



# REGULATORY POLICY

## Licensing for Class B Insurers

2020

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**List of Acronyms**

AML/CFT	anti-money laundering and counter terrorist financing
IM	insurance manager
LOC	letters of credit
PIC	portfolio insurance company
SP	segregated portfolio
SPC	segregated portfolio company
TPA	third-party administrator

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# Regulatory Policy - Licensing for Class B Insurers

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## 1. Statement of Objectives

- 1.1 This Regulatory Policy sets out criteria for the Cayman Islands Monetary Authority ("the Authority") to grant licenses to class B insurers pursuant to section 4 of the Insurance Law 2010 ("Law").

## 2. Scope of Application

- 2.1 The Insurance Law (as amended), requires persons to obtain a class B licence "for the carrying on of insurance business other than domestic business".
- 2.2 This Policy is applicable to persons seeking to carry on insurance business as a class B insurer ("applicants") in or from within the Cayman Islands.
- 2.3 This Regulatory Policy ("Policy") should be read in conjunction with the Law, Regulations, and Rules and other regulatory measures issued by the Authority, which provide guidance on various topics applicable to class B insurers, including fitness and propriety, internal controls, risk management, corporate governance, outsourcing and audit waivers.

## 3. Introduction

- 3.1 Pursuant to section 4(1) of the Law, "A person desiring to carry on –
  - (a) Insurance business;
  - (b) Reinsurance business; or
  - (c) business as an insurance agent, insurance broker or insurance manager, in or from within the Islands shall make an application in writing to the Authority for the grant of a licence(...), and the Authority if satisfied (...), may approve the application and business plan and grant a licence (...)."
- 3.2 Section 4(3) of the Law sets out the various subcategories of licences for Class B insurers that the Authority can grant. Applicants must note that each subcategory of class B licenses are distinct licence types.
- 3.3 Section 4(3) establishes the following:

"Subject to subsection (4), the categories of licences which may be granted by the Authority are –

(b) class B insurer licence, for the carrying on of insurance business other than domestic business in respect of which –

- (i) at least ninety-five per cent of the net premiums written will originate from the insurer's related business;
- (ii) over fifty per cent of the net written premiums will originate from the insurer's related business;
- (iii) fifty per cent or less of the net written premiums will originate from the insurer's related business and annual net earned premiums are less than sixteen million four hundred thousand dollars; or
- (iv) fifty per cent or less of the net written premiums will originate from the insurer's related business and annual net earned premiums are equal to or greater than sixteen million four hundred thousand dollars;"

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- 3.4 Forms for making an application for a licence and information to accompany such application are set out in the Insurance (Applications and Fees) Regulations ("Regulations").

### 4. Definitions

- 4.1 For the purpose of this Policy, the following definitions have been provided for clarity.

#### 4.1.1 Related business

Under Section 2 of the Law, "related business" in the context of section 4(3)(b) means business which will originate from the insurer's members or the members of any group with which it is related through common ownership or a common risk management plan, or as determined by the Authority.

The Authority seeks to provide further clarity to the legal definition by providing the following explanations for the term "related business":

- (a) "related business" means business which will originate from the insurer's members or the members of any group with which it is related through common ownership – this applies to self-insurance programmes whereby the Class B insurer's purpose is to provide insurance coverage to its direct shareholders and/or affiliated entities, which share the same ultimate ownership as the Class B insurer.

The insurance coverage provided by the Class B insurer may take different contract forms such as direct writing, coinsurance, fronting arrangement, reinsurance, etc. Notwithstanding the form of policy contract arrangement, the key consideration to qualify as related business is that the original (primary) source of risk must be from a member affiliated with the Class B insurer through direct or ultimate ownership, that is, the original party who would bear financial loss if the original risk insured occurred.

It should therefore be noted that if the original source of risk is from third parties, generated in the course of commercial business, the (re)insurance programme covered by the Class B insurer would not qualify as "related business".

