



SUMMARY OF PRIVATE SECTOR CONSULTATION AND FEEDBACK STATEMENT
Regulatory Policy – Licensing for Class B Insurers

No.	Section	Comments from the Industry	Authority’s Response	Consequent Amendments to the Proposed Measure
GENERAL COMMENTS				
1.		We would recommend defining the rules or updated obligations for licensees already holding valid Class B licenses; i.e. do current license holders need to resubmit business plans as many business plans for current clients in operation would not necessarily include all of the requirements outlined in Section 7.11.	The purpose of the measure is to document to provide guidance to persons that are applying for the Class B licence or that are switching between subcategories of the Class B licences. Existing licensees are not being required to submit any new documentation at this time.	No amendment required.
2.		<p>We are requesting that the requirement for the submission to the Authority of a list of individual entities that provided feedback to private sector associations be removed.</p> <p>We are of the view that the feedback received from the private sector associations will be representative of the private sector, rather than specific entities.</p>	<p>The Authority has noted that this comment falls outside the scope of this consultation.</p> <p>This matter may be addressed in separate communication to the Authority through the Managing Director.</p>	Not applicable.
3.		A number of potential clauses that set an unduly high bar and if required, will be detrimental to the domicile’s international insurance business. See specifically: 7.11.5 (g) & 7.11.7 (b).	The Authority has considered this comment along with other feedback on the measure and has amended the sections highlighted.	Section 7.10.5(g) [previously 7.11.5(g)] has been amended to read as follows: “written confirmation from the proposed directors or appointed insurance managers that there are no legal impediments in the home jurisdiction to the subject insurance business/risk being written on a direct basis;”

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				<p>Additionally, section 7.10.7(b) [previously 7.11.7(b)] has been amended to read as follows: "written confirmation from the proposed directors or appointed insurance managers that there are no legal impediments to the proposed reinsurance transactions;"</p>
4.		There needs to be greater and more obvious differentiation between Long Term (direct write) and General (direct write) licensees. See specifically: 7.11.6 (a), (b), (c), (d), (f) & 7.11.7. (f).	The general requirements still apply to both applicants writing long-term and general insurance.	No amendment required.
SECTION-SPECIFIC COMMENTS				
5.	3.3(b)(iv)	Is there a basis for the net earned premium level being stipulated? It appears that this is a fairly arbitrary premium figure.	This section of the Insurance Law has not yet been enacted.	Subsection 3.3(b) has been amended to reflect the licence categories as set out in the Insurance Law, 2010.
6.	4.1.1(c)	<p>While the intent of this clause is correct, the way its worded suggests that the Authority ultimately has full discretion in determining what is "related business". This leaves a large amount of uncertainty for the applicant if the Authority ultimately has full discretion in determining what "related business" means.</p> <p>Needs to at least say that if neither (a) nor (b) are clearly evident, then the Authority will consider the facts and circumstances provided by the applicant to demonstrate that the principles of (a) or (b) exist.</p>	The Authority notes this comment and has amended the measure to clarify that if the circumstances in neither (a) nor (b) are not clearly evident, then the Authority has the discretion to determine the status of "related business" based on the evidence set out by the applicant.	<p>Section 4.1.1(c) reflected to read as follows:</p> <p>" "related business" means business as determined by the Authority on a case by case basis. Where the principles outlined under (a) and (b) are not clearly evident, the Authority has sole discretion in determining "related business" based on the circumstances and documentation presented by applicants for the Class B Insurer licence."</p>

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7.	<p>Section 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.</p>	<p>Once the approval requirements/conditions are met by the applicant can a license application be denied and if so is there a formal regulatory appeal process to be followed. Or would the applicant have to take CIMA's management committee to court?</p>	<p>The usual rules of administrative law would apply.</p>	<p>No amendment required.</p>
8.	<p>Section 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 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.</p>	<p>This should include the process for appealing to The Authority where an application has been rejected.</p>	<p>See comment above.</p>	<p>No amendment required.</p>
9.	<p>Section 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.</p>	<p>CIIPA requests clarification on those parties falling into the scope of controlled functions.</p>	<p>Applicants are to be guided by the definition of "controlled function" outlined in the <i>Regulatory Policy – Fitness and Propriety</i> issued by the Authority.</p>	<p>No amendment required.</p>

