for any one loss or such other sum as may be prescribed by CIMA.

INSURANCE SUB-AGENT

An Insurance Sub-Agent Licence allows the holder to solicit domestic business on behalf of an insurance agent or an insurance broker. An insurance sub-agent may only act on behalf of one agent or one broker. An insurance sub-agent must either:

- provide CIMA with documentary evidence of the relationship between it and the agent or broker for whom he acts (such as power of attorney or agency agreement), or
- obtain the same indemnity insurance as an insurance broker.

INSURANCE MANAGER

An insurance manager is an entity operating in the Cayman Islands which provides insurance expertise to, or for, insurers and is himself suitably qualified or employs suitably qualified personnel. An insurance manager must obtain an Insurance Manager's Licence in order to operate. An insurance manager must use its best endeavours to carry on insurance business (or reinsurance business) only with insurers of sound reputation. An insurance manager must report to CIMA any concern it has about the probity of business of any insurer (or reinsurer) with whom it works.

If an insurance manager wishes to act as an agent or broker they must obtain an Insurance Agent's Licence or an Insurance Broker's Licence as well.

PRINCIPAL REPRESENTATIVE

A principal representative is an entity that maintains full and proper records of the business activities of an insurer, for such insurer, and such entity is not an employee of that insurer. It must obtain a Principal Representative (Insurance)'s Licence in order to operate.

Similarly to an insurance manager, a principal representative must use its best endeavours to carry on insurance business (or reinsurance business) only with insurers of sound reputation. A principal representative must report to CIMA any concern it has about the probity of business of any insurer (or reinsurer) with whom it works.

If a principal representative wishes to act as an agent or broker they must obtain an Insurance Agent's Licence or an Insurance Broker's Licence.

APPLICATIONS

Applications for any of the aforementioned licences must be made on the prescribed CIMA form.

An applicant must provide the names, addresses and nationalities of all shareholders of the applicant company. Where it is proposed that a company will hold the shares, the chain of ownership up to the ultimate beneficial owners of the shares must be shown.

In order for CIMA to determine if the directors and officers are fit and proper persons, resumes for all directors, managers and officers, and a summary of their relevant experience in the insurance industry, are also required, together with satisfactory evidence that none of the shareholders, directors, managers or officers have a criminal record (police clearance certificates for the individuals concerned are acceptable). In addition, references for the principals involved in the new company are required, including one from an insurer (or reinsurer) and one from a recognised bank.

The most important aspect of the application, however, is the business plan, which must include:

- the reason for setting up the company
- a projected income statement for the first three years of operation
- details of policies to be issued
- information on any fronting or reinsurance companies which the company will deal with
- details of the loss history of the business to be insured

MINIMUM NET WORTH

Entities wishing to obtain a Class A Insurer's Licence or an Unrestricted Class B Insurer's Licence must have (and maintain) a minimum net worth requirement of not less than US\$120,000 for "general business", not less than US\$240,000 for "long term business" and not less than US\$360,000 for both.

The actual net worth required for any insurer's licence will depend on the planned volume of business and may well be more than the minimum net worth referred to above. CIMA will specify a minimum net worth for the insurer, having regard to the actual circumstances of each licence application.

Amendments to the Law in 2007 placed additional net worth requirements on external insurers carrying on domestic insurance business (ie. foreign companies carrying on business in the Cayman Islands). The amendments require the relevant entity to place on trust, in a segregated account at a retail Class A bank in the Cayman Islands, funds equal to the total of its:

- unearned premium reserve
- outstanding claims reserve
- reserve for claims incurred but not reported; and
- unexpired risk reserve

Furthermore, with respect to their "long term business" such entities must place on trust, in a segregated account at a retail Class A bank in the Cayman Islands, funds equal to the total of its actuarially determined policyholder liabilities in respect of its life and annuity business.

The value and placement of the above funds must be approved by CIMA and the trust deed governing such settlement must provide that the funds are to be used exclusively to discharge the insurer's obligations to its policyholders and that such funds are not mortgaged, charged assigned or subject of a lien.

SHARE TRANSFER

A company holding an insurance licence may not issue shares totaling more than 5% of its issued share capital or permit the transfer of more than 5% of its issued share capital without the approval of CIMA.

ANNUAL FILINGS & FEES

Every holder of an insurance licence must submit an annual statement to CIMA and pay the prescribed annual fees. Some insurance activities attract further financial reporting from CIMA. Prior to the expiry of its licence the holder of an Insurance Sub-Agent's Licence must submit a declaration to CIMA in the prescribed form.