



**CAYMAN ISLANDS MONETARY AUTHORITY  
PRIVATE SECTOR CONSULTATION**

**REGULATORY POLICY – LICENSING FOR CLASS B INSURERS**

**A. Introduction**

1. Section 34(1)(a) of the Monetary Authority Law (2020 Revision) ("MAL") states that:

*After private sector consultation and consultation with the Minister charged with responsibility for Financial Services, the Authority may -*

*(a) issue or amend rules or statements of principle or guidance concerning the conduct of licensees and their officers and employees, and any other persons to whom and to the extent that the regulatory laws may apply;*

2. Requirements specific to the private sector consultation are outlined in section 4(1) of the MAL as follows:

*When this Law requires private sector consultation in relation to a proposed measure -*

*(a) the Authority shall give to each private sector association a draft of the proposed measure, together with -*

- i. an explanation of the purpose of the proposed measure;*
- ii. an explanation of the Authority's reasons for believing that the proposed measure is compatible with the Authority's functions and duties under section 6;*
- iii. an explanation of the extent to which a corresponding measure has been adopted in a country or territory outside the Islands;*
- iv. an estimate of any significant costs of the proposed measure, together with an analysis of the benefits that will arise if the proposed measure is adopted; and*
- v. notice that representations about the proposed measure may be made to the Authority within a period specified in the notice (not being less than thirty days or such shorter period as may be permitted by subsection (3)); and*

*(b) before proceeding with the proposed measure, the Authority shall have regard to any representations made by the private sector associations, and shall give a written response, which shall be copied to all the private sector associations.*

3. The Cayman Islands Monetary Authority ("CIMA" or "the Authority") seeks consultation and comment from the private sector associations concerning the

proposed *Regulatory Policy ("RPy") – Licensing for Class B Insurers* (attached as Appendix 1).

**B. Background**

4. Section 4 of the Insurance Law, 2010 (as amended) ("IL") requires that persons desiring to carry on insurance or reinsurance business obtain a licence from the Authority. The class B licensing category has four (4) legally distinct licence types.
5. The Authority assessed and reviewed the currently issued *Statement of Guidance ("SOG"): Licensing – Insurance Companies* and noted that the SOG is outdated. It predates the IL of 2010, which saw the introduction of the licensing categories currently utilised by the Authority for the carrying on of insurance business in the Cayman Islands. Due to the intricate nature of operations of class B insurance, the Authority saw it fit to prepare a comprehensive licensing policy for this category of insurance licence, highlighting its expectations for potential applicants and current licensees that wish to reclassify their licences.
6. Furthermore, the International Association of Insurance Supervisors ("IAIS") recommends in its issued Insurance Core Principles ("ICPs") that the requirements and procedures for licensing should be clear and public.

**C. International Standards**

7. Principle 4 of the IAIS ICPs sets out that a legal entity which intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. It also sets out that the requirements and procedures for licensing must be clear, objective and public, and be consistently applied. Table 1 presents the ICP 4 standards for the licensing of insurance business and the accompanying guidance.

**Table 1: IAIS Standard and Guidance: ICP 4 – Licensing**

4.1	<p>The insurance legislation:</p> <ul style="list-style-type: none"> <li>• <b>includes a definition of insurance activities which are subject to licensing;</b></li> <li>• prohibits unauthorised insurance activities;</li> <li>• defines the permissible legal forms of domestic insurance legal entities;</li> <li>• <b>allocates the responsibility for issuing licences;</b> and</li> <li>• sets out the procedure and form of establishment by which foreign insurers are allowed to conduct insurance activities within the jurisdiction.</li> </ul>
4.2	A jurisdiction controls through licensing which entities are allowed to conduct insurance activities within its jurisdiction.

4.3	Licensing requirements and procedures are <b>clear, objective and public</b> , and are consistently applied. The applicant is required at least to: <ul style="list-style-type: none"> <li>• have sound business and financial plans;</li> <li>• have a corporate or group structure that does not hinder effective supervision;</li> <li>• establish that the applicant's Board Members, both individually and collectively, Senior Management, Key Persons in Control Functions and Significant Owners are suitable;</li> <li>• have an appropriate governance framework; and</li> <li>• satisfy capital requirements.</li> </ul>
4.4	The <b>supervisor assesses applications, makes decisions and informs applicants of the decision</b> within a reasonable time, which is clearly specified, and without undue delay.
4.5	The supervisor refuses to issue a licence where the applicant does not meet the licensing requirements. Where the supervisor issues a licence, it imposes additional requirements, conditions or restrictions on an applicant where appropriate. If the licence is denied, conditional or restricted, the applicant is provided with an explanation.
4.6	A licence <b>clearly states its scope</b> .

