



Conditions for authorization to conduct business

Non-life insurance

Insurance undertakings with head office in Switzerland

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1. Background

Insurance undertakings with their head office in Switzerland require an authorization from the Federal Office of Private Insurance (FOPI) regardless of whether they conduct insurance business in Switzerland and/or abroad from Switzerland. An authorization is required for each and every individual insurance class (Art. 3 – 6 Insurance Supervision Law - ISL). An authorization for a particular class of insurance also encompass an authorization for reinsurance in this insurance class (see Art. 3, par. 5 Insurance Supervision Decree - ISD).

An authorization will be issued if legal requirements are met and the interests of policy holders are protected (Art. 6 ISL). Following the granting of an authorization, FOPI will exercise ongoing supervision of the entire business activity of the insurance undertaking (Art. 46 ISL).

The insurance undertaking must actually commence business operations for the approved insurance classes within six months (Art. 61 ISL).

It is prohibited to conduct insurance business without an authorization within Switzerland or from Switzerland (Art. 87 ISL).

2. Procedures for meeting the requirements for an authorization

Following its establishment, the insurance undertaking must submit a request to FOPI for an authorization to conduct business. A business plan should be attached to this request (Art. 4 ISL). There is also the option of submitting the business plan to FOPI prior to the formal submission of the request in order for the plan to be revised, as appropriate, in mutual consultation.

An authorization can be issued for one or more classes of insurance listed in appendix 1 to the ISD (B - Non-life insurance).

a) Business plan

The business plan shall contain the following information and documents (Art. 4 ISL):

Minutes of the founding meeting of the undertaking, certified by a notary

Form of undertaking: joint-stock company or a cooperative (Art. 7 ISL).

Name of firm: The commercial registry is primarily responsible for this item.

Extract from the commercial register.

The articles of association (statutes). In particular, the statutes must include:

A precise description of the business domain: insurance undertakings which conduct business in non-life insurance are not authorized to conduct business in life insurance (Art. 12 ISL). Furthermore, an insurance undertaking may carry out other business besides the insurance business basically only where it is directly linked to the insurance business (Art. 11 ISL).

Attribution to the legal reserves required by law (Art. 26 ISL) must amount to at least 20 % of net profit, until the legal reserves reach 50 % of statutory capital or have again been reached following recourse to draw on funds (Art. 5 Supervision Decree–FOPI, SD–FOPI).

The organisational and geographical areas of activities of the insurance undertaking, or of the insurance group or of the insurance conglomerate, as the case may be, to which the insurance undertaking belongs.

The insurance undertaking is to provide details of the overall organisation of the enterprise and of the management and control instruments. The insurance undertaking also reports on its internal control system and on its internal auditing.

An organisation chart of the insurance undertaking should be attached, and in the case where it belongs to an insurance group or to a conglomerate an organisation chart of the insurance group or conglomerate should also be attached.

For insurance activities abroad: an authorization from the foreign supervisory authority.

Details on financial solvency and on technical provisions. In particular this includes:

Financial solvency: confirmation of payments made in fulfilment of minimum capital and organisation fund requirements. Details regarding minimum capital requirements can be found in Art. 8 of the ISL, as well as in Art. 6, 8, 9 and 10 ISD; and details on the organisation fund in Art. 10 ISL and Art. 11 ISD.

Technical provisions: rules for accumulating and depleting technical provisions should be mentioned. The provisioning methods applied and the figures used in the calculation of technical insurance liabilities must be documented (Art. 16 ISL; Art. 54 and 69 ISD).

Details of the proposed investment policy.

Opening balance sheets.

Particulars of persons who directly or indirectly hold at least 10 per cent of capital or of votes in the insurance undertaking and whose business activities in other regards may decisively influence the undertaking (data should include name, place of residence and profession in the case of natural persons as well as firms, and the head office and business domain in the case of legal entities). Specifically, a register of shareholders containing data on the share of holdings should be submitted.

Designation of persons entrusted with direction, supervision, controlling and undertaking management should be provided. A register of the composition of the board and directors by name should also be submitted. In particular the following points should be complied with:

Persons responsible for direction, supervision, controlling and undertaking management should enjoy good reputation and should provide guarantees as regards impeccable undertaking management (Art. 14 ISL, as well as requirements on guarantees contained in Art. 12 – 14 ISD). Curriculum vitae should be attached for each and every member of the board and of management (Art. 12 and 14 ISD).

Designation of the responsible actuary.

The responsible actuary must enjoy a good reputation, be professionally qualified and be in a position to accurately estimate the financial implications of the activities of the insurance undertaking (Art. 23 ISL).

He or she must hold the title of "Actuary of the Swiss Association of Actuaries" or have an equivalent qualification. On request, the supervisory authorities can also recognise a corresponding specialised qualification linked with at least five years professional experience as an actuary, as proof of their professional competence (Art. 99 ISD).

Designation of the external auditor and the name/s of the person/s responsible for the mandate, and where the insurance undertaking is part of an insurance group or an insurance conglomerate, the details of the mandate of the external auditor of the insurance group or conglomerate.

The auditor must fulfil various specialisations, personal and financial requirements must be independent from the insurance undertaking as well as from the undertakings of a group or of a conglomerate, where applicable (Art. 28 ISL; Art. 112 – 116 ISD).

The auditor must be accredited by FOPI for the audit of the insurance undertaking and must fulfil the relevant accreditation prerequisites (Art. 28 ISL; Art. 112 – 116 ISD).

Contracts or other agreements specifying which essential functions of the insurance undertaking are to be outsourced.