- (b) "related business" means business which will originate from the members of any group with which the insurer is related through a common risk management plan – this applies to self-insurance programmes whereby the Class B insurer's purpose is to provide insurance coverage to a defined or closed group of insured entities operating in similar or diverse industries who are not related to each other and who may or may not have ownership interest in the Class B insurer but all of whom subscribe to a common risk management framework. The following are some of the key characteristics that the Authority expect to be inherent in a common risk management framework to qualify as related business: defined type of risks to be covered, defined member

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entry and exit criteria, standard criteria for assessing and pricing risks, defined criteria for sharing risks among group members, common risk control mechanisms/strategies, common claims reporting and management function, and common risk management oversight function which actively evaluates and reports on implementation of the common risk management framework by members of the group.

- (c) "related business" means business as determined by the Authority on case by case basis. The Authority may determine that the business to be written by a Class B insurer is related business based on circumstances of each case. This may include circumstances where the business relationship is complex but the applicant is able to demonstrate to the Authority that the principles applied by the Authority in determining "related business" as outlined in (a) and (b) above exist.

### 5. General Considerations

- 5.1 The Authority, where satisfied with the application, may process and issue a licence within the timeframe specified in Appendix E2 of the Regulatory Handbook. The specified timeframe commences when the Authority is in receipt of a complete application form with all the required information and supporting documentation.

### 6. Procedure for Licensing Class B Insurers

- 6.1 The Authority will apply provisions of the Law, Regulations and this Policy to assess applicants when considering issuing class B licenses.
- 6.2 Persons seeking to carry on insurance business as a class B insurer shall submit a completed application form with all the information required pursuant to the Law and Regulations.
- 6.3 Applicants shall pay licence fees as prescribed under the Regulations when making an application.
- 6.4 Applications for licensing for Class B insurers will be presented to the Authority's Management Committee, which meets weekly, for approval.
- 6.5 The Authority, where satisfied with the application, may process and approve the application within the timeframe specified in the Regulatory Handbook (refer to section 5 of this Policy). Once the approval requirements/conditions are met by the applicant, the licence will be issued within 2-3 business days.
- 6.6 Where the approval of the application is subject to requirements/conditions, the applicant must meet the requirements/conditions within 6 months of the date of the approval. Upon request, the Authority may consider granting additional time to meet the prescribed requirements/conditions.
- 6.7 The Authority may reject an application where the applicant does not meet the requirements prescribed in the Law, Regulations, the criteria set out in this

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Policy or where the Authority believes that granting a license would not be in the best interests of the public, proposed investors, policyholders, or creditors.

- 6.8 Any changes to the information provided in the application prior to granting the licence must be disclosed immediately. Such changes will have to be approved by the Management Committee.
- 6.9 The Authority may at its discretion contact an overseas regulatory authority, which supervises the applicant or any affiliate of the applicant or any entity involved in the (re)insurance program, as part of its due diligence assessment.

### 7. Assessment Criteria for Licensing Class B Insurers

- 7.1 The Authority assesses applications with respect to fitness and propriety, funding and collateral arrangements, business plan, track record, transparency, risk management, internal controls, and systems for combating money laundering, terrorist financing, proliferation financing and sanctions monitoring.
- 7.2 Applicants shall demonstrate that they meet the definition of the appropriate class B insurer licence category pursuant to the Law. For this purpose, applicants shall provide details of the intended transaction and features of the proposed entity.
- 7.3 The Authority will consider each application on its own merits and will consider all relevant factors, including the criteria below.
- 7.4 Applicants that are segregated portfolio companies ("SPCs") shall satisfy the below criteria separately for each proposed segregated portfolio.
- 7.5 Fit and Proper Criteria and Management
  - 7.5.1 According to the Law, the Authority shall not grant a licence unless it is satisfied that the business of the applicant will be carried on by persons who are fit and proper persons to be directors, managers or officers. The Authority must be satisfied that persons holding control of a licensee are fit and proper.
  - 7.5.2 The Authority will apply the criteria and procedure set out in the Regulatory Policy and Regulatory Procedure on Fitness and Propriety in determining whether persons holding control, directors and persons responsible for controlled functions of the applicant are fit and proper.
  - 7.5.3 In determining whether a person is fit and proper, the Authority considers that person's:
    - (a) Honesty, integrity and reputation;
    - (b) Competence and capability; and
    - (c) Financial soundness.
- 7.6 Fit and proper assessments will be conducted on persons responsible for controlled functions where applicants will have staff to discharge controlled functions in the jurisdiction.