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10.	<p>Section 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.</p>	<p>Perhaps "expects" should be stronger—ie "requires"</p>	<p>The Authority notes and agrees with this recommendation.</p>	<p>Section 7.7 has been amended to replace "expects" with "requires".</p>
11.	<p>Section 7.10 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.</p>	<p>Refrain from use of the term "investors" esp. for Class B, subcategories (i) & (ii). These are shareholders. "Investors" has a different connotation.</p> <p>Strike "investors" change to "shareholders".</p> <p>Surely not relevant where the shareholder(s) provide/resign the directors from one of the parent company's employees base? Unnecessary bureaucracy for the vast majority of Class Bs , Sub-category (i), especially .</p> <p>A resolution in accordance with the Company's Memo & Arts should suffice in this regard.</p> <p><i>It may</i> be relevant for some open market third party writing B(iii)s with multiple shareholders – but again, <u>not all</u> B(iii)s or B(iv) s are the same.</p>	<p>The Authority notes your comment on the use of the term "investors". The document will be updated to utilise the term "shareholders" throughout for consistency.</p>	<p>The measure has been amended to replace the term "investors" with "shareholders" throughout.</p> <p>Subsection 7.10 has been deleted from the measure.</p>

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12.		"shall assure" could be stronger-ie "will be required by"	The Authority in reviewing the measure has removed this subsection.	Subsection 7.10 has been deleted from the measure.
13.	<p>Section 7.11.2 The business plan should at a minimum include details relating to:</p> <ul style="list-style-type: none"> (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. 	Suggest including details on any relevant tax structuring/ considerations and compliance requirements in international jurisdictions (if any)	The Authority notes this comment and has determined that this information does not need to form part of the core application, but may request this as additional information, where necessary.	No amendment required.
14.	<p>Section 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.</p>	There should not be requirements that template reinsurance agreements should accompany the business plan application. Reinsurance agreements are negotiated documents between two sophisticated parties and it is near impossible to follow a template. We suggest that a "Term Sheet with typical material terms" be included instead.	The Authority has considered this comment and has revised the subsection.	Section 7.10.3 (previously 7.11.3) modified to read as follows: "Where available, 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. Where these agreements are not available, applicants must provide a term sheet with typical material terms."

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15.	<p>Section 7.11.5 The business plan should contain the rationale for establishing the business in the Islands.</p>	<p>It would be clear from the business plan why the captive is setting up in the C.I.</p> <p>Please strike out 'in the Islands' from the clause.</p>	<p>The expectation is that the business plans should clearly state the purpose for setting up business.</p>	<p>Amended to delete "in the Islands".</p>
16.	<p>Section 7.11.5 (g) confirmation that the home jurisdiction, subject to business/risk, has no objection to the insurance business being written on a direct basis;</p>	<p>Suggest additional clarification on the form of this confirmation, and by whom, including their relevant credentials.</p>	<p>The expectation here is that written confirmation can be provided by the proposed directors or insurance managers acting on behalf of the applicant.</p>	<p>Section 7.10.5(g) [previously 7.11.5(g)] has been amended to read as follows: "written confirmation from the proposed directors or appointed insurance managers that there are no legal impediments in the home jurisdiction to the subject insurance business/risk being written on a direct basis;"</p>
17.		<p>This is an impossible ask of non-life, P&C, marine etc. captives</p> <p>Even if e.g. an insurance commissioner in a given state in the USA agreed to confirm that a captive domiciled in the C.I could issue a direct - non admitted insurance policy covering risks in their state, it would take 12+ months to receive a response.</p> <ul style="list-style-type: none"> o There could be multiple states where risks are covered and it theory, it could necessitate many "approvals" from different states. o It would be a prohibitively expensive and unending process. 	<p>See comment 16 above.</p>	<p>See comment 16 above.</p>

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		<p>After they said “no”, the insurance commissioners would next say – “why not set up your captive in my state”?</p> <p>Insurance law and regulation is not necessarily binary (Allowed/Not Allowed). Many times the law or regulation is unclear or silent as to what is allowed or otherwise on a non-admitted basis. If any doubt existed, an insurance commissioner is likely going to say “no, it is not allowed”. Courts might say something else later – but by then the game is lost</p> <ul style="list-style-type: none"> ○ We also know that regulation in US states (any elsewhere) has a strong political dynamic, so getting an unbiased response could be problematic, especially for a Cayman captive. <p>This clause would be detrimental to the Island’s international insurance business by putting the Islands at a competitive disadvantage. Many times the law is silent as to what may be allowed on a non-admitted basis. To try to effect same would be problematic, expensive and time consuming and is not required by our competitors.</p> <p>Please strike out this clause.</p>		