8. In addition to ICP 4 above, ICP 22.3.1 sets out that "*the supervisor should take into account the risk of ML/TF<sup>1</sup> at each stage of the supervisory process, where relevant, including the licensing stage*".
9. The aforementioned principles were considered in the development of the proposed measure.

**D. Purpose of Proposed Measure and Consistency with the Authority's Functions**

10. Section 6(1) of the MAL outlines the principal responsibilities of the Authority, which includes its regulatory functions, *inter alia*, "to regulate and supervise financial services business carried on in or from within the Islands".
11. Section 6(3) of the MAL provides that in performing its regulatory functions, the Authority shall, *inter alia*:
  - a. endeavour to promote and enhance market confidence and the reputation of the Islands as a financial centre;
  - b. endeavour to reduce the possibility of financial services business or relevant financial business being used for the purpose of money laundering or other crime;
  - c. recognise the international character of financial services and markets and the necessity of maintaining the competitive position of the Islands, vis a vis both consumers and suppliers of financial services, while conforming to

<sup>1</sup> Money laundering and terrorist financing

internationally applied standards insofar as they are relevant and appropriate to the circumstances of the Islands;

- d. recognise the principle that a burden or restriction which is imposed on a person or activity should be proportionate to the benefits, considered in general terms;
- e. recognise the desirability of facilitating innovation in financial services business; and
- f. recognise the need for transparency and fairness on the part of the Authority.

12. A licensing policy for the class B category of insurance licences would provide clarity on the criteria and procedure for issuing a licence. This will assist in streamlining the licensing process by informing industry of the expectations of CIMA in assessing applications for licensing and ultimately reducing the licensing timelines. Furthermore, the proposed RPy aids in ensuring that the Cayman Islands remains compliant with international standards.

**E. Jurisdictional Comparison**

13. Five jurisdictions were assessed to determine whether the licensing of Class B equivalent insurers was required by law and published guidance exists as shown in Table 2.

**Table 2: Jurisdictional Comparison on Licensing Practices for Insurers**

	Bermuda	Ireland	Jersey	Guernsey	Vermont, USA	Cayman Islands
<b>Legal Requirement For Licensing</b>	x	x	x	x	x	x
<b>Issued Guidance Provided for Applicants</b>	x	x	x	x <sup>2</sup>	x	x

14. Table 3 provides a brief overview of the assessment criteria utilised to process applications for licensing of insurance business in various jurisdictions.

**Table 3: Assessment Criteria for Processing Applications**

	Bermuda	Ireland	Jersey	Guernsey	Vermont, USA	Cayman Islands (proposed)
<b>Ownership Structure</b>	x	x	x	x	x	x
<b>Business Plan</b>	x	x	x	x	x	x

<sup>2</sup> The guidance for Guernsey is provided in the Insurance Business (Licensing) Regulations, 2010.

	Bermuda	Ireland	Jersey	Guernsey	Vermont, USA	Cayman Islands (proposed)
<b>Management and Control</b>	x	x	x	x	x	x
<b>Fitness &amp; Propriety</b>	x	x	x	x		x
<b>Auditor and Other Third-Party Service Providers</b>	x	x	x	x	x	x
<b>Financial Information</b>	x	x	x	x	x	x
<b>Capital &amp; Funding</b>	x	x	x	x	x	x
<b>Change in Operations<sup>3</sup></b>					x	x
<b>Additional Information</b>	x	x	x	x	x	x

**F. Cost and Benefit Analysis**

15. Table 4 shows the significant costs and benefits associated with the issuance of the proposed RPy.

**Table 4: Cost-Benefit Analysis for Implementing the Proposed RPy**

	Costs	Benefits
<b>CIMA</b>	<ol style="list-style-type: none"> <li>The costs related to issuing the proposed will include: <ul style="list-style-type: none"> <li>the costs of publication in the Cayman Islands Gazette; and</li> <li>the costs to amend supervisory manuals.</li> </ul> </li> <li>Implementation Costs: <ul style="list-style-type: none"> <li>Training to the INS staff on the new Policy.</li> </ul> </li> </ol>	<ol style="list-style-type: none"> <li>The proposed RPy will help to streamline and expedite the licensing process, resulting in a saving of time and resources at CIMA.</li> <li>The proposed RPy will be compliant with the international standards, facilitating the assessment of the Authority by international standard setters.</li> <li>The proposed RPy will enhance the class B licensing regime and</li> </ol>