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- 7.7 Where an applicant chooses to outsource its management function to an Insurance Manager ("IM"), the Authority expects that the IM is adequately qualified and fit and proper to carry on that outsourced function.
- 7.8 Additionally, where an IM has been appointed, the IM should be licensed and in good standing with the Authority.
- 7.9 Where a trust is a shareholder of the applicant, the Authority shall conduct fit and proper assessments, including complete due diligence for anti-money laundering and counter terrorist financing ("AML/CFT") purposes (particularly where it is not licensed in the Cayman Islands) on the said trust, trustees and the ultimate beneficiary(ies).
- 7.10 Per the Law, a minimum of two directors is required for all class B insurers. Applicants shall assure the Authority that in the case of a change in directors, investors will be notified of the change, and information on such notification, along with concerns, if any, raised by the investors will be provided to the Authority.
- 7.11 Business Plan
- 7.11.1 The application shall be accompanied by a sufficiently detailed business plan with all the information as outlined in the Regulations and explained in this subsection.
- 7.11.2 The business plan should at a minimum include details relating to:
- (a) Business strategy
  - (b) Ownership structure
  - (c) Governance
  - (d) Share capital and capital management plan
  - (e) Reserving policies
  - (f) Investment policies
  - (g) Dividend policies
  - (h) Financial projections
  - (i) Service providers; and
  - (j) The (re)insurance programme.
- 7.11.3 The business plan should be accompanied by copies of draft agreements and other documents in support of the proposed structure, including a schematic chart of the (re)insurance programme.
- 7.11.4 The business plan must contain a complete ownership structure chart showing the link between the proposed class B insurer and its ultimate beneficial owners with 10% or more control. The ownership structure chart should show all the intermediary holding and operating entities between the class B insurer and its ultimate beneficial owners with 10% or more control. In addition, a brief description of each of the entities on the chart and whether they are regulated by a financial services regulator must be included. Where the applicant is part of an insurance group, the ownership structure chart should provide details of all the affiliated entities.



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7.11.5 The business plan should contain the rationale for establishing the business in the Islands, and details of the structural arrangements identifying all the components, legal purpose, lines of business, underwriting process, and transaction flows. The following details should be included, where applicable:

- (a) the reinsurance programme, including list of all the lines of business or risks to be written by the applicant, policy periods, levels of retention, cessions/limits and aggregates limits by line of business;
- (b) the proposed fronting/ceding arrangements and collateral requirements, including the rating of the fronting/ceding insurer by a recognised rating agency;
- (c) the proposed reinsurance arrangements, including ratings of reinsurers by a recognized rating agency and type of reinsurance, including a draft of the reinsurance agreement;
- (d) reinsurance brokers, or any parties to whom commission is paid;
- (e) whether policies are claims made or occurrence based;
- (f) claims management programme, whether applicant will utilise inhouse resources or third-party administrator ("TPA")
- (g) for insurance business written on a direct basis, confirmation that the home jurisdiction, subject to business/risk, has no objection to the insurance business being written on a direct basis;
- (h) any actuarial studies carried out in support of premium funding, including confidence level, discount rate, and/or rating methodology;
- (i) a general overview of the proposed business to be underwritten by the SPs, the applicant is an SPC;
- (j) schematic and summary showing the typical reinsurance arrangement sought by the applicant, that is, the flow of insurance business from the origin of the risk to the applicant and to the retrocessionnaire;
- (k) diagram depicting flow of premiums and flow of claims in relation to the proposed insurance business.

