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Regulatory Policy

Licensing - Class C Insurance Companies

1. Statement of Objectives

- 1.1 This Regulatory Policy sets out the criteria the Cayman Islands Monetary Authority ("Authority") will apply to assess applications for the grant of a class C insurance company license pursuant to section 4 of the Insurance Law, 2010 ("Law").

2. Introduction

- 2.1. 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. Definitions

"Catastrophe Bonds" ("Cat bonds") are insurance-linked securities issued by a Special Purpose Vehicle ("SPV") to provide alternative risk transfer mechanisms and securitization to reinsurance buyers by transferring a specific set of risks, generally catastrophe risks, from a sponsor or cedent to investors through the SPV. The investors bear the insurance risk in return for yield on their investment but may lose part or entire principal invested in the Cat bonds in the event of occurrence of a qualifying catastrophic event as specified in the reinsurance agreement between the SPV and the cedent.

"Contingent Asset" is an asset in which, at the time of its purchase, the possibility of an economic benefit from the asset depends solely upon future events, where these events are fortuitous and are not controlled by the SPV.

"Insurance Linked Securities" ("ILS") are financial instruments which serve to transfer insurance risk to investors and capital market institutions typically via securities or structured finance arrangements and whose value is affected by an insured loss event.



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4. Scope

- 4.1. According to the Law, persons require a class C licence “for the carrying on of insurance business involving the provision of reinsurance arrangements in respect of which the insurance obligations of the class C insurer are limited in recourse to and collateralised by the class C insurer’s funding sources or the proceeds of such funding sources which include the issuance of bonds or other instruments, contracts for differences and such other funding mechanisms approved by the Authority”.
- 4.2. The class C licence category captures entities that provide reinsurance through the issuance of ILS such as Cat bonds, sidecars, collateralised reinsurance, life insurance securitization, longevity or similar instruments.
- 4.3. This Policy is applicable to persons in whose name an application is made for a licence to carry on insurance business as a class C insurer (“applicants”) in or from within the Cayman Islands.
- 4.4. This Regulatory Policy (“Policy”) should be read in conjunction with the Law, regulations, rules and other regulatory measures issued by the Authority, which provide guidance on various topics applicable to class C insurers, including fitness and propriety, internal controls, risk management, corporate governance, outsourcing and audit waivers.

5. Procedure for Licensing Class C Entities

- 5.1. The Authority will apply the relevant provisions of the Law, regulations and this Policy to assess applications for the grant of class C licenses.
- 5.2. Persons seeking to carry on business as a class C insurer shall submit a completed application form with all the information required pursuant to the Law and Insurance (Applications and Fees) Regulations (“Regulations”). At the time of making the application, applicants shall pay the application fees as prescribed under the Regulations.
- 5.3. All class C insurer licence applications (“applications”) should be accompanied by the licensing checklist¹ issued by the Authority for class C insurer applicants.
- 5.4. Applications for non-Cat bond ILS vehicles, complex Cat bond vehicles and

¹ The licensing checklist issued by the Authority gathers detailed information specific to the applicant’s proposed transaction, funding mechanisms and operational matters, and includes references to the application form or other documents where exact details (with page numbers) of that information can be found. This checklist is available on the Authority’s website.



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Cat bonds that are not repeated programs will be presented to the Authority's Management Committee ("MC"), which meets weekly, for approval. The Authority may allow its insurance division to process and issue licenses for non-complex Cat bond vehicles and Cat bonds that are repeated programs². A non-complex Cat bond application is one where:

- a) all the investors are sophisticated³;
- b) the reinsurance contract is with a single cedent (and may include its group entities);
- c) the covered event is a natural catastrophe event; and
- d) the reinsurance contract covers losses to property only.

Regardless of the applicant satisfying the above criteria, if the insurance division has identified any complex issues in the application, then the application will be presented to the MC for its approval.

- 5.5. For the application to be considered as non-complex, an applicant that is a segregated portfolio company shall demonstrate that each segregated portfolio proposed at the time of submitting the application satisfies the criteria set out in 5.4 above. Where any of the proposed segregated portfolios of the applicant is determined as complex, the entire application (for all the proposed segregated portfolios) will be presented to the MC.
- 5.6. The Authority, where satisfied with the application, may process and issue a licence within the timeframe specified in the Regulatory Handbook. The licensing timescale starts when the Authority receives a complete application form and the licensing checklist with all the required information and supporting documents.
- 5.7. During the application process, if any material changes are to be made to the information or documentation provided to the Authority, the applicant shall immediately inform the Authority. Any material changes to the application made may increase the application processing time.
- 5.8. 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.