Essential functions of an insurance undertaking are those activities which must imperatively be performed in an insurance undertaking. These include production (distribution, marketing), inventory administration (policy administration), claims settlement, accounting, asset investment and management, as well as information technology / electronic data management. The majority of the essential functions must remain with the insurance undertaking.

Areas which may not be outsourced are: direction, supervision and controlling by the board as well as the key management tasks.

FOPI would be pleased to provide advice on request regarding additional prerequisites and aspects of outsourcing.

The proposed insurance class and the type of risks to be insured, as well as details on the proposed corporate policy.

Where business in motor vehicle liability insurance is to be conducted: declaration of accession to the Swiss National Bureau of Insurance and to the Swiss National Guarantee Fund.

Details on the available resources for the provision of assistance services, where an application is made for an authorization for the insurance class "assistance".

Reinsurance plan, as well as the retrocession plan for active reinsurance. The insurance undertaking must be able to prove that the reinsurers are prepared to take on the risks. Retention on its overall Swiss business in each class of insurance should amount to no less than 10 %.

Copies of reinsurance agreements should be appended.

Envisaged costs for building up the insurance undertaking.

Draft balance sheet and projected income statement for the first three years of business.

Details on the estimation, limitation and control of risks. The insurance undertaking must ensure adequate risk management, appropriate to its corporate size (Art. 22 ISL; Art. 96 – 98 ISD).

Tariffs and general insurance conditions to be applied in Switzerland in offering all risk insurance in supplementary insurance to the mandatory health insurance (supplementary health insurance), as well as in insurance against fire and natural forces. These tariffs and general insurance conditions are subject to approval. In particular the following provisions apply:

Supplementary health insurance: tariffs are to be supported by documentation based on relevant and statistical technical information (Art. 38 ISL). Policy conditions must be in consistent with the mandatory requirements of Swiss legislation (Art. 117 ISD).

Insurance against fire and natural forces: for this class special supervisory provisions apply. Specifically the scope of coverage and the rates of premiums of insurance against fire and natural forces are uniform and mandatory for all insurance undertakings (Art. 33 ISL). Please refer to the additional fact sheet on this insurance class (see "further information" under Art. 2.2).

Rates not subject to approval and general insurance conditions in the remaining insurance classes are also to be submitted.

Further details and documentation: in individual cases FOPI can request further details and documentation to the extent that these are considered necessary for assessing the application (Art. 4 par. 4 ISL).

b) Further information

For the following insurance classes FOPI provides additional fact sheets:

Insurance class B1, Accident insurance;

Insurance class B8, Fire and natural forces insurance;

Insurance class B10, Motor vehicle liability insurance;

Insurance class B14, Credit insurance;

Insurance class B17, Legal expenses insurance;

Supplementary Health insurance;

Insurance category C2, (Reinsurance in all insurance classes by insurance undertakings which offer non-life insurance without holding an authorization for direct insurance in each insurance class).

3. A few comments on the supervisory requirements following the granting of an authorization (for ongoing business)

Swiss supervision law subjects insurance undertakings to ongoing supervision. This implies that insurance undertakings must not only take care to fulfil the requirements mentioned under fig. 2 to receive an authorization. Beyond this point they have a number of additional supervisory obligations to fulfil.

Some of the most important of these obligations are set out in the list below, although this list is not conclusive. The list provides some general information but cannot replace reading and understanding of the legal provisions of the appropriate law and decrees. FOPI would be pleased to provide applicants with further information regarding understanding or interpretation of specific provisions of the supervision law.

a) Alterations to the business plan

According to Art. 5, par. 1 ISL, alterations to the business plan are to be submitted to FOPI prior to their implementation.

According to Art. 5, par. 2 ISL, alterations to the business plan must be reported to FOPI within 14 days from the entry into force of the actual situation which is required to be reported on (Art. 5 ISD). These alterations are considered approved, when the supervisory authorities do not initiate their review within four weeks.

b) Participation in and by insurance undertakings

If an insurance undertaking wishes to acquire shares in another undertaking, it is obliged to inform FOPI of its intentions, where the threshold value (according to Art. 21 ISL) would be reached or exceeded.

If an insurance undertaking wishes to acquire shares in another insurance undertaking, it is obliged to inform FOPI of his or her intentions, where the threshold value (according to Art. 21 ISL) would be reached or exceeded. The same reporting obligations apply for reducing share participation below the specified threshold value.

c) Internal monitoring of business activities

The insurance undertaking must set up an effective internal control system which covers all of its business activities. In addition, it is to designate an internal inspectorate, independent of management.

In certain justifiable cases FOPI can dispense the insurance undertaking from the obligation to designate an internal inspectorate (Art. 27 ISL). An insurance undertaking which wishes to make use of this provision under exceptional circumstances is to submit an application with appropriate justification.

d) Covering solvency margin requirements and in the target capital

The insurance undertaking must have adequate and unencumbered capital of its own at its disposal for all of its activities (solvency margin requirements, Art. 9 ISL). Calculations of the required own capital are made according to two methods; first, based on the volume of business (solvency I); and second, based on the risks to which the insurance undertaking is exposed (swiss solvency test). Provisions governing calculations and coverage of solvency margin requirements are set down in Art. 27 – 40 ISD. Provisions on the calculation and coverage of target capital are set out in Art. 41 – 50 ISD.

The responsible internal audit authority designated by the insurance undertaking is to prepare a report at the end of the financial year on the solvency margins available (Art. 40 ISD).

The insurance undertaking is to prepare annually a report on the calculation of target capital and on risk bearing capital (Art. 53 ISD).

e) Tied assets

The technical provisions of business in Switzerland are secured by so-called tied assets (Art. 17 ISL; Articles 70 – 95 ISD). The amount of tied assets required is compiled from elements listed in