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Statement of Guidance: Responsibilities of Insurance Managers

1. Statement of Objectives

- 1.1. This Statement of Guidance ("Guidance") is intended to provide guidance to licensed insurance managers on their role, their obligations to the Cayman Islands Monetary Authority's ("the Authority") and their obligations to their clients.
- 1.2. This Guidance is not intended to be prescriptive or exhaustive; rather this Guidance sets out the minimum expectations on the responsibilities of insurance managers as a service provider.
- 1.3. Insurance managers are expected to abide by two sets of obligations. One set is their obligations, as service providers, to the clients to which they provide insurance management services. The second set is their obligations as licensees of the Authority. This document details insurance managers' obligations as service providers.
- 1.4. This document should be read in conjunction with the regulatory measures which govern insurance managers' internal functioning and not their role as service providers, including but not limited to, the Statement of Guidance on Internal Controls, the Statement of Guidance on Corporate Governance, the Statement of Guidance on the Nature, Accessibility and Retention of Records and the Guidance Notes on the prevention and detection of Money Laundering and Terrorist Financing in the Cayman Islands.

2. Role of Insurance Managers

- 2.1. Insurance manager is defined in section 2, section 4(3)(g) and section 4(4)(c) of the Insurance Law, 2010 ("the Law") as a company which provides insurance expertise to or for Class B and Class C insurers ("client insurers").
- 2.2. Insurance managers are responsible for the day to day operations of their client insurers. Insurance managers provide expertise to ensure that client insurers fulfil their financial, legal, and regulatory obligations.
- 2.3. The responsibilities of an insurance manager towards a client insurer generally include, but are not limited to:
 - a) acting as consultant and advisor in respect of insurance matters;
 - b) verifying that the client insurer remains fit and proper;
 - c) policy administration;
 - d) recording claims reserves;
 - e) arranging reinsurance protection, including payment of premium and making recoveries;
 - f) issuing debit and credit notes;
 - g) paying from the client insurer's funds all debts and other liabilities as



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they fall due;

- h) maintaining books and records in the Cayman Islands for the client insurers in a manner that such books and records are easily accessible at the request of the Authority; and
- i) maintaining knowledge of the law and regulatory framework for insurance managers and client insurers.

2.4. The insurance manager or the client insurer may appoint in writing and grant powers to other parties to perform certain tasks or functions usually performed by the insurance manager. However, the insurance manager must not be a "shell"¹ or "letter-box"² entity. The insurance manager should have a place of business in the Islands with such resources, including staff and facilities, books and records as the Authority may consider appropriate, having regard to the nature and scale of the business. These resources should be sufficient for the insurance manager to discharge its insurance expertise obligations and adequately service the operations of the client insurer. The Authority expects that the mind and management of the insurance manager will be in the Cayman Islands.

2.5. The Authority expects that the insurance manager will be knowledgeable about the business of each client insurer, including the lines of business written and specific risks of the client insurer's business. The insurance manager should be appropriately staffed with the right skills, knowledge and experience to provide insurance expertise in relation to its types of client insurers.

2.6. Bank accounts of the insurance manager, bank accounts relating to the insurance business of the client insurer, and safeguarding the assets belonging to the client insurer should be controlled by the insurance manager from within the Cayman Islands. Bank accounts and assets belonging to the client insurer should be maintained separately from the bank accounts and assets belonging to the insurance manager.

2.7. The insurance manager should maintain complete and proper books and records for the client insurer including the client insurer's Board meetings minutes and policies and procedures. In addition, contemporaneous records that are sufficiently detailed to reconstruct the transactions entered into by the insurance manager on behalf of the client insurer should be maintained by the insurance manager. These records should be readily accessible for the Authority to review and maintained for minimum period of five years following the cessation of the business relationship.

¹**Shell entity:** means an entity that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision.

²**Letter-box entity:** an entity that no longer retains the necessary expertise and resources to manage the client licensed insurers.



