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Regulatory Policy Licensing Insurance Broker or Agent/Agency

1. Statement of Objectives

- 1.1 This policy sets out the Cayman Islands Monetary Authority's (the "Authority") criteria on licensing Insurance Brokers, Agencies and Agents pursuant to Section 4 of the Insurance Law, 2010 ("Insurance Law" or "IL, 2010").
- 1.2 This policy is consistent with the Authority's statutory objectives as prescribed in the Monetary Authority Law (2016 Revision) ("MAL").

2. Scope of Application

- 2.1 The Authority will apply this policy, and the requirements of the Insurance Law in assessing all applicants seeking to carry on the business of an Insurance Broker, Agency or Agent in or from within the Cayman Islands.
- 2.2 Individuals or firms which simply refer (or "introduce") potential customers to an insurer or insurance intermediary, without carrying out intermediation, are not recognized within the Insurance Law and therefore are excluded from the scope of this policy. Also excluded from the scope of this policy are persons, who in conducting another professional activity provide:
 - i. advice on insurance cover on an incidental basis in the course of that other activity, or
 - ii. information of a general nature on insurance products (without advising on the choice of insurance product provider)provided that the purpose of that activity is not to intermediate an insurance or reinsurance contract.
- 2.3 This Policy should be read in conjunction with:
 - i. The Insurance Law,
 - ii. Money Laundering Regulations,
 - iii. the Regulatory Policy and Procedures on Fitness and Propriety,
 - iv. Statement of Guidance and Rule on Market Conduct,
 - v. Statement of Guidance and Rule on Corporate Governance,
 - vi. Statement of Guidance on Outsourcing,
 - vii. Statement of Guidance on Professional Indemnity,
 - viii. Guidance Notes on The Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands, and
 - ix. Any other relevant law, policy or statement of guidance.



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3. Definitions

3.1 **"Insurance Intermediary"** – As per Insurance Law, 2010 intermediaries fall into two categories in the Cayman Islands.

i. **"Insurance Agent"**

Insurance agent per IL, 2010 means a holder of a valid insurance agent licence for the soliciting of domestic business on behalf of not more than one general insurer and one long term insurer.

ii. **"Insurance Broker"**

Insurance broker per IL, 2010 means a holder of a valid insurance broker licence for arranging or procuring, directly or through representatives, insurance or reinsurance contracts or the continuance of such contracts on behalf of existing or prospective policyholders.

3.2 For the purposes of this policy the term "intermediary" refers to a range of intermediaries from individuals to large international firms. Intermediaries can operate as enterprises or divisions of insurers or other financial institutions including banks, or as part of non-financial organisations.

3.3 **"Insurance Agency"** – An insurance agency for the purposes of this Policy refers to a corporate entity established under the Companies Law and licensed by the Authority to conduct the business of soliciting domestic business on behalf of not more than one general insurer and one long term insurer.

The term **"Insurance Agent"** specifically refers to an individual and not a corporate entity appointed by a licensed insurance company to conduct the business of soliciting of domestic business on its behalf.

3.4 **"Sponsor"** – A sponsor is the insurance company on behalf of which an insurance intermediary is authorized to sell insurance products.

3.5 **"Applicant"** – The intermediary (agent, agency, broker) intending to sell insurance products on behalf of a sponsoring insurance company.

3.6 **"Insurance Intermediaries Competence Exam ("IICE")"** – The IICE refers to one long term insurance examination and/or one general insurance examination recognised by the Authority as the minimum standard for qualification among insurance companies, agents, agencies and brokers, including employees.

3.7 **"Appropriate Qualifications"** – Professional qualifications that are either equivalent or higher than the IICE qualification, as evidenced by the applicant and accepted by the Authority.



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4. Licence Application

- 4.1 Persons seeking to carry on the business of an insurance broker or agent/agency in or from within the Cayman Islands must make an application in writing to the Authority for the grant of a licence pursuant to Section 4 of the Insurance Law.
- 4.2 The application must be accompanied by such documents and information as set out in the Schedule of the Regulations and any other document required by the Authority to properly conduct its assessment, along with the prescribed fee.
- 4.3 The typical timeframe for processing an application is 4-5 weeks. The processing timeframe begins when ALL required documents and information have been received.
- 4.4 The Authority may reject an application if it believes that granting a license would not be in the best interest of the public or the interests of the proposed customers or creditors.
- 4.5 As a condition of licensing, the Authority may seek reimbursement for reasonable out-of-pocket expenses and related matters with respect to any on-site inspections outside the Cayman Islands.
- 4.6 All applicants should familiarise themselves with the relevant Rules, Statements of Guidance, Regulatory Policies and Procedures of the Authority and refer to the Authority's website [[Insurance Division - Index of Measures](#)] for a current list.

