

**GUIDANCE NOTE
ON
APPLICATION FOR AUTHORIZATION
TO CARRY ON
INSURANCE BUSINESS
IN OR FROM HONG KONG**

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I. INTRODUCTION

This Guidance Note (“GN”) is issued to facilitate those who wish to make an application for authorization to carry on insurance business in or from Hong Kong. It attempts to set out the information and documents required for the Insurance Authority (“IA”) to process the application. Each application will be considered according to its own individual merits.

II. REQUIREMENTS FOR AUTHORIZATION

2. Insurance business is regulated in Hong Kong by the Insurance Companies Ordinance, Chapter 41 of the Laws of Hong Kong (“ICO”) and its subsidiary regulations. A list of such subsidiary regulations is at **Annex 1**. The Commissioner of Insurance is appointed as the IA for the administration of the ICO.

3. All applicants are recommended to read carefully this GN and the Authorization Guidelines at **Annex 2** before they attempt to make an application for authorization. The Authorization Guidelines are also obtainable at our website (<http://www.oci.gov.hk>) under the section of “Publications and Press Releases”.

4. Section 8 of the ICO sets out the requirements for authorization including those on minimum amounts of paid-up share capital and solvency margin, fitness and properness of directors and controllers and adequacy of reinsurance arrangements.

5. The Authorization Guidelines (Annex 2) set out the other criteria for authorization (see paragraph 13 below) which the IA will take into account in considering an application.

6. Only a company incorporated in Hong Kong or a company registered as an overseas company under Part XI of the Companies Ordinance, Chapter 32 of the Laws of Hong Kong, can apply for authorization.

Capital and Solvency Margin Requirements

7. For the purposes of authorization, the amount of paid-up share capital and the amount of solvency margin (i.e. the excess of assets over liabilities) of a company shall not be less than the respective amounts as specified in section 8 of the ICO. **Annex 3** sets out the minimum amount required as applicable to different classes of insurance business as well as the bases for determining the solvency margin. It should be emphasized that these are the minimum amounts and an appropriate safety margin on top of these amounts is required.

8. For the purposes of determining compliance with the solvency margin requirement, the value of assets, in the case of a general business insurer, is to be

determined in accordance with the Insurance Companies (General Business) (Valuation) Regulation, while the amount of the long term business liabilities, in the case of a long term business insurer, is subject to the Insurance Companies (Determination of Long Term Liabilities) Regulation.

9. For classification of insurance business, an applicant may refer to **Annex 4** for Classes of Long Term Business and **Annex 5** for Classes of General Business.

Fitness and Properness of Directors and Controllers

10. The IA has to be satisfied that the directors and controllers of the applicant company are fit and proper persons to hold such positions in the applicant company. Section 9 of the ICO gives the meaning of “controller”. It includes the following individuals/bodies corporate :-

- * the Managing Director of the applicant or its holding company
- * the Chief Executive of the applicant
- * the Chief Executive of the applicant responsible for the whole of the Hong Kong operation (in the case of a company incorporated outside Hong Kong)
- * the holding company (including intermediate holding companies) of the applicant
- * the Chief Executive of the applicant’s holding company (only if the holding company is also an insurer)
- * Any person controlling 15% or more of the voting power of the applicant or its holding companies (including intermediate holding companies)

11. In considering whether a person is fit and proper for the position, the IA will take into account all relevant factors, including integrity, reliability, financial status and ability to perform the relevant functions efficiently, honestly and fairly. A **Guidance Note on “Fit and Proper” Criteria under the ICO (Cap. 41)** containing details in this connection has been issued by this Office. A copy is available on request.

Adequacy of Reinsurance Arrangements

12. An insurer is required under the ICO to have adequate reinsurance arrangements in force for each class of insurance business it carries on. In considering the adequacy of reinsurance arrangements of an insurer, the IA will take into account the following factors :-

- the type of treaties;
- the maximum retention of the insurer;
- the security of the reinsurers; and
- the spread of risks among participating reinsurers.

Other Criteria

13. In addition to the requirements under Section 8 of the ICO, the applicant is required to demonstrate to the satisfaction of the IA that it is able to meet the criteria as set out in the Authorization Guidelines (Annex 2). These criteria include :-

- The applicant will maintain an office in Hong Kong, with a locally-based chief executive to oversee its Hong Kong operation;
- Such office will be managed professionally, with adequate staff commensurate to the nature and scale of the Hong Kong operation; and
- The applicant has, and will continue to have, sufficient financial resources to pre-finance its operation.

III. APPLICATION PROCEDURE

14. Application for authorization to carry on any class of insurance business in or from Hong Kong should be made in the following Forms, as appropriate. These Forms can be downloaded for use from the “Public Forms” section of our website.

<u>Form Index</u>	<u>Description</u>
Form IA-6G	Application for Authorization to carry on General Business
Form IA-6L	Application for Authorization to carry on Long Term Business
Form IA-6R	Application for Authorization to carry on Reinsurance Business
Form IA-6C	Application for Authorization to carry on General Business (by captive insurer only)

Preliminary Meeting with IA

15. We strongly advise all applicants to contact us for a preliminary meeting to discuss briefly their proposals before they complete the Application Form. To facilitate the discussion, we request the applicant to let us have, preferably **one week** before the meeting, any relevant documents currently available. Such documents may include a feasibility study report (if such has been carried out); background of the applicant and its group (if applicable), including a corporate structure chart and the latest financial statements of the applicant and its group (if applicable); and an overview of its business plan. The meeting will enable both the applicant and this Office to understand each other better as well as to enable us to give the applicant our initial views on the viability of its proposed operation.