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18.	<p>Section 7.11.5 (h) any actuarial studies carried out in support of premium funding, including confidence level, discount rate, and/or rating methodology;</p>	<p>Suggest the BP should also include the licensee's intended premium setting approach, not just the initial period's studies.</p>	<p>The Authority notes and agrees with your comment.</p>	<p>Section 7.11.5(h) amended to read as follows: "any actuarial studies carried out in support of premium funding, including confidence level, discount rate, and/or rating methodology as well as the applicant's intended premium setting approach"</p>
19.	<p>Section 7.11.6 (a), (b), (c), (d), (f) 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</p>	<p>This appears to be applicable for direct placement, Long Term business writers only.</p> <p>Remove any requirement for P&C, marine, PA/health etc. insurance or reinsurance licensees to provide these.</p> <p>The type of business included in the B(iii) class is quite broad and wide-ranging. The introductory sentence should specify that the information would be included only if applicable.</p>	<p>The Authority has established that these requirements are necessary for all applications and therefore will not incorporate "if applicable" in the introduction as suggested.</p>	<p>The measure was updated to include the term "if applicable" for subsection 7.10.6(b) [previously, 7.11.6(b)].</p>

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	<p>agreement, where applicable;</p> <p>(e) details of underwriting process and pricing; and</p> <p>(f) capital adequacy, including details of asset liability management.</p>			
20.	<p>Section 7.11.6 AND .7 <u>7.11.6</u> In addition to the requirements in 7.11.5, Class B(iii) Insurer applicants should also include the following information in the business plan:-</p> <p><u>7.11.7</u> In addition to the requirements in 7.11.5, Class B(iii) Reinsurer applicants should also include the following information in the business plan:-</p>	<p>Include Class B(iv)s also (they are included in this paper at 3.3).</p>	<p>The provision in the Insurance Law for class B(iv) licences has not yet been enacted.</p>	<p>Subsection 3.3(b)(iv) has been deleted from the measure.</p>
21.	<p>Section 7.11.7. (b) "confirmation of required regulatory approvals subject to the proposed reinsurance transactions, stating the respective regulators and confirming status of approval"</p>	<p>See comment re 7.11.5 (g) above. Much applies to 7.11.7 (b) also</p> <p>P&C, Marine, Medical, Healthcare etc. cedants are allowed to place business in the open market to include captives. The cedant may take a capital charge or they else require the posting of collateral. While this may be relevant to</p>	<p>The Authority has noted the comment and has revised the subsection.</p>	<p>The subsection [now 7.10.7(b)]has been revised to read as follows: "written confirmation from the proposed directors or appointed insurance managers that there are no legal impediments to the proposed reinsurance transactions;"</p>

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		<p>certain types of long term business it should not be applicable to non life business, though also again, may only be applicable to certain types of long term business.</p> <p>This clause could be detrimental to the Island's international insurance business. Please strike out this clause (7.11.7 (b)).</p>		
22.	<p>Section 7.11.7 (d & e) (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;</p>	<p>Suggest adding the licensee's intended approach for recording related reserves (eg using cession statements, own actuarial study, true-ups, etc.)</p>	<p>The Authority notes and agrees with this recommendation.</p>	<p>The measure has been updated to insert the following as 7.10.7(f): "applicant's intended approach for recording related reserves;"</p>
23.	<p>Section 7.11.7. (g) Draft(s) of the proposed reinsurance contract(s) for each type of product offered;</p>	<p>As this information isn't always available at the time of licensing need to indicate this would be provided when available or provide a term sheet at time of licensing listing the material terms of the reinsurance transactions.</p>	<p>The Authority has considered this comment and notes that the measure has been updated and this requirement is subject to 7.10.3.</p>	<p>Amended to include "see 7.10.3".</p>
24.	<p>Section 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.</p>	<p>A definition of "adequate" in this context should be provided</p>	<p>The Authority's expectation is that the broad definition of the term is applicable here. Otherwise, regulated entities should be guided by the definition of the term as set out in their internal policies.</p>	<p>No amendment required.</p>