5. Application Assessment Criteria

- 5.1 The Authority assesses applications with respect to many factors including fitness and propriety, ownership and control, financial resources, track record and business plan, internal systems, controls and risk management including anti-money laundering and countering the financing of terrorism ("AML/CFT"), know your customer and record keeping.
- 5.2 The Authority will consider each application on its own merits and will apply a risk based approach to its assessment taking into account all relevant factors.

5.1 Professional Knowledge and Competence

- 5.1.1 The Authority must be satisfied with the fitness and propriety of persons involved with insurance intermediation. A major component of the Authority's fitness and propriety assessment is competence. As such, the Authority requires that an applicant for licence as an insurance intermediary (insurance agent, agency or



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- broker) have adequate professional knowledge and competence to carry out its responsibilities.
- 5.1.2 Individuals must have appropriate qualifications and experience for the type of intermediation being carried out, whether general or long-term insurance, as agent/agency for a sponsoring insurer or acting as a broker primarily on behalf of customers.
- 5.1.3 Where the applicant or its employees already possess an insurance related qualification, the Authority will assess the appropriateness of qualifications based on:
- i. Reputation and/or Accreditation of the Awarding Body; and
 - ii. Relevance of Qualification.
- 5.1.4 An applicant for licence as an Insurance Agent or an employee of an applicant for licence as an Insurance Agency or Broker must, in the absence of appropriate qualifications, demonstrate competence by, at minimum, successfully completing one or both of the Insurance ICEs.
- 5.1.5 In particular, where an Insurance Agent chooses to represent a long term and general insurer, the Authority will require the agent to demonstrate competence in both long term and general insurance by, at minimum, successfully completing both Insurance ICEs.
- 5.1.6 Once professional qualifications have been achieved, it is important that individuals who continue to work as insurance intermediaries keep their professional knowledge up to date.

5.2 Fit and Proper Criteria and Management

- 5.2.1 The Authority will apply the Regulatory Policy and Regulatory Procedure on Fitness and Propriety when determining whether persons are fit and proper.
- 5.2.2 In determining whether a person is fit and proper all relevant circumstances will be considered and will include that persons possess:
- i. Honesty, integrity and reputation;
 - ii. Competence and Capability
 - iii. Financial Soundness
- 5.2.3 Applicants should be guided by the Authority's Rule and Statement of Guidance on Market Conduct with respect to the conduct of their affairs. Applicants should provide documentation evidencing their procedures to comply with these measures



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- 5.2.4 An applicant must demonstrate how it will comply with the Authority's requirements for handling conflicts of interest.
- 5.2.5 An applicant must confirm that there is no record of criminal activities, adverse regulatory judgments or any past actions or conduct that make a director or senior manager unfit to hold such positions in the business. An applicant must also declare any ongoing criminal charges or investigations.

This section pertains to corporate entities i.e. insurance brokers and agencies only. Applicants must demonstrate that:

- 5.2.6 They are controlled and managed by a sufficient number of directors and senior managers who are fit and proper and pose no undue risk to the applicant, its shareholders, creditors and the reputation of the Cayman Islands.
- 5.2.7 Its directors and senior management have the necessary skills and experience in relevant insurance operations commensurate with the intended activities of the intermediary.
- 5.2.8 Its directors will be able to apply independent judgement to the governance of the intermediary in an informed way, free from any conflicts of interest.
- 5.2.9 An applicant must ensure that there is a sufficient segregation of duties appropriate to the nature, scale and complexity of the organisation.
- 5.2.10 Its directors have collective sound knowledge of the material activities that the intermediary intends to pursue, and the associated risks.
- 5.2.11 Their staff will provide a sufficient range of skills and experience to carry out the applicant's affairs in a sound and prudent manner evidenced by the attainment of relevant qualifications and by having sufficient relevant experience for the functions they are charged with performing.

5.3 Anti-Money Laundering/Know Your Customer Policy

- 5.3.1 The applicant must demonstrate how it will comply with the requirements of the Proceeds of Crime Law as amended, the Money Laundering Regulations as amended, and demonstrate adequate policies, procedures, and systems consistent with the Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands.

5.4 Compliance with Industry Standards

- 5.4.1 All licensees are expected to be in compliance with their respective industry standards, where such standards exist. This will assist in ensuring that business



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is carried out in conformance with the professional standards normally expected of a licensee within the sector.

Insurance Brokers and Agencies

This section applies to insurance brokerage firms and agencies.