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3. Relations with the Authority

- 3.1. It is expected that the insurance manager will be the principal contact between the Authority and the client insurer. The insurance manager should communicate with the Authority in an open and co-operative manner and keep the regulator informed of anything which might reasonably be expected to be disclosed to it. The insurance manager should provide timely responses to questions or requests made by the Authority.
- 3.2. The insurance manager should ensure effective and efficient communication between the client insurer and the Authority. Notwithstanding the above, the Authority may communicate directly with the client insurer.
- 3.3. In particular, the insurance manager's responsibilities, as it relates to its function as a point of communication between the client insurer and the Authority, may include but not be limited to:
- a) Providing a list of potential client insurers during the initial application process to the Authority, if known;
 - b) Ensuring the timely submission of applicable Prudential Reports, Financial Statements and Statistical Returns on behalf of the client insurer;
 - c) Timely payment of the client insurer's licence fees to the Authority;
 - d) Seeking the Authority's prior approval of a change of shareholders, directors, managers or officers of the client insurer;
 - e) Seeking the Authority's prior approval, or notifying the Authority, in accordance with the Authority's policies and procedures, of a change in the business plan of the client insurer;
 - f) Informing the Authority, in a timely manner, of any legal or regulatory breaches of the client insurer whether in the Cayman Islands or abroad;
 - g) Notification of difficulties in obtaining information from the client insurer to the Authority;
 - h) Monitoring the capital and solvency positions of the client insurer to ensure that such positions meet the requirements of the Law and the regulations made thereunder; and
 - i) Providing assistance where necessary at meetings concerning the client insurer with the Authority.
- 3.4. The Law requires the insurance manager to notify the Authority if the insurance manager has concerns about the fitness and probity or the financial soundness of a client insurer.



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4. Relations with Client Insurers

- 4.1. Insurance managers should diligently manage the business of client insurers. Insurance managers should provide client insurers with insurance expertise.
- 4.2. Insurance managers should maintain a process for handling complaints from client insurers and should deal with complaints in a timely manner.
- 4.3. Insurance managers must conduct initial and ongoing due diligence to ascertain the fitness and probity of client insurers, including conducting due diligence on new or proposed shareholders and directors of the client insurer, both prior to initial licensing and before submitting any requests for approval to the Authority.
- 4.4. Insurance managers should avoid situations that could place them in a conflict of interest situation with a client insurer. Insurance managers should have a documented policy for handling any conflicts of interests that arise.
- 4.5. Insurance managers should:
 - a) arrange access to the client insurer's business to ensure that the insurance manager is able to access and maintain accurate and adequate records of the client insurer;
 - b) provide in writing applicable legislation and regulatory measures to the client insurer, together with timely updates on any changes thereto;
 - c) provide and explain any other information reasonably necessary for the client insurer to comply with the above; and
 - d) verify that client insurers understand their financial, legal and regulatory obligations.
- 4.6. There should be a formal written agreement between the insurance manager and the client insurer ("Management Agreement"). This Management Agreement will describe and govern the relationship between the parties and clearly set out each party's respective functions, duties and responsibilities.
- 4.7. The Management Agreement should include:
 - a) Details regarding the fees payable by the client insurer;
 - b) The power of the insurance manager to act on behalf of and in the name of the client insurer;
 - c) An acceptance by the client insurer of actions taken by the insurance manager on its behalf;
 - d) A stipulation that regular management information reports are provided by the insurance manager to the directors of the client insurer to enable performance to be measured against the business plan;
 - e) An agreement as to the service of writs and other legal and/or official documents pertaining to the client insurer;
 - f) A requirement that records of the client insurer are maintained in accordance with the applicable legislation;



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- g) A description of the responsibilities of the insurance manager based on the requirements of the Law and of the Authority;
- h) Termination arrangements that comply with the applicable Law. Either party must give the Authority 60 days' written notice of intended termination. Further, the termination arrangements should require a terminating party to give sufficient notice to the other party of the intention to terminate to enable both parties to make alternative arrangements;
- i) A specification of confidentiality for both parties; and
- j) A governing law clause that states that the Management Agreement is governed by the laws of the Cayman Islands.

4.8. The Management Agreement should be reviewed periodically to ensure that it captures any changes to the Law or regulatory framework.