Draft Application

16. The applicant may proceed to prepare the application after it has discussed with us its proposal, if such is considered acceptable to us. We recommend that an application should first be submitted to us *in draft form*. This means that the applicant should complete the Application Form with the information requested therein and leave it unsigned. We will consider the information in detail and revert to the applicant on outstanding issues or deficiencies if necessary. A draft application will also expedite the process of the applicant's formal application by having any difficult issues resolved before the formal application is submitted.

17. Subject to the sufficiency of information, we will normally be able to advise the applicant of the outcome of our initial assessment on its draft application within **two months**.

Formal Application

18. As soon as the applicant is advised positively of the outcome of our initial assessment, it may proceed to make a formal application to us. The formal application, in the appropriate Form, should be duly signed and sealed as applicable. Any documents submitted in support of the application should be certified by a principal officer of the applicant as true copies of the originals.

Decision on the Application

19. Provided that the formal application has been properly prepared and contains all the relevant information and documents adequate for the IA to make a decision, we will advise the applicant, **within six weeks** of receipt of the formal application, of our decision on the application. If authorization can be given, we will give our approval-in-principle to the applicant and at the same time advise it of the requirements which should be complied with by it before formal authorization will be given. These may include establishing a fully-fledged office and having the necessary capital or fund in place as proposed.

20. In the letter giving our approval-in-principle, we will also set out the conditions to which the authorization will be subject. These will normally include:-

- To maintain a branch office as its place of business in Hong Kong with a locally-based chief executive and to keep and maintain at such branch office proper books of account and other records in respect of its Hong Kong operation. (*For insurers incorporated outside Hong Kong*)
- To apply to and become a member of The Insurance Claims Complaints Bureau before writing any personal insurance business in Hong Kong. (*For insurers other than pure reinsurers or captive insurers*)
- To apply to and become a member of the Motor Insurers' Bureau of Hong Kong before writing any direct motor vehicle liability insurance business in Hong Kong. (*For insurers writing direct motor vehicle liability insurance*)
- To apply to and become a member of The Employees Compensation Insurer Insolvency Bureau before writing any employees' compensation insurance business in Hong Kong. (*For insurers writing direct employees' compensation insurance business*)

On-site Inspection

21. The applicant may contact us for arranging a visit to its office when it has made all the preparations necessary to commence business as specified in our letter of approval-in-principle. During the visit, we will need to be satisfied that all operational systems and staff are in place to enable the applicant to commence business immediately.

Certificate of Authorization

22. If we are satisfied that the applicant has fulfilled all the requirements as set out in our letter of approval-in-principle, we will confirm to it, **within two weeks** of our visit to its office, a formal authorization by issuing a Certificate of Authorization. The Certificate will be sent through ordinary mail unless the applicant wishes to pick it up.

23. The handling process of an application for authorization is illustrated in the flow-chart at **Annex 6**.

IV. INFORMATION AND DOCUMENTS REQUIRED FOR THE APPLICATION

24. For the purposes of the application, the applicant is required to complete and submit one of the Forms for Application, as appropriate, as referred to in paragraph 14 above. In the Form, the applicant will be asked to provide information and documents that will help us to evaluate whether it is able to meet all the authorization requirements of the ICO as well as the criteria set out in the Authorization Guidelines mentioned in paragraph 13. These will include particulars of the applicant, its directors and controllers, financial standing, staff establishment, accounting policies, internal control and business plan.

25. The applicant, with the exception of captive insurer, should have undertaken a detailed market feasibility study in respect of the proposed operations in or from Hong Kong, and a copy of such report is required. Based on the result of such feasibility study report, the applicant should be able to demonstrate the viability of its business plan.

26. To enable us to carry out the 'fit and proper' test on the applicant's directors and controllers as mentioned in paragraph 10 above, the applicant is required to provide us with their particulars in the prescribed Form A/Form B of the Second Schedule to the ICO. Specimen of the said Forms are at **Annex 7**.

27. An organizational chart showing the proposed staff establishment with particulars of the qualifications and experiences of those at managerial level will help our assessment on the competence of the applicant's management team.

28. A business plan will demonstrate whether the applicant will have sufficient financial resources to pre-finance its proposed business or withstand any loss sustained in the early periods of its operation. Except for captive insurers, all general business insurers are required to provide us with a three-year business plan consisting of a budgeted revenue account, a budgeted profit and loss account and a budgeted balance sheet in respect of each of the three years. For a long term business insurer, it is required to prepare a business plan with financial projections covering more than three projected years up to a point where the operations can be demonstrated to be self-supporting. Such business plan should be accompanied by a certificate signed by the appointed actuary. In the business plan, two sets of financial projections are required, one on a “best/optimistic estimate” basis and one on a “pessimistic estimate” basis, with the exception of pure reinsurers. A pure reinsurer is required to give only one set of financial projections on a “realistic estimate” basis. As regards a captive insurer, only projections on premium income and claims outstanding for the first three years of operation are required.

29. For an insurer, not being a pure reinsurer, who applies for authorization to carry on general insurance business, the business plan should also demonstrate how it will be able to comply with the local asset requirement pursuant to section 25A of the ICO.