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25.	<p>Section 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 rating¹ of at least A- by Standard & Poor's rating agency or equivalent by another recognized rating agency.</p>	<p>To provide consistency with 7.12.2 this section should clarify that LOCs are considered capital and not just funding</p>	<p>Section 7.12.2 (ow 7.11.2) already establishes that letters of credit ("LOCs") can be a form of capital, subject to the criteria in 7.12.6 (now 7.11.6).</p>	<p>No amendment required.</p>
26.	<p>Section 7.12.6 LOCs should be clean, irrevocable, unconditional and evergreen and should name the applicant as beneficiary.</p>	<p>As of late, US Banks are reluctant to issue evergreen clauses. They want an expiry date and renewal completed every year. This is a commercial decision by banks, which is subject to change.</p> <p>Please amend this requirement to remove 'evergreen' from the clause.</p>	<p>The Authority notes and agrees with this recommendation.</p>	<p>The term "evergreen" was deleted from the measure.</p>
27.	<p>Section 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</p>	<p>The terms "assessment" and "assess" can have the unintended implication of suggesting a financial assessment is made against a company and should be replaced with "evaluation" and "evaluate".</p>	<p>The Authority notes your comment and will amend as recommended.</p>	<p>The measure has been amended to replace "assess" and "assessment" with "evaluate" and "evaluation" in now subsection 7.11.8 and 7.11.9.</p>

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	<p>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.</p> <p>Section 7.12.9 Additionally, the Authority may, at its discretion, seek to assess shareholders/controllers holding less than 10% interest in a legal entity.</p>			
28.	<p>Section 7.12.10(d) Investment Management (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.</p>	<p>Confusion over use of the term "IM". It is defined in the glossary as "Insurance Manager".</p> <p>Here it appears to be more "Investment Manager" Please clarify.</p>	<p>The document has been revised to remove the use of the acronym "IM" to refer to investment managers.</p>	<p>Section 7.11.10(d) [(previously 7.12.10(d)] has been amended to read as follows: "Where an investment manager is appointed that is not licensed by the Authority, applicants must indicate the regulatory authority of the investment manager (where applicable) and provide a brief overview the investment manager's operation."</p>
29.		<p>This is a little confusing -IM is previously defined to be Insurance Manager, this comment appears to be Investment Management.... Or is IM here the Investment Manager.</p>	<p>Same as above.</p>	<p>Same as above.</p>

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30.	Section 8	Define the repercussions for not applying for updated license; usually easily identifiable, but clients with related party business percentage near the thresholds set may vary from year to year and would have associated compliance risk. A licensee may temporarily find itself in a different B sub-category (depending on sensitivity to annual premium movements)- should this policy note provisions for temporary relief, and the requirements of the licensee to notify CIMA immediately upon becoming aware of the matter, along with a remediation plan.	The licensee would be in breach of the conditions of its licence. The Authority will assess these temporary positions on a case by case basis and take the necessary actions as needed, which may include enforcement actions.	No amendment required.
31.	Section 8.2 (c) Procedure for Reclassification of Class B Licences the required documentation for existing and/or new directors and officers as per the Regulatory Procedure Assessing Fitness and Propriety;	If Directors have already been approved why must they re-submit all required information? This section should be expanded out by The Authority in relation to existing Directors & Officers that have been approved already by The Authority within certain periods in accordance with the current practice. For example, if a director was already approved by The Authority within the previous two years submit an affidavit and police clearance stating that there are no changes since their original application.	Where a person has previously been regarded as fit and proper, the Authority reserves the right to reassess whether that person continues to be fit and proper to hold either current or proposed positions, as outlined in section 4.4 of the <i>Regulatory Policy - Fitness and Propriety</i> . The Authority may request the necessary documentation to reassess fitness and propriety for any person as deemed necessary and on a case by case basis.	No amendment required.

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32.	<p>Section 11 In accordance with the Law, licensees shall submit audited financial statements unless exempted by the Authority.</p>	<p>Recommend defining the period to comply with audit requirements (eg. Six months) and outline rules for first year audits/stub periods.</p>	<p>The Authority has revised this section of the measure and has opted to remove and replace this section with additional requirements for redomiciled entities.</p>	<p>Section 11: Audited Financial Statements has been replaced with Section 11: Redomiciled Entities, which outlines the following: "11.1 Where applicable, applicants who are redomiciling entities must provide up to five (5) years of audited statements to the Authority for evaluation with their application."</p>