5.5 Ownership and Control

- 5.5.1 The business of all insurance brokers and agencies should be conducted by at least two individuals.
- 5.5.2 A minimum of two directors is required for applicants who are companies.
- 5.5.3 Any change in directors, officers and managers must be notified and/or approved by the Authority.
- 5.5.4 Applicants must provide information on shareholders holding 10% or more of the shares or voting power of the licensee or licensee's holding company, if applicable. The Authority will conduct a fitness and propriety assessment on beneficial owners with more than ten (10) percent of the applicant's shares directly or indirectly.
- 5.5.5 Where an applicant is to be held by a trust, the trustee must be regulated in a country satisfactory to the Authority. Applicants must provide the trust deed to the Authority and must disclose:
- i. The trustee(s);
 - ii. The settlor, protector and beneficiaries of the trust; and
 - iii. Any person (in relation to the applicant, its administration or ownership) that may influence or have the power to make decisions with respect to the trust.
- 5.5.6 Applicants must demonstrate that proper controls will be in place to prevent the shareholder or persons in senior positions from overriding policies and procedures in a manner that would be prejudicial to policyholders, creditors or the public interest.
- 5.5.7 Applicants with less two or less shareholders must provide details of their succession plan which should aim to minimise disruption to the business operations. This plan should include, at a minimum, specifics with respect to the:
- i. Death of the shareholder(s); and
 - ii. Critical illness or incapacity of the shareholder(s).

5.6 Physical Presence



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- 5.6.1 An applicant for licence as an insurance broker or agency must demonstrate the evidence of physical presence in the Cayman Islands.
- 5.6.2 The licensee must have a physical presence in the Cayman Islands at the commencement of business operations.
- 5.6.3 Physical facilities to be maintained in the Cayman Islands must include:
- i. Appropriate, dedicated and secure office space consistent with the needs of the licensee;
 - ii. Appropriate and secure facilities (e.g. filing cabinets, electronic storage facilities, etc.) for the custody and storage of records;
 - iii. Appropriate communications facilities; and
 - iv. Dedicated mechanical and/or electronic facilities necessary to record and process the licensee's business activities.
 - v. Sufficient staff resources to carry out the day to day activities of the licensee's operations.
- 5.6.4 An applicant's Board of Directors are expected to delegate the necessary level of authority to the licensee's officers and employees in the Cayman Islands to permit them to satisfactorily perform their ongoing management and operating functions.
- 5.6.5 An applicant's premises must bear appropriate exterior identification of the licensee's presence.
- 5.6.6 An applicant's telephone and other numbers, and postcodes and mailing and street addresses must be publicly available.

5.7 Financial Resources

- 5.7.1 The Authority must be satisfied that the applicant has or will have, and will continue to have, financial resources (whether actual or contingent) that are adequate for the nature and scale of the business and for its risk profile at the date it commences operations.
- 5.7.2 Intermediaries that hold client money must demonstrate that they have sufficient financial resources commensurate with the risks of their business.
- 5.7.3 The Authority may place conditions/restrictions on an intermediary's licence forbidding it to hold client money where the Authority is of the view that it does not have sufficient financial resources or no satisfactory systems to segregate client money from the licensee's money.



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- 5.7.4 The Authority will assess the financial strength of the applicant's owner(s) to ensure that the applicant's owner(s) have sufficient financial strength to support the applicant.

5.8 Professional Indemnity

- 5.8.1 The Authority expects licensed brokers to carry a level of protection to protect against potential legal actions so that the licensee can continue to carry out its obligations to remaining clients.
- 5.8.2 Applicants should refer to the Authority's Statement of Guidance on Professional Indemnity and any additional guidance issued by the Authority on this point.

5.9 Segregation of Accounts

- 5.9.1 In respect of safeguarding clients' money, an applicant must demonstrate the use of separate client accounts clearly distinguishable from the intermediary's own bank accounts.
- 5.9.2 In the interests of safeguarding clients' money, the applicant must confirm that client accounts will not be used to reimburse creditors of the insurance intermediary in the event of its bankruptcy.

5.10 Internal Systems, Controls and Risk Management

- 5.10.1 The applicant must demonstrate that it will have in place adequate risk management processes and internal controls.
- 5.10.2 The Authority must be satisfied that the applicant's proposed policies, procedures, manuals, systems, and internal controls, relating to all areas of the applicant's business are appropriate for the size, nature, and complexity of its operations and comply with good business practices and all applicable laws and requirements, including the Insurance Law, all relevant regulations, rules, policies and statements of guidance.
- 5.10.3 An applicant's internal controls should demonstrate that proper oversight of any proposed outsourced functions will be in place.
- 5.10.4 An applicant should have appropriate agreements in place with outsourced functions as well as each insurance company it sells insurance products on behalf of.

5.11 Record Keeping



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- 5.11.1 The Authority must be satisfied as to how and where records, including management information, are stored and accessed. Such records should be maintained in a manner that promotes retention and appropriate security and should be adequate to satisfy the requirements of the Authority and relevant regulations and laws. Applicants must also show that the Authority will have reasonable access to records at all reasonable times.
- 5.11.2 Generally, the Authority will expect licensees to maintain books, records, and other appropriate resources in the Cayman Islands. The Authority may consider requests to maintain books, records, and other appropriate resources outside the Cayman Islands on a case by case basis depending on the nature, scope, risk and complexity of the proposed activities of the applicant as well as the justification provided by the applicant for making a request to maintain such books and records outside the Cayman Islands.
- 5.11.3 Applicants should refer to the Authority's Statement of Guidance on the Nature, Accessibility and Retention of Records and any additional guidance issued by the Authority on this point.