30. For a long term business insurer, it will have to comply with the requirement of the separation of assets and liabilities attributable to its long term business under section 22 of the ICO, and ensuring that not less than one-sixth of the required solvency margin is held in the long term business funds. Where such requirement cannot be complied with on a global basis, the applicant can avail itself of the provision in section 22A of the ICO as complying with the requirement on such long term business as carried on in or from Hong Kong subject to the IA’s consideration.

31. A long term business insurer will also have to maintain an appointed actuary possessing the prescribed professional qualifications or who is acceptable to the IA, and be prepared to comply with the prescribed professional standards or other standard as accepted by the IA as comparable in carrying out his duties. Information on the arrangements in place to ensure that the appointed actuary has direct access to the board of directors of the applicant, and has access to all relevant information to enable him to carry out his duties is required.

32. Copies of the financial statements for the latest three years preceding the application in respect of the applicant and its corporate controllers are also required. In the case of long term business authorization application, a copy of the latest actuarial valuation report prepared in respect of the applicant is also required.

V. TIME SCALE AND FEE PAYABLE

33. Depending on the adequacy of the information supplied by an applicant and its promptness to respond to our follow-up enquiries, it is estimated that the whole process from the submission of draft application to the issue of our letter of approval-in-principle can normally be concluded **within four months**. As for the issue of a Certificate of Authorization confirming the formal authorization, this can normally be done **within two weeks** of our on-site inspection mentioned in paragraphs 21 and 22.

34. There is no need to pay any fee on submission of an application. Payment of an annual fee is required only on authorization and on subsequent anniversary date of authorization. The amount of the annual fee currently payable under section 13(1) of the ICO, as prescribed by the Insurance Companies (Authorization and Annual Fees) Regulation, is as follows :-

- | | |
|--|-------------|
| • General Business | HK\$227,300 |
| • Long Term Business | HK\$227,300 |
| • General Business carried on by Captive Insurer | HK\$ 22,600 |

VI. ENQUIRIES

35. For enquiries or matters regarding application for authorization, an applicant may write to us at :-

Office of the Commissioner of Insurance
21/F., Queensway Government Offices
66 Queensway
Hong Kong
(E-mail : iamail@oci.gov.hk)
(Fax No. : (852) 2869 0252)

OR contact the following officers :-

**For General Business and
General Business carried on by
Captive Insurer**

Ms Karen Poon

Telephone No.

(852) 2867 4849

For Long Term Business

Mr Dick Wong

(852) 2867 4536

Encls.

**Office of the Commissioner of Insurance
September 2009**

CURRENT LEGISLATION RELATING TO INSURANCE COMPANIES

Principal Ordinance

Insurance Companies Ordinance, Chapter 41 of the Laws of Hong Kong

Subsidiary Regulations

Insurance Companies (Actuaries' Qualifications) Regulations

Insurance Companies (Register of Insurers) (Prescribed Fee) Regulations

Insurance Companies (Authorization and Annual Fees) Regulation

Insurance Companies (Miscellaneous Fees) Regulation

Insurance Companies (Determination of Long Term Liabilities) Regulation

Insurance Companies (Margin of Solvency) Regulation

Insurance Companies (General Business) (Valuation) Regulation

Insurance Companies (Actuaries' Standards) Regulation

Obtainable on the website of Department of Justice (<http://www.legislation.gov.hk>) under the section "Legislation Database", or obtainable on payment of a cost from Publications Sales Unit of the Government Information Services Department at Room 402, 4/F., Murray Building, Garden Road, Central, Hong Kong. (Fax No. 2523 7195)

Authorization Guidelines

(a) Introduction

Hong Kong adopts a free market economy and provides equal opportunities to participants in all sectors of the market. The insurance industry is no exception. Government's policy is to promote development of the insurance industry in Hong Kong whilst ensuring, through prudential supervision, the best and most up to date industry standards. Any company interested in carrying on insurance business in or from Hong Kong may apply to the Insurance Authority for authorization to do so under the Insurance Companies Ordinance.

2. The purpose of these guidelines is to give general guidance to companies applying for authorization to carry on insurance business in or from Hong Kong.

(b) Application for authorization to carry on insurance business

3. Section 6(1) of the Insurance Companies Ordinance (Chapter 41) ("the Ordinance") provides that -

"No person shall carry on any class of insurance business in or from Hong Kong except -

- (a) a company authorized under section 8 to carry on that class of insurance business;
- (b) Lloyd's;
- (c) an association of underwriters approved by the Insurance Authority."

4. Section 7(1) of the Ordinance provides that -

"Any company may make application in writing to the Insurance Authority for authorization to carry on any class of insurance business."

5. A "company" for the purposes of the Ordinance is one formed and registered under the Companies Ordinance (Chapter 32) and includes a company incorporated outside Hong Kong to which Part XI of the Companies Ordinance applies. Part XI of the Companies Ordinance lays down provisions as to the

establishment of a place of business in Hong Kong by a company incorporated outside Hong Kong.

6. Any applicant falling within the above definition of a “company” may apply for authorization to carry on any class of insurance business in or from Hong Kong.

(c) Authorization

7. Section 8(1) of the Ordinance provides that -

“Upon application made by a company under section 7, the Insurance Authority -

(a) subject to paragraph (b), may authorize the company in writing to carry on, subject to such conditions as he may impose, any class or classes of insurance business; or

(b) (i) shall refuse the application if subsection (2) or (3) applies; or

(ii) may refuse the application on any other ground whether or not the application has been refused on a ground under subparagraph (i).”