7.11.6 In addition to the requirements in 7.11.5, **Class B(iii) Insurer applicants** should also include the following information in the business plan:-

- (a) transaction flow chart and summary of each product overview, including pricing
- (b) details of the marketing strategy including target markets, distribution channels and typical clientele
- (c) details of intermediaries or introducers, whether regulated or not, including name of regulating body, where applicable;
- (d) details of intermediaries used, including a sample of the intermediary agreement, where applicable;
- (e) details of underwriting process and pricing; and
- (f) capital adequacy, including details of asset liability management.

7.11.7 In addition to the requirements in 7.11.5, **Class B(iii) Reinsurer applicants** should also include the following information in the business plan:-

- (a) for each type of product offered, details on the type of reinsurance contract, counterparties involved in the reinsurance

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- transaction, including cedent, trustee, custodian and investment manager, where applicable;
- (b) confirmation of required regulatory approvals subject to the proposed reinsurance transactions, stating the respective regulators and confirming status of approval;
  - (c) the nature of assets that will support the reinsurance liabilities and confirmation that the investment guidelines meet the relevant regulatory requirements;
  - (d) details of collateral obligations/requirements and how such assets will be held and invested including details of relevant parties;
  - (e) details of external reinsurance arrangements, where applicable;
  - (f) capital management plans, including details of asset liability management plans;
  - (g) draft(s) of the proposed reinsurance contract(s) for each type of product offered; and
  - (h) draft of the reinsurance trust agreement, where applicable.

7.11.8 Applicants that intend to have a physical presence in the Islands shall demonstrate that they have a place of business and adequate resources and infrastructure to conduct the proposed business in the jurisdiction.

### 7.12 Funding and Collateral Arrangements

7.12.1 Applicants shall demonstrate that they are sufficiently capitalized to satisfy the capital requirements per the Insurance (Capital and Solvency) (Classes B, C, and D insurers) Regulations.

7.12.2 Applicants should provide detailed information on its proposed method for capitalisation, whether by way of share capital, letter(s) of credit, subordinated loans or otherwise.

7.12.3 Applicants should at a minimum provide the draft of the Memorandum of Association to support the capitalisation as part of the application. The final executed documentation may be provided where possible, otherwise it will be set as a condition for approval of the licence.

7.12.4 Where applicants are funded through letters of credit ("LOCs") or other financial or debt mechanisms such as swaps, they shall demonstrate that the issuer of such funding mechanism(s):

- (a) is a financial institution regulated by the Authority or any other regulatory authority acceptable to the Authority; and
- (b) has achieved a financial rating<sup>1</sup> of at least A- by Standard & Poor's rating agency or equivalent by another recognized rating agency.

7.12.5 The Authority may accept funding mechanisms issued by issuers that are unrated or rated below A- on a case by case basis, considering the issuer's financial strength, track record and the jurisdiction in which it is regulated.

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<sup>1</sup> Financial rating with respect to financial strength and issuer credit rating

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- 7.12.6 LOCs should be clean, irrevocable, unconditional and evergreen and should name the applicant as beneficiary.
- 7.12.7 Further, the Authority expects a full disclosure to all relevant parties by the applicants with respect to the intended use of LOCs or other debt mechanisms as collateral.
- 7.12.8 Applicants should provide details as to the origins of source of funds to support the intended operations. The Authority may, at its discretion, request documented evidence for the assessment of source of wealth and source of funds for applicants who are:
- (a) Individual shareholders/controllers holding 10% or more of issued shares in a legal entity; and/or
  - (b) Subject to enhanced due diligence by the Authority.
- 7.12.9 Additionally, the Authority may, at its discretion, seek to assess shareholders/controllers holding less than 10% interest in a legal entity.

**7.12.10 Investment Management**

- (a) Applicants should include a statement summarising their investment philosophy and general strategy.
- (b) Applicants should include the targeted asset allocation for the entire asset base.
- (c) Applicants should include details of how they intend to manage liquidity including any asset-liability matching activities to be undertaken.
- (d) Where an IM is appointed that is not licensed by the Authority, applicants must indicate the regulatory authority of the IM (where applicable) and provide a brief overview the IM's operations.