<sup>3</sup> Explicit provisions for changes/reclassification of licence

	<b>Costs</b>	<b>Benefits</b>
		<p>increases the reputation the Authority.</p> <ol style="list-style-type: none"> <li>4. Potential fewer incomplete licence applications with resulting cost savings from less need to contact applicants for information required to process the applications.</li> <li>5. The proposed RPy may increase goodwill with the industry. The proposed RPy will be well seen by local industry participants, as they have requested the Authority to provide clarity on the licensing process.</li> <li>6. Development of a licensing policy for class B insurers is consistent with licensing regimes of other sectors such as banking, funds, and money services, thus furthering the Authority's obligation of transparency.</li> <li>7. Issuance of the Policy is consistent with the practice in other jurisdictions.</li> <li>8. The Policy will help support the Insurance Supervision Division in ensuring minimum standards and consistency for issuing licenses at the divisional level.</li> </ol>
<b>Cayman Islands</b>	1. No costs are foreseen	<ol style="list-style-type: none"> <li>1. Compliance with IAIS standards will improve the future assessment ratings and increases the reputation of the jurisdiction</li> <li>2. Potential increase in business may result in increase in revenues</li> </ol>

	Costs	Benefits
<b>Class B Insurer Applicants</b>	1. Costs <del>associated with time to get familiar with the new licensing requirements (minor one time cost) to prepare documentation for application</del>	1. Provides better understanding to the industry in relation to the class B licensing process which may reduce uncertainty for industry in relation to licensing 2. Helps potential licensees in making complete applications and save costs of contacting the Authority with queries 3. Potential growth in this class of business (and for insurance managers)

**Commented [GA1]:** This is unclear and what of other costs as a result of imposing new mandatory requirements?

**Commented [K2R1]:** Costs relating to new applications will always be new for persons seeking to be licensed. The cost for current licensees making applications for reclassification are the same as CIMA would have required the additional documentation for them during the application process. The RPy simply documents the Authority's requirements for transparency and efficiency.

**Commented [RB3R1]:** Perhaps a discussion between AG and KMN to resolve. I am not sure that I view this as a cost.

16. Based on the assessment above, the Authority recommends the implementation of the proposed RPy.

**G. Consultation Feedback and Comments**

- 17. Before proceeding with the proposed measure, the Authority shall have regard to any representations made by the private sector associations only. Feedback submitted by individuals, entities, or other bodies, unless acting on behalf of private sector associations, will not be accepted by the Authority. Representations from private sector associations must be submitted as a consolidated document, and a listing of the entities which provided feedback should be included. Private sector associations should ensure that conflicting positions are resolved prior to submission to the Authority. Where positions conflict within or across associations, the Authority will consider all available information in taking a decision, which will be at its sole discretion.
- 18. To ensure that all responses are given due consideration, it is important that private sector associations make clear reference to the sections of the measure being commented on, and that responses are unambiguous, clearly articulated and based on fact. The consultation process is not designed to address complaints or grievances. Feedback of this nature should be submitted through the established complaints process.
- 19. In cases where the feedback proposes to change a policy position of the Authority or substantially amend any requirement of the draft measure, information to support the position of the association must be provided. The table below provides an example of the Authority's expectation with regard to feedback for the proposed measure.

Reference	Example of a Helpful Comment	Examples of Comments needing more Support
Rule 4.2 <sup>4</sup>	<p>In Rule 4.2 the current text omits the fair value measurement of liabilities. Also, as defined it is not asymmetrical with the Market Price definition and thus scenarios exists that fall into neither category.</p> <p><b>Suggested wording:</b>  <i>Hard-to-Value Securities means an asset or liability for which there is no Market Price which is required to be measured at fair value pursuant to 5.2</i></p>	<ul style="list-style-type: none"> <li>× This is not what is done in other jurisdictions.</li> <li>× I don't think we should do this.</li> <li>× CIMA is not considering the position of the experts.</li> </ul>

20. All feedback submitted by private sector associations will be given due consideration, nevertheless, the decision to adopt any feedback provided into a proposed measure will be at the sole discretion of the Authority.

#### H. **Notice of Representations**

21. The Authority seeks consultation through written comments and representations from the private sector associations concerning the proposed:

*Regulatory Policy – Licensing for Class B Insurers*

22. The Authority must receive representations by 1700hrs on **Friday, September 18, 2020**. Representations received after this deadline may not be considered and will not form part of the collated written response provided to private sector associations.
23. Comments and representations must be addressed to:

The Managing Director  
 Cayman Islands Monetary Authority  
 P.O. Box 10052  
 SIX, Cricket Square  
 Grand Cayman KY1-1001  
 Cayman Islands  
 Tel: 345-949-7089  
 Fax: 345-946-5611  
 Email:

[consultation@cima.ky](mailto:consultation@cima.ky)  
 and copied to [Kourtneigh-MichelleNicholson@cima.ky](mailto:Kourtneigh-MichelleNicholson@cima.ky)

<sup>4</sup> This example is not reflective of the content of the proposed measure.



24. The Authority shall have due regard to any representation made by the private sector associations and industry stakeholders. The Authority shall provide a written response collating the feedback received and the Authority's position on this feedback. This response shall be copied to all relevant private sector associations only.