8. Section 8(2) provides that -

“The Insurance Authority shall not authorize a company under this section if it appears to the Insurance Authority that any person who is a director or controller of the company is not a fit and proper person to hold the position held by him.”

In applying the fit and proper test, the Insurance Authority will take into account, among other things, the character, qualifications and experience of the directors or controllers of the applicant.

9. Section 8(3) further provides that the Insurance Authority shall not authorize a company unless certain conditions, specified in that subsection, are satisfied. These conditions, which relate to the applicant’s financial status, reinsurance arrangements and ability to comply with the Ordinance, are reproduced in the Annex.

10. Paragraphs 11, 12 and 13 below give general guidance to applicants as to the other grounds determining whether the Insurance Authority will refuse an application under section 8(1)(b)(ii) of the Ordinance. The requirements set forth in paragraph 11 apply to all applicants, whether incorporated locally or outside Hong Kong. A company applying for authorization to carry on long term insurance business in or from Hong Kong must also meet the requirements set forth in paragraph 12. An applicant which is a company incorporated outside Hong Kong must further meet the requirements set forth in paragraph 13. However, an applicant incorporated outside Hong Kong may, if it so chooses, incorporate a subsidiary company in Hong Kong for the purpose of application, in which event the additional requirements set forth in paragraph 13 will not apply.

11. Under section 8(1)(b)(ii) of the Ordinance, **all applicants** must satisfy the Insurance Authority that -

- (a) the applicant would maintain an office as its place of business in Hong Kong with a professional management and staff establishment appropriate to the nature and scale of its operations and a locally-based chief executive who would be a controller of the applicant;
- (b) the applicant would at any of its offices in Hong Kong, or at any of its accountant's offices in Hong Kong keep and maintain proper books of account and other records in respect of its Hong Kong operations, so as to enable an audit, actuarial valuation or both to be made, as the case may be;
- (c) the applicant's board of directors has sufficient knowledge and relevant experience of insurance business to guide the company and oversee its activities effectively (- sufficiency would normally mean that at least one-third of the applicant's board has such knowledge and experience);
- (d) the applicant has, and will continue to have, sufficient financial resources to pre-finance its proposed operations as set out in its three-year business plan (as referred to in the application form);
- (e) if applicable, the applicant has, and would continue to have, the financial backing of its parent/controller, who should be a reputable person or reputable persons of good financial standing. In that regard, the parent/controller should satisfy the Insurance Authority that it will continue to provide financial support to the applicant and undertake to maintain its solvency at all times (including the required relevant amount as defined in the Ordinance) so as to enable it to meet promptly its obligations and liabilities as they fall due;

- (f) with the exception of captive insurer, the applicant has undertaken a detailed market feasibility study in respect of its proposed operations in or from Hong Kong and, based on the result of such feasibility study, is able to demonstrate the viability of its business plan;
- (g) the applicant's proposed operations would not have a destabilizing effect on the insurance market in Hong Kong, for instance in terms of both the servicing of the insuring public and the employment of insurance staff;
- (h) the international business that the applicant proposes to carry on in or from Hong Kong would not be detrimental to Hong Kong as an insurance centre (for instance, it would not conflict with international agreements or protocol);
- (i) with the exception of captive insurer, the applicant demonstrates that there would not be any conflict between the sound management of its insurance operations and the business (including insurance business) interests of its principals or shareholders and, in the case of an applicant which is a member of a group, that it would be managed and operated independently of the group with all transactions between itself and related parties being made at arm's length;
- (j) with the exception of captive insurer, the applicant would not engage in a "fronting" operation (under which the ceding company, i.e. the primary or fronting company, cedes the risk it has underwritten to its reinsurer with the ceding company retaining none or a small part of that risk for its own account);
- (k) the purpose of the application is not to bypass the scope and provisions of other regulatory legislation in Hong Kong, e.g. the Banking Ordinance;
- (l) with the exception of professional reinsurer, the applicant must be either a general business insurer with an application for general business only, or a long term business insurer with an application for long term business only. A composite insurer wishing to carry on either general or long term business in Hong Kong will need to form a separate company for this purpose; and
- (m) in the case of an insurance company already authorized in Hong Kong but wishing to extend into a class or classes of insurance business for which it is not authorized, there is a viable business plan for such expansion and it has the capacity to undertake such a new class or such new classes of business.

12. A company applying for authorization to carry on **long term insurance business** must satisfy the Insurance Authority that -

- (a) it has sufficient actuarial expertise, including a qualified staff actuary, to advise it on premium rates and structure, policy terms and benefits, accounting requirements, long term business fund liability valuations, and matching of the terms and nature of the assets and liabilities relating to its long term business. The application shall be accompanied by a report and certificate from a qualified actuary, acceptable to the Insurance Authority, affirming the appropriateness or otherwise of the business plan according to prudent actuarial principles and stating whether in his opinion prudent and satisfactory arrangements governing actuarial matters have been made; and
- (b) where the applicant proposes to carry on any investment-linked type of long term business, there are adequate accounting procedures to enable assets and liabilities to be identified and properly valued and timely reports to be furnished to the policy holders and that the applicant has available sufficient investment management expertise to manage the invested funds.

13. An applicant (for either general or long term business authorization) which is a **company incorporated outside Hong Kong** must satisfy the Insurance Authority that it -

- (a) is a company incorporated in a country where there is a comprehensive company law and insurance law;
- (b) is an insurer under effective supervision by the authority or authorities of its home country responsible for the proper conduct of insurance business; and
- (c) is a well established insurer with international experience and of undoubted financial standing.