5.12 Track Record and Viability

- 5.12.1 The Authority will require a detailed business plan covering the first three years of projected business activity and which should be reflective of a sound feasible plan. The information should identify assumptions and qualifications accordingly. The business plan should contain details of the reasons for the business to establish an operation in the Islands, the short and long-term objectives and how these will be achieved.
- 5.12.2 As part of meeting the licensing requirements, the applicant must be able to demonstrate in its business plan, that it has adequate resources, in terms of manpower, systems and expertise, to meet its objectives and should contain details, including, but not limited to:
- i. The reasons for wanting to establish an operation in the Islands;
 - ii. Background information: history, management team, number of expected employees, corporate structure, location of intermediary, names and percentage of the majority shareholder(s);
 - iii. Financial plan: A discussion of the decision-making criteria used to approve the plan internally; summary description of the business to be conducted, including short and long term objectives and how these will be achieved;
 - iv. Three-year pro forma financial statements for the business, including balance sheet, income statement, details regarding key assumptions and an identification of major asset, liability, income and expense categories;
 - v. Reports of any feasibility studies carried out to support its business plan;



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- vi. Explanation of strategy for risk management and internal controls within the business;
- vii. Marketing strategy;
- viii. Details and statement of adequacy of domestic operational resources, in particular staff qualifications and experience and information systems including disaster recovery and business continuity arrangements;
- ix. Information about contracts with affiliates;
- x. Information about outsourcing arrangements;
- xi. Corporate governance policy and internal controls to be implemented, including reporting arrangements, where applicable; and
- xii. Details of AML/CFT compliance systems and procedures
- xiii. Details of policies, procedures and controls in key areas such as:
 - 1. compliance
 - 2. combating financial crime (including AML/CFT and fraud)
 - 3. new business
 - 4. client money
 - 5. complaints
 - 6. conflicts of interest.

5.12.3 In particular, applicants for licence as insurance agencies should include in their business plan a description of training courses that the agents will undergo before the licence is issued.



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Insurance Agents

This section applies to individual insurance agents.

5.13 Sponsorship

- 5.13.1 An applicant for licence as an insurance agent in the Cayman Islands must secure a sponsor prior to the submission of an application to the Authority.
- 5.13.2 Sponsorship must be confirmed by the sponsoring insurer by way of formal letter to the Authority outlining the following:
- i. The applicant is authorized to sell insurance products on behalf of the sponsor.
 - ii. That the sponsor has screened the applicant and is satisfied that the applicant is suitable for the position of agent.
 - iii. A description of the training courses that the applicant will undergo before the licence is issued.
 - iv. Description of on the job training and shadowing arrangements as well as probationary period.

5.14 Transfers and Composite Agents

- 5.14.1 An insurance agent originally licensed to act for one insurance company who transfers as agent for another similar insurance company is not required to re-apply for licence. The agent is required to notify the Authority in writing prior to conducting business on behalf of the new insurer. The new insurer should provide information listed in 5.13.2 above.
- 5.14.2 Where the insurance company for which the agent acts has transferred its business to another insurance company, a new application is required if there are significant variations to the terms of the licence.
- 5.14.3 Where the insurance company for which the agent acts has transferred its business to another insurance company and there are no significant variations to the terms of the licence e.g. from one general insurer to another writing relatively the same risks, the agent is only required to notify the Authority in writing prior to conducting business for the new insurer.
- 5.14.4 Where an agent, subsequent to its original application, chooses to simultaneously represent one general insurer and one long-term insurer, the applicant is not required to re-apply for a new licence. The agent is however required to make application to the Authority for "a variation of the terms of a licence". This application carries an administrative fee of CI\$1,000.00 as per the Monetary Authority Law (2016 Revision).



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5.14.5 A formal notification from an insurance agent adding a second insurer should be supported by the following documentation:

- i. An agency agreement or draft agency agreement with the insurer or evidence of professional indemnity insurance
- ii. Details of training received from the insurer
- iii. Confirmation from the existing insurer it has no objection to its agent's request
- iv. Existing licence certificate (original)
- v. Applicable fee
- vi. confirmation of IICE or appropriate qualification relevant to the business of the second insurer.

5.14.6 A formal notification from an insurance agent wishing to remove one of the two insurers should be supported by the following documentation:

- i. Reasons for the removal of an insurer
- ii. Confirmation from the insurer (being removed) it has no objections
- iii. Existing licence certificate (original)
- iv. Applicable fee