



May 2017

Regulatory Policy

Exemption from the Audit Requirement for a Class C Insurance Company

1. Statement of Objectives

To set out conditions for exempting a Class C insurance company ("the insurer") from the annual audit requirement by the Cayman Islands Monetary Authority ("Authority").

2. Introduction

- 2.1. Pursuant to section 9(1) of the Insurance Law 2010 (the "Law"), "an insurer shall, except as otherwise approved by the Authority in writing (...), submit to the Authority by way of annual return, within six months of the end of its financial year – (a) audited financial statements (...)."
- 2.2. This document establishes the criteria the Authority will assess when considering a request from an insurer to waive the requirement to submit audited financial statements under the Law.
- 2.3. This Regulatory Policy ("RPy") applies only to class C insurers, as defined in the Law.

3. Definitions

- 3.1. According to the Law, a Class C insurer is an insurer carrying on insurance business involving the provision of reinsurance arrangements in respect of which the insurance obligations of the insurer are limited in recourse to and collateralised by the 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.
- 3.2. "Investor" means a financier, or holder of notes, bonds or other instruments issued by the insurer to fund the obligations of the insurer.
- 3.3. Sophisticated Investors include:
 - a) High income private investor, who is an individual that has a net personal disposable income in excess of 200,000 dollars¹ (or equivalent in foreign currencies) in each of the two years preceding the current financial year or has a joint disposable income with that person's spouse in excess of 300,000 dollars (or equivalent in foreign currencies) in each

¹ All amounts in this document are Cayman Islands dollars (KYD)



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of the two preceding years, and received investment advice from a regulated investment professional;

- b) High net worth private investor, who is an individual whose net worth² or joint net worth with that person's spouse is in excess of one million dollars and received investment advice from a regulated investment professional;
- c) Sophisticated private investor, who is an individual or entity who has knowledge of, and experience in, financial and business matters as would enable that person to properly evaluate the merits and risks of a prospective purchase of investments including Insurance Linked Securities ("ILS") investments; and who in respect of each investment transaction, deals in amounts of not less than 200,000 dollars or equivalent in foreign currency;
- d) An investment fund established and operated in a jurisdiction acceptable to the Authority;
- e) A pension fund established and operated in a jurisdiction acceptable to the Authority;
- f) A financial institution, including a bank, trust company and insurance company, regulated in a jurisdiction acceptable to the Authority;
- g) A body corporate that has total assets of not less than five million dollars, where such assets are held solely by the body corporate or at least 30% of which are held by the body corporate and the remainder held by one or more members of the corporate group of which it is a member;
- h) An unincorporated association, partnership or trust that has total assets of not less than five million dollars, where such assets are held by such association, partnership or trust or held partly by it (at least 30%) and the remainder by one or more members of a group of which it is a member;
- i) A body corporate, all of whose shareholders fall within one or more of the above paragraphs from a) through h) of this section;
- j) A partnership, all of whose members fall within one or more of the above paragraphs from a) through h) of this section;
- k) A trust, either whose settlor or beneficiaries fall within one or more of the above paragraphs from a) through h) of this section;

² Net worth means the excess of total assets over total liabilities. While calculating the net worth, the value of primary residential property and related credit such as house loans and mortgages shall not be taken into account.



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- l) A company quoted on a stock exchange acceptable to the Authority; and
 - m) Any other individuals or corporations that are deemed by the Authority as suitable to be regarded as sophisticated investor(s).

4. Application for an Audit Waiver

- 4.1. An insurer or an applicant for a Class C licence ("potential licensee")³ that wishes to obtain exemption(s) from the annual audit requirement shall make an application to the Authority for the grant of an audit waiver.
- 4.2. Where the Authority is satisfied that the conditions and requirements set out in section 5 of this RPy are met, the applicant will be exempted from the audit requirement for the duration/life of the licence, subject to the insurer satisfying the criteria set out under section 6 of this RPy at the end of each financial year. A letter ("waiver letter") will be issued to the applicant stating the same.
- 4.3. At the end of each financial year, the insurer that was granted the exemption and a waiver letter must submit all the information and documents listed in section 6 of this RPy to obtain a year-end approval(s).
- 4.4. Subsequent to receiving the required information and documents for year-end approval, the Authority where satisfied with the insurer's compliance with the requirements set out in this RPy, may grant a year-end approval for that financial year.
- 4.5. Where an insurer did not apply for a waiver at the time of licensing, or in the previous or latest financial year and was not issued a waiver letter, but wishes to obtain an audit waiver at the end of a financial year, the insurer shall make an application to the Authority. Such application should be made within 30 calendar days of that financial year end and shall satisfy all the applicable criteria under sections 5 and 6 of this RPy.
- 4.6. The Authority will endeavor to review and process the waiver requests within 14 working days⁴ subsequent to receiving the completed application, including all the documentation and information required under this RPy.