Insurance Authority
March 2006

Website : <http://www.oci.gov.hk>
E-mail : iamail@oci.gov.hk

Section 8(3) of the Insurance Companies Ordinance

8. Authorization

- (3) The Insurance Authority shall not authorize a company under this section unless the following conditions are satisfied -
- (a) that, at the date of the application, the value of the assets of the company is not less than -
 - (i) in the case of a company carrying on or intending to carry on general business only, the aggregate of the amount of its liabilities and the relevant amount within the meaning of section 10;
 - (ii) in the case of a company carrying on or intending to carry on long term business only, the greater of the following -
 - (A) the aggregate of the amount of its liabilities and the relevant amount within the meaning of section 10; or
 - (B) the aggregate of the amount of its liabilities and such amount as may be prescribed by or determined in accordance with regulations made under section 59(1)(aa); (Amended 29 of 1997 s.3)
 - (iii) in the case of a company carrying on or intending to carry on both general business and long term business, the aggregate of the amount which, if section 10(1) applied, would be the relevant amount in the case of the company having regard only to its general business and the greater of the following -
 - (A) the aggregate of -
 - (I) the amount of its liabilities; and
 - (II) if any part of the long term business carried on or intended to be carried on is of a nature other than that specified in class G or H in Part 2 of the First Schedule, \$2,000,000 or its equivalent; or
 - (B) the aggregate of the amount of its liabilities and such amount as may be prescribed by or determined in accordance with regulations made under section 59(1)(aa); and (Replaced 25 of 1994 s. 4, Amended 29 of 1997 s.3)
 - (b) that in the case of a company having a share capital, the aggregate of the amount paid up thereof and the amount of any subordinated loan stock of the company and the amount paid up in respect of any redeemable preference shares of the company is not less than -
 - (i) except if subparagraph (ii), (iii) or (iv) applies to the company, \$10,000,000 or its equivalent; (Amended 29 of 1997 s.3)
 - (ii) if the company intends to carry on both general business and long term business, or carries on both general business and long term business outside Hong Kong, \$20,000,000 or its equivalent;
 - (iii) if the company intends to carry on any class of insurance business (not being reinsurance business) relating to liabilities or risks in respect of which persons are required by any Ordinance to be insured, \$20,000,000 or its equivalent; (Amended 35 of 1996 s. 4, 29 of 1997 s.3)
 - (iv) if the company intends to carry on business as a captive insurer, \$2,000,000 or its equivalent; and (Added 29 of 1997 s.3)
 - (c) that as regards each class of risks against which, in the course of carrying on business, the company proposes to insure persons -
 - (i) adequate arrangements are in force, or will be made, for the reinsurance of risks of that class against which persons are, or are to be, insured by the company in the course of carrying on business; or
 - (ii) it is justifiable not to make arrangements for that purpose; and
 - (d) that the company is, and will continue to be, able to meet its obligations including obligations in respect of business other than the class of insurance business in respect of which the application is made; and
 - (e) in the case of a company to which Part XI of the Companies Ordinance (Cap. 32) applies, that it has complied with the provisions of that Part; and
 - (f) that the company will be able to comply with such of the provisions of this Ordinance as would be applicable to it; and
 - (g) that in the case of a company which carries on, or proposes to carry on, some other form of business in addition to insurance business, the carrying on of that other form of business in addition to insurance business is not contrary to the interest of existing and potential policy holders; and
 - (h) that the name of the company is not likely to deceive.

Paid-up Share Capital and Solvency Margin Requirements [For Global Business]

	Minimum Amount of Paid-up Share Capital (HK\$ million)	Minimum Amount of Solvency Margin (HK\$ million)	Bases for determining Solvency Margin
General business insurer with statutory business	20	20	(I) Assume 'X' represents the greater of the Relevant Premium Income and the Relevant Claims Outstanding. (a) If 'X' ≤ HK\$200 million, the Relevant Amount is :- 20% of 'X' (b) If 'X' > HK\$200 million, the Relevant Amount is :- 20% x HK\$200m + 10% x ('X' - HK\$200m)
General business insurer without statutory business	10	10	
Long term business insurer	10	2	(II) Aggregation of two components, i.e. a percentage, generally 4%, of mathematical reserves (the first calculation) and a percentage, generally 0.3%, of capital at risk (the second calculation). See Note 4.
Pure reinsurer (General business only)	10	10	As (I) above
Pure reinsurer (Long Term business only)	10	2	As (II) above
Pure reinsurer (Composite business)	20	12	Aggregate of (I) and (II) as above
Captive insurer	2	2	5% of the greater of the net premium income and the net claims outstanding