² Timelines for processing class C licenses are provided in Appendix E2 of the Regulatory Handbook. For Instance, the insurance division may process and issue new class C licenses for non-complex Cat Bond vehicles within 5-10 business days and for repeated /analogous Cat Bond vehicles within 5-7 business days, or as specified in the Regulatory Handbook.

³ For the definition of "Sophisticated Investors", please refer to the Regulatory Policy – Exemption from the audit requirement for a class C insurance company.



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6. Assessment Criteria for Licensing Class C Insurers

- 6.1. The Authority assesses applications with respect to fitness and propriety, funding and collateral arrangements, business plan, track record, disclosures, risk management, internal controls, and systems for combating money laundering and terrorist financing.
- 6.2. Applicants shall demonstrate that they meet the definition of the class C insurer licence category pursuant to the Law. For this purpose, applicants shall provide details of the intended transaction and features of the proposed vehicle.
- 6.3. The Authority will consider each application on its own merits and will take into account all relevant factors, including the below criteria.
- 6.4. Applicants that are segregated portfolio companies shall satisfy the below criteria separately for each proposed segregated portfolio.

6.5. Fit and Proper Criteria and Management

- 6.5.1 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 licensee⁴ are fit and proper.
- 6.5.2 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 performing controlled functions⁵ of the applicant are fit and proper.
- 6.5.3 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.
- 6.5.4 Fit and proper assessments will be conducted on all persons performing controlled functions (as stipulated in the Regulatory Policy on Fitness and Propriety) including persons holding managerial functions where applicants will have staff to discharge managerial functions in the jurisdiction. Where

⁴ In determining whether a person holds control, the Authority considers the criteria provided under section 2 of the Law.

⁵ Please see the definition of "Controlled Function" in the Regulatory Policy on Fitness and Propriety



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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. The IM should be licensed and in good standing with the Authority.

- 6.5.5 Where a shareholder of the applicant is a trust, the Authority will conduct fit and proper assessments, including complete due diligence for anti-money laundering and counter terrorist financing ("AML/CFT") purposes, on the said trust, trustees (unless licensed by the Authority) and the ultimate beneficiary(ies), if known at the time of application.
- 6.5.6 Per the Law, a minimum of two directors is required for all class C insurers. Applicants shall assure the Authority that in the case of a change in directors, investors and the cedent will be notified of the change, and information on such notification, along with concerns, if any, raised by the investors or the cedent will be provided to the Authority.
- 6.5.7 Any change of persons holding control, directors or persons in managerial positions must be approved by the Authority. Applicants shall refer to the relevant provisions under the Law and relevant regulatory measures for the procedure to follow in case of changes.

6.6. Business Plan

- 6.6.1 Unless the proposed vehicle is a single transaction Cat bond and has issued an offering circular or similar document, the application shall be accompanied by a business plan with all the information as outlined in the Regulations and explained in this section.
- 6.6.2 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.
- 6.6.3 The business plan should be accompanied by copies of draft agreements and other documents in support of the proposed structure, including a schematic chart.
- 6.6.4 Applicants that are single transaction Cat bonds should provide a schematic chart, a copy of the offering circular and offering circular supplement or similar documents. The offering circular and offering circular supplement should provide sufficient details of the proposed transaction to allow investors to make an informed decision. Specific disclosures required in the offering circular are listed in section 6.9.3 herein.
- 6.6.5 Any changes to the business plan or offering circular must be notified to or approved by the Authority. Applicants shall refer to the regulatory



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procedure on business plan changes⁶ for guidance on which changes require approval, which require notification, and the procedure to follow.

6.7. Funding and Collateral Arrangements

- 6.7.1 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 (“Capital Regulations”).
- 6.7.2 To establish that the proposed vehicle satisfies the characteristics of a class C insurer, the applicant shall demonstrate that:
- a) Its insurance obligations will be fully funded or collateralised by its funding sources or proceeds of such funding sources from the time it enters into the reinsurance agreement;
 - b) Its insurance obligations are limited in recourse. The reinsurance agreement should contain a limited recourse clause stating that the insurance obligations of the applicant to the cedent are limited in recourse to the applicant’s funding sources or the proceeds of such funding sources or the stated contract limit, whichever is lower;
 - c) It is bankruptcy-remote from the cedent and that if the cedent enters a bankruptcy proceeding, the cedent’s creditors cannot claim the assets of the applicant; and
 - d) Claims of any investors are subordinated to those of the cedent and the investors do not have recourse to the cedent in the event of an economic loss to the proposed class C insurer.
- 6.7.3 The proposed class C insurer is expected to have at all times assets the value of which is equal to or exceeds the aggregate maximum risk exposure and be able to pay the amounts it is liable for as they fall due. Applicants should establish that their assets satisfy the definition of admissible assets as provided in the Capital Regulations. The type of assets should match the expected duration of liabilities.
- 6.7.4 With a view to mitigate market risks and to ensure that the proposed structure is and remains fully funded and collateralized, the class C insurer should hold the majority of its investments in low risk asset classes such as cash, cash equivalents and money market funds. The Authority may consider contingent assets for inclusion in the funding structure to partially meet the fully funded and collateralized requirement. Applicants’ investment policy, strategy and guidelines should reflect these principles.