5. Conditions Precedent to the Grant of an Audit Waiver

- 5.1. In determining whether an exemption should be granted, the Authority shall assess each waiver request on a case-by-case basis. An insurer or a potential licensee making a waiver request shall satisfy the following conditions to be considered by the Authority for granting an exemption:

³ This RPy allows a potential licensee to make an application for waiving the audit requirement at the licensing stage.

⁴ The 14 day time frame for processing waiver applications is not applicable to the waiver requests that are made at the licensing stage as the time frame for licensing is different. Waiver requests of potential licensees will be processed along with the licence application.



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- 5.1.1 An audit waiver must be requested for each individual insurer separately, and for each segregated portfolio or for each portfolio insurance company if the insurer is structured as a segregated portfolio company;
 - 5.1.2 Applications for audit waivers will only be considered for insurers for which the full exposure to loss (aggregate limit) is funded through a collateralization arrangement under which the funds are maintained in cash, cash equivalents, or other assets that are approved by the Authority and maintained under collateral account or trust;
 - 5.1.3 All the investors of the insurer meet the definition of Sophisticated Investor pursuant to this RPy;
 - 5.1.4 The offering document or a similar document issued to investors clearly demonstrates the intention of an insurer to request an audit waiver(s)⁵;
 - 5.1.5 The offering document of the insurer discloses the names of the (proposed) directors, their professional bio-data, and criteria for replacement of directors;
 - 5.1.6 Directors resolving to apply to the Authority for the grant of an audit waiver; and
 - 5.1.7 The ceding insurer(s) confirms in writing that it has no objection to the insurer's request for a waiver of an independent audit.
- 5.2. The Authority may impose such other conditions that it deems necessary to assess the application for granting the requested waiver.

6. Criteria for Granting Year-End Approval

- 6.1. Within 30 calendar days of its financial year end, the insurer shall pay the fee that is prescribed for audit waiver requests under the Monetary Authority Law and satisfy the criteria established in this section.
- 6.2. The Authority will consider the following criteria in confirming the audit waiver for the financial year just ended to an insurer that was issued a waiver letter as well as an insurer that made an application for the first time at the end of its financial year:
 - 6.2.1 The Authority will not grant a year-end approval and may withdraw its approval for the audit exemption if a loss trigger event, as described in the offering document or similar investor material, has occurred during the financial year in respect of which a waiver of audit is sought and

⁵ In case of the insurers existing at the time of issuance of this RPy, if the offering document does not demonstrate the intention of obtaining an audit exemption, a confirmation from all the signatories of the offering document agreeing to request an audit waiver for the financial year for which the application for waiver is being made shall be submitted to the Authority.



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there are outstanding losses and loss reserves at the financial year end;
and

6.2.2 The insurer must be in good standing with the Authority; i.e. the insurer is up to date with all fees and regulatory filings, with no outstanding queries due to the Authority.

6.3. Additionally, the insurer shall provide the following documentation to the Authority within the 30 calendar days following its financial year end for which the waiver is sought:

6.3.1 Confirmation from the insurance manager or directors of the insurer that all insurance claims that were made against it in the financial year for which the waiver of audit is sought have been settled and there are no outstanding losses and loss reserves at the stated financial year end;

6.3.2 Confirmation from the board of directors of the insurer that there is no pending litigation against the insurer;

6.3.3 In case of change in director(s) during the financial year, a directors' resolution signed by all the directors (that are appointed to the board as at the financial year end) agreeing to request an audit waiver from the Authority or a continuation of the waiver of audit if previously granted to the insurer;

6.3.4 Unaudited management accounts for the insurer for the financial year end for which the waiver is sought, prepared in accordance with accounting standards acceptable to the Authority;

6.3.5 Written confirmation from the custodian of the collateral account or trustee thereof confirming the outstanding value of assets held in the collateral account. The confirmation should be accompanied by a breakdown showing the nature of assets held in the collateral account and their corresponding values;

6.3.6 A summary statement showing account activity in the collateral account during the financial year in respect of which the waiver of audit is requested; and

6.3.7 Confirmation from the indenture trustee or an equivalent independent person that all the payments that became due to the investors according to the offering document or similar investor material during the financial year in respect of which an audit waiver is sought have been paid.

6.4. The Authority may impose certain conditions, or require such other documents or information as it deems necessary for the grant of a year-end approval.



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7. Audit Waivers in case of Termination of a Class C Licence

- 7.1. The Authority reserves the right to require audited financial statements from an insurer for the financial year in which the insurer's licence has been surrendered, suspended, or revoked.

- 7.2. Any application for an audit waiver for such a period shall be made and processed in accordance with this RPy.

8. Revocation of Audit Waiver Approvals

- 8.1. The Authority reserves the ability to withdraw any approval(s) issued for audit waiver(s), including an exemption for the duration of a licence, and require the insurer to provide audited financial statements where it deems necessary for the accounts to be audited.