NB

1. Relevant Premium Income is the greater of Net Premium Income (i.e. Gross Premium Income after deduction of reinsurance premium payment) and 50% of Gross Premium Income.
2. Relevant Claims Outstanding is the aggregate of :
 - (a) the greater of (i) 50% of the amount of the claims outstanding before deduction of the amount recoverable from reinsurers; and (ii) the amount of the claims outstanding after deduction of the amount recoverable from reinsurers;
 - (b) the additional amount for unexpired risks; and
 - (c) the insurance fund for classes accounted for on a fund accounting basis, if any.
3. Statutory business refers to any class of insurance business (not being reinsurance business) relating to liabilities or risks in respect of which persons are required by any Ordinance to be insured, including employees' compensation insurance and third party bodily injury insurance in respect of motor vehicles and local vessels.
4. The specific percentages to be applied in the first calculation and the second calculation in respect of each class of long term business are prescribed in the Insurance Companies (Margin of Solvency) Regulation. The respective amounts so computed for each class of business shall be aggregated to arrive at the required margin of solvency.
5. Pure reinsurer means an insurer whose insurance business is restricted to reinsurance.
6. Composite business insurer refers to an insurer who carries on or intends to carry on both general business and long term business of insurance.
7. Captive insurer refers to a company which carries on general business only (excluding statutory business) and such business is restricted to the insurance and reinsurance of risks of the companies within the same grouping of companies to which the company belongs.
8. Net claims outstanding in the case of captive insurer is the aggregate of (a) the amount of the claims outstanding after deduction of the amount recoverable from reinsurers; (b) the additional amount for unexpired risks; and (c) the insurance fund for classes accounted for on a fund accounting basis, if any.

INSURANCE COMPANIES ORDINANCE (CAP. 41)

PART 2 OF FIRST SCHEDULE

CLASSES OF LONG TERM BUSINESS

Class	Description	Nature of Business
A	Life and annuity	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within class C below.
B	Marriage and birth	Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than 1 year.
C	Linked long term	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).
D	Permanent health	Effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that - <ul style="list-style-type: none"> (a) are expressed to be in effect for a period of not less than 5 years, or until the normal retirement age for the persons concerned, or without limit of time, and (b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.
E	Tontines	Effecting and carrying out tontines.
F	Capital redemption	Effecting and carrying out capital redemption contracts.
G	Retirement scheme management category I	Effecting and carrying out contracts - <ul style="list-style-type: none"> (a) under which contributions (or premiums) are paid to, and become the property of, one party to the contract in return for the provision by that party of assets to be applied, whether directly or indirectly, towards the provision of benefits under a retirement scheme; and (b) which provide for a guaranteed capital or return.

Class	Description	Nature of Business
H	Retirement scheme management category II	Effecting and carrying out contracts - (a) under which contributions (or premiums) are paid to, and become the property of, one party to the contract in return for the provision by that party of assets to be applied, whether directly or indirectly, towards the provision of benefits under a retirement scheme; and (b) which do not provide for a guaranteed capital or return.
I	Retirement scheme management category III	Effecting and carrying out contracts of insurance to provide, whether directly or indirectly, benefits under retirement schemes but excluding - (a) contracts within class G or H above deemed under section 3(2) to be contracts of insurance; (b) contracts within class 1 or 2 below.

INSURANCE COMPANIES ORDINANCE (CAP. 41)