⁶ Regulatory Procedure on Approval and Notification of changes – Class B, C, and D Insurers and Portfolio Companies



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- 6.7.5 The Authority must be satisfied that the cedent is aware and is satisfied with the nature of assets maintained by the proposed class C insurer, where necessary, through the service providers (such as reinsurance and indenture trust(ee)s).
- 6.7.6 Where assets are maintained under the reinsurance and/or indenture trusts, to ensure that the interests of the cedent, and investors or financiers are protected and collateral is properly maintained, the Authority must be satisfied that the indenture and/or reinsurance trustees:
- a) will maintain the applicant's assets separate from other monies maintained by the trustees;
 - b) do not disclaim their liability for fraud; and
 - c) are not allowed to deduct monies from the collateral account unless the deductions are in conformity with the offering circular, trust agreement or other applicable documents.
- 6.7.7 Where an applicant is funded through contingent assets such as letters of credit ("LOCs") or other financial or debt mechanisms such as swaps, it shall demonstrate that such funding arrangement is in conformity with the terms agreed upon by the relevant parties and stipulated in the offering circular, or similar document or agreement.
- 6.7.8 Where contingent assets are being proposed by an applicant as a source of fund or collateral, the Authority expects the issuers of contingent assets to be appropriately risk managed and regulated institutions. The applicant shall demonstrate that the issuer of the contingent asset:
- a) is a financial institution regulated by the Authority or any other regulatory authority acceptable to the Authority; and
 - b) has achieved a financial rating⁷ of at least A- by Standard & Poor's rating agency or equivalent by another rating agency acceptable to CIMA.
- 6.7.9 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.
- 6.7.10 LOCs should be clean, irrevocable, unconditional and evergreen and should name the applicant as beneficiary.
- 6.7.11 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 and details of the issuers of the funding/collateral

⁷ Financial rating with respect to counterparty, credit or financial strength as applicable



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instruments.

6.7.12 The collateral should be maintained for the account of the applicant. The collateral agreement should specify under what conditions funds can be disbursed to investors or the cedent.

6.7.13 The reinsurance agreement should stipulate that the cedent should pay all the premiums to the applicant. On a case by case basis, the Authority may allow arrangements that stipulate that the cedent will withhold premiums, provided the Authority is satisfied that the proposed class C insurer will have sufficient assets to meet its obligations when they fall due and there is a diversification of funds in the collateral account.

6.7.14 The reinsurance agreement should identify the incidental and operating expenses associated with managing the insurance program and specify the source of funds or mechanism for funding such expenses.

6.7.15 If the value of the collateral assets falls below the value of the expected (re)insurance recoveries or aggregate liabilities, and if the reduction is 5% or more, licensees shall forthwith inform the Authority.

6.8. Trustees and Cedent

6.8.1 The Authority must be satisfied that the cedent, indenture trustee and reinsurance trustee have a good track record and are regulated in a jurisdiction acceptable to the Authority.

6.8.2 Applicants should establish that the indenture trustee and reinsurance trustee have the technical capability and experience to act in their respective positions.

6.8.3 The Authority expects the cedent to be rated by a rating agency acceptable to the Authority. Where the cedent is not rated by a rating agency acceptable to the Authority, the Authority shall conduct due diligence and ensure that the cedent is financially sound and is in good standing with its regulator(s). For that purpose, the Authority may require the applicant to provide financial statements of the cedent and any other supporting information.

6.8.4 The Authority may verify that the cedent's regulator has no objection to the proposed reinsurance arrangement.

6.9. Disclosure Requirements

6.9.1 The Authority recognises the importance of a high level of transparency in relation to the structure, assets, and investments of the proposed vehicle, which would enable the key parties to understand the associated risks and



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make an informed decision whether to enter into a business relationship with the applicant. As such, the Authority expects that applicants will make full disclosures to all relevant parties, including the cedent, investors, financiers, or similar third party capital-providers, and the Authority, as appropriate.