**7.13 Compliance Obligations**

- 7.13.1 Applicants must demonstrate how they will comply with applicable laws, regulations and regulatory measures.
- 7.13.2 Applicants are responsible for ensuring that any notes, bonds or other securities issued by it are distributed in the capital markets or by way of private placement in conformity with the securities laws of the jurisdiction(s) where the target investors reside.
- 7.13.3 The applicant's proposed policies, procedures and systems should be appropriate for the size, nature and complexity of its operations and in compliance with all legislative and regulatory requirements including AML/CFT requirements.
- 7.13.4 In case of outsourcing, applicants shall demonstrate that they will have proper oversight on the proposed outsourced functions as a part of risk management. Applicants shall refer to the Authority's regulatory measures on outsourcing.

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7.13.5 All licensees are expected to comply with their respective industry standards, where such standards exist. This will assist in ensuring that business is carried out in conformance with the professional standards normally expected of a licensee in that particular sector.

### 8. Procedures for Reclassification of Class B Licences

- 8.1 Where a class 'B' insurer licensee has made a strategic decision to change its class 'B' insurer licence category, the licensee is required to make a formal application to the Authority.
- 8.2 The applicant will be required to submit the following documentation to the Authority:
- (a) a new and completed class 'B' insurer licence application;
  - (b) a revised business plan, highlighting the major changes from the current model;
  - (c) the required documentation for existing and/or new directors and officers as per the Regulatory Procedure – Assessing Fitness and Propriety;
  - (d) the original class B insurer licence certificate issued by the Authority; and
  - (e) any additional supporting documents that the Authority may request, where applicable.
- 8.3 Applicants must remit to the Authority any differences in the licence fees between the class B insurer licence categories (where the annual licence fee reduces due to the reclassification of the licence, the Authority will not refund the difference).
- 8.4 Upon receipt of a completed application, the Authority will proceed with the approval procedures outlined in Section 6 of this policy.
- 8.5 Upon approval, the Authority will simultaneously cancel the current licence and reissue the replacement licence. The Authority will not charge a licence surrender or cancellation fee when an entity applies for a reclassification of a licence.

### 9. Additional Guidance for Segregated Portfolio Companies

- 9.1 Where an applicant for a class 'B' licence is formed as an SPC, the following may be used to assist in determining the correct class 'B' insurer subcategory.
- 9.1.1 When an SPC has multiple Segregated Portfolios ("SPs") and no Portfolio Insurance Companies ("PICs"), the Authority will review proposed insurance programme for each SP to determine whether the SP is carrying on regulated business. Where the SPC has issued shares or has issued shares on behalf of an SP to a party or parties whose risks are reinsured by the SP, then that SP is considered carrying on insurance business originating from the SP's related business. The percentage of the net premiums written by all SPs carrying on insurance business originating from related parties will then be used to determine the correct class 'B' insurer category. When the core also carries on

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insurance business, net premiums written by the core originating from related parties will also be used to determine the correct class 'B' insurer category.

9.1.2 When an SPC only has PICs, and the core does not carry on insurance business, the SPC may be categorised as a class B(i) insurer.

9.1.3 When an SPC has both SPs and PICs, the class 'B' insurer classification may be determined based on the percentage of the net premiums written by all SPs and the core carrying on insurance business originating from related parties.

### **10. Record Retention**

10.1 Applicants shall provide details on how and where their books and records, including management information will be stored securely and could be accessed at all reasonable times. Books and records shall include licensing documentation, details of key personnel (if applicable), funding mechanism, claims handling and outsourcing. The Authority must be satisfied with the location and accessibility of applicant's books and records. Applicants shall refer to the Authority's Statement of Guidance on the Nature, Accessibility and Retention of Records and any additional guidance issued.

### **11. Audited Financial Statements**

11.1 In accordance with the Law, licensees shall submit audited financial statements unless exempted by the Authority.

### **12. Additional Requirements**

12.1 In addition to the above, the Authority may require any other information or documentation that is necessary for processing an application and granting a licence.



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