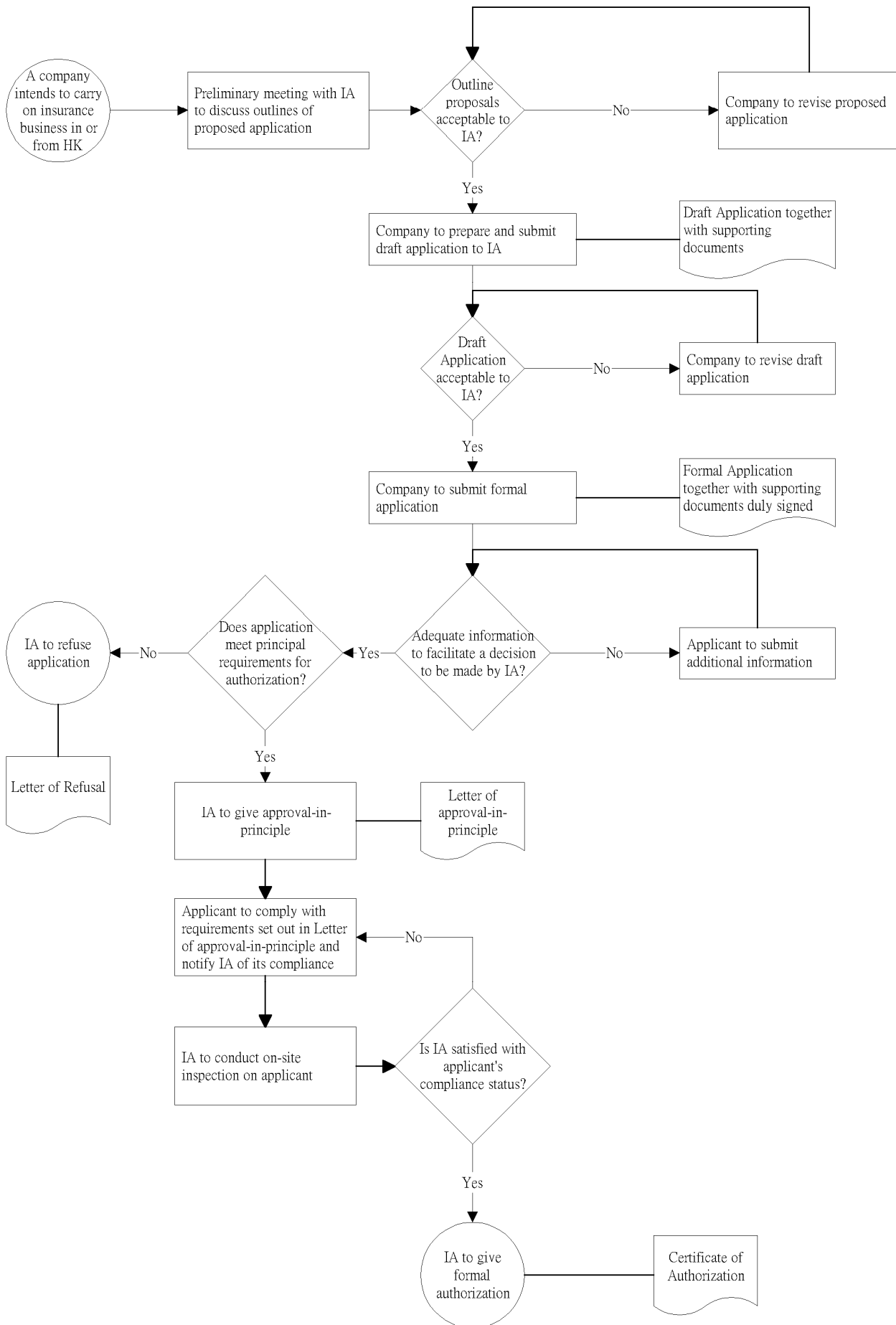
PART 3 OF FIRST SCHEDULE

CLASSES OF GENERAL BUSINESS

Class	Description	Nature of Business
1	Accident	<p>Effecting and carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the persons insured -</p> <p>(a) sustaining injury as the result of an accident or of an accident of a specified class, or</p> <p>(b) dying as the result of an accident or of an accident of a specified class, or</p> <p>(c) becoming incapacitated in consequence of disease or of disease of a specified class,</p> <p>inclusive of contracts relating to industrial injury and occupational disease but exclusive of contracts falling within class 2 below or class D above.</p>
2	Sickness	<p>Effecting and carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of the two) against risks of loss to the persons insured attributable to sickness or infirmity, but exclusive of contracts falling within class D above.</p>
3	Land vehicles	<p>Effecting and carrying out contracts of insurance against loss of or damage to vehicles used on land, including motor vehicles but excluding railway rolling stock.</p>
4	Railway rolling stock	<p>Effecting and carrying out contracts of insurance against loss of or damage to railway rolling stock.</p>
5	Aircraft	<p>Effecting and carrying out contracts of insurance upon aircraft or upon the machinery, tackle, furniture or equipment of aircraft.</p>
6	Ships	<p>Effecting and carrying out contracts of insurance upon vessels used on the sea or on inland water, or upon the machinery, tackle, furniture or equipment of such vessels.</p>
7	Goods in transit	<p>Effecting and carrying out contracts of insurance against loss of or damage to merchandise, baggage and all other goods in transit, irrespective of the form of transport.</p>
8	Fire and natural forces	<p>Effecting and carrying out contracts of insurance against loss of or damage to property (other than property to which classes 3 to 7 above relate) due to fire, explosion, storm, natural forces other than storm, nuclear energy or land subsidence.</p>

Class	Description	Nature of Business
9	Damage to property	Effecting and carrying out contracts of insurance against loss of or damage to property (other than property to which classes 3 to 7 above relate) due to hail or frost or to any event (such as theft) other than those mentioned in class 8 above.
10	Motor vehicle liability	Effecting and carrying out contracts of insurance against damage arising out of or in connection with the use of motor vehicles on land, including third-party risks and carrier's liability.
11	Aircraft liability	Effecting and carrying out contracts of insurance against damage arising out of or in connection with the use of aircraft, including third-party risks and carrier's liability.
12	Liability for ships	Effecting and carrying out contracts of insurance against damage arising out of or in connection with the use of vessels on the sea or on inland water, including third-party risks and carrier's liability.
13	General liability	Effecting and carrying out contracts of insurance against risks of the persons insured incurring liabilities to third parties, the risks in question not being risks to which class 10, 11 or 12 above relates.
14	Credit	Effecting and carrying out contracts of insurance against risks of loss to the persons insured arising from the insolvency of debtors of theirs or from the failure (otherwise than through insolvency) or debtors of theirs to pay their debts when due.
15	Suretyship	Effecting and carrying out - (a) contracts of insurance against risks of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them; (b) contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee.
16	Miscellaneous financial loss	Effecting and carrying out contracts of insurance against any of the following risks, namely - (a) risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reduction of the scope of business so carried on; (b) risks of loss to the persons insured attributable to their incurring unforeseen expense; (c) risks neither falling within paragraph (a) or (b) above nor being of a kind such that the carrying on of the business of effecting and carrying out contracts of insurance against them constitutes the carrying on of insurance business of some other class.
17	Legal expenses	Effecting and carrying out contracts of insurance against risks of loss to the persons insured attributable to their incurring legal expenses (including costs of litigation).

Flow-chart for Processing an Application for Authorization



INFORMATION TO BE FURNISHED BY AN INSURER IN RESPECT OF EVERY DIRECTOR AND CONTROLLER OF THE INSURER

**INSURANCE COMPANIES ORDINANCE (CAP. 41)
SECOND SCHEDULE**

FORM A

PARTICULARS REQUIRED IN RESPECT OF INDIVIDUALS WHO ARE DIRECTORS OR CONTROLLERS

Name of Insurer*

The following are particulars of-

** (a) +

** (b) ++, of which +.....

..... is a partner who became

** Director / Controller / Chief Executive / Managing Director on

..... (date).