- 6.9.2 As a part of investor protection, the Authority must be satisfied that the applicant has provided to all prospective investors in writing all the material information that is necessary to enable the prospective investors to make an informed decision about whether or not to invest in the applicant.

Contents of the Offering Circular

- 6.9.3 The Authority expects that all class C Cat bond licensees issue an offering circular or a similar document to their (prospective) investors to provide information in relation to the transaction, covered event, proposed investments and certain other disclosures that will enable them to make the investment decision. The offering circular, where issued, shall include the following details in relation to:

- a) key parties to the transaction (e.g. cedent, reinsurance trustees, indenture trustees, insurance manager and proposed directors);
- b) the bankruptcy remote nature of the applicant;
- c) purpose of offering notes;
- d) issuance of notes, including offering price, redemption, and interest;
- e) risk factors associated with the investments, notes or coupons;
- f) use of proceeds from the sale of notes;
- g) permitted investments;
- h) collateral arrangement with respect to proceeds from sale of notes;
- i) the reinsurance trust;
- j) payment details, including dates of payments to noteholders;
- k) incidental and operating expenses associated with the applicant and specify the source of funds or mechanism for funding such expenses;
- l) supplemental plan of distribution;
- m) attachment and exhaustion points;
- n) claims management;
- o) trigger, covered events;
- p) disclosure of conflicts of interests between all parties to the applicant and how they are addressed;
- q) the subordination of claims of investors to those of creditors under the insurance contract;
- r) rights of investors to receive information on the composition of assets, and market and/or net value of assets, including frequency of the reporting;



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- s) a top-up provision, if it exists, and details in relation to the named party, conditions under which top-up will be required and the timeframe within which top-up must be carried out after the asset deterioration; and
 - t) whether the applicant intends to seek an audit waiver from the authority; and
 - u) whether financial statements will be distributed to the investors.

Disclosures to Investors of Class C Insurers Other than Cat bonds

- 6.9.4 For other class C licensees that do not issue Cat bonds, the applicant should satisfy the Authority that information of a similar nature to the disclosures in 6.9.3 have been communicated to the relevant financiers, investors, or similar third party capital-providers, where applicable.

6.10. Compliance Obligations

- 6.10.1 Applicants must demonstrate how they will comply with applicable laws, regulations and regulatory measures.
- 6.10.2 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.
- 6.10.3 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.
- 6.10.4 In case of outsourcing, applicants shall demonstrate that they will have proper oversight of the proposed outsourced functions. Applicants shall refer to the Authority's regulatory measures on outsourcing.
- 6.10.5 All licensees are expected to be in compliance 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.

7. Record Keeping

- 7.1. 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



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additional guidance issued.

8. Audited Financial Statements

- 8.1. According to the Law, licensees shall submit audited financial statements unless exempted by the Authority. Applicants that wish to get an exemption from filing audited financial statements may submit an audit waiver application along with the licence application to the Authority. The Authority may grant an audit waiver where the applicant satisfies the criteria provided in the Regulatory Policy for granting audit waivers to licensees.

9. Additional Requirements

- 9.1. Applicants shall provide closing documentation to the Authority within 30 days of the execution of the reinsurance agreement. The closing documentation must include:
- a) Offering circular or similar document making disclosures and setting contractual obligations;
 - b) Reinsurance trust agreement;
 - c) Indenture agreement; and
 - d) Declaration of trust.
- 9.2. Where the funding structure of an applicant does not require the establishment of an indenture trust, the applicant shall provide a copy of the funding/collateral instrument and relevant documents. For instance, where the applicant is funded by a contingent asset, such as an LOC, the applicant shall provide a copy of the LOC and other relevant documents.
- 9.3. Where there are no significant changes since the submission of the application, at the time of submitting the final closing documentation, a confirmation should be provided to the Authority by the insurance manager or directors that there are no material changes to the previously submitted draft documentation. In case of changes to the information provided during the processing of the application, the applicant should notify the Authority as specified under 5.7 above.
- 9.4. Where there are material changes prior to the submission of the closing documentation, but subsequent to the granting of a licence, the licensee shall refer to the relevant provisions under the Law and relevant regulatory measures for the procedures to follow to notify or obtain required approval(s) from the Authority.
- 9.5. In addition to the information and documentation specified in this RPy, the Authority may require any other information or documentation that is necessary for processing an application and granting a licence.



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