1. Family name Other names
Any other name(s) by which he has been known or is known
2. Private address.
3. Date of birth.
Place of birth (including town or city).
4. Nationality, including a statement as to whether it was acquired by birth or naturalization.
5. Qualifications and experience, including those relating to insurance and allied matters.
6. Present occupation or employment and occupations and employment during the last 10 years, including the name of the employer, the nature of the business, the position held and relevant dates.
7. Has he at any time been convicted of any criminal offence (other than an offence committed when he was of or under the age of 16 years unless the same was committed within the last 10 years) by any court, including a military tribunal, in Hong Kong or elsewhere? If so, give full particulars of the court by which he was convicted, the offence and the penalty imposed and the date of the conviction.
8. Has he in the last 10 years, in Hong Kong or elsewhere, been censured, disciplined or publicly criticized by any professional body to which he belongs or belonged or been dismissed from any office or employment or refused entry to any profession or occupation? If so, give full particulars.
9. Has he at any time been adjudicated bankrupt by a court in Hong Kong or elsewhere? If so, give full particulars.

- 10. Has he at any time in the last 10 years failed to satisfy any debt adjudged due and payable by him as a judgement-debtor under an order of a court in Hong Kong or elsewhere? If so, give full particulars.
- 11. Has he, in connection with the formation or management of any body corporate or insurer, been adjudged by a court in Hong Kong or elsewhere civilly liable for any fraud, misfeasance or other misconduct by him towards such a body or insurer or towards any members thereof? If so, give full particulars.
- 12. Has any body corporate or insurer with which he was associated as director or controller in the last 10 years, in Hong Kong or elsewhere, been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either whilst he was associated with it or within one year after he ceased to be associated with it? If so, give full particulars.
(Note: In relation to a body corporate which is not an insurer, "controller" is to be construed as a reference to a person who would, if he were a company, be a holding company of that body in accordance with section 2(7) of the Companies Ordinance (Cap. 32)).
- 13. Of what bodies corporate or insurers-
 - (a) is he now a director or controller?
 - (b) has he been a director or controller at any time during the last 10 years?
- 14. Has he any other occupation other than that disclosed at items 6 and 13 above? If so, give full details.
- 15. Give particulars of the circumstances (by reference to section 9(1) of the Insurance Companies Ordinance) by virtue of which he became controller.
- 16. In carrying out his duties will he be acting on the directions or instructions of any other person? If so, give full particulars.

I certify that the above information is complete and correct to the best of my knowledge and belief.

Date

Signed

(Individual named in paragraph 1 above.)

I certify that +.....
has supplied the above information and that in respect of *

..... he is-

(a) **Director / Controller / Chief Executive / Managing Director

(b) A partner in ++..... which
is **Director / Controller / Chief Executive / Managing Director

Date

Signed

(Director / Secretary ** of the Insurer.)

* Insert name of Insurer.

+ Insert name of individual to whom particulars relate.

++ Insert name of partnership.

** Delete as necessary.

FORM B

PARTICULARS REQUIRED IN RESPECT OF BODIES CORPORATE WHICH ARE DIRECTORS
OR CONTROLLERS

Name of Insurer*

The following are particulars of a body corporate which became director, controller, chief executive or managing director, or which is a partner in a partnership which became director, controller, chief executive or managing director of the above-named Insurer on (date).

1. Name and address of body corporate and address of registered office (where different).
2. Principal business activity.
3. Address of principal place of business established in Hong Kong.
4. Date and place of incorporation.
5. Registered number (if any).
6. Full name and residential address of every director and every controller.
(Note: In relation to a body corporate which is not an insurer, "controller" is to be construed as a reference to a person who would, if he were a company, be a holding company of that body in accordance with section 2(7) of the Companies Ordinance).
7. Name and address of main bank.
8. Accounts for the last 3 completed financial years and particulars of any reports, resolutions and other circulars issued to shareholders during the last 4 years.
9. Name, place of incorporation and principal business activities of all subsidiary companies and of any holding company or ultimate holding company.
(Note: Shares held by a nominee are to be treated as shares held by his principal).
- +10. In the case of a company to which Part XI of the Companies Ordinance applies-
 - (a) name(s) and address(es) of person(s) residing in Hong Kong authorized to accept on behalf of the company service of process and any notices;
 - (b) date of registration under Part XI of the Companies Ordinance.
- +11. Particulars of circumstances (by reference to section 9(1) of the Insurance Companies Ordinance) by virtue of which the above-named body corporate became a controller.
12. Has any body corporate or insurer with which the above-named body corporate was associated as director or controller in the last 10 years, in Hong Kong or elsewhere, been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either whilst the above-named body corporate was associated with it or within one year after the above-named body corporate ceased to be associated with it? If so, give full particulars.

(Note: In relation to a body corporate which is not an insurer, “controller” is to be construed as a reference to a person who would, if he were a company, be a holding company of that body in accordance with section 2(7) of the Companies Ordinance).

I certify that the above information is complete and correct to the best of my knowledge and belief and I certify that this notice is served with the knowledge and consent of the above-named body corporate.

Date

Signed
(Director / Secretary+ of body corporate.)

+ I certify that the above particulars have been supplied by the above-named body corporate and that in respect of *.....
.....

- +(a) the above-named body corporate is Director / Controller / Chief Executive / Managing Director
- +(b) ++ of which the above-named body corporate is a partner is Controller

Date

Signed
(Director / Secretary+ of the Insurer.)

- * Insert name of Insurer.
- + Delete as necessary.
- ++ Insert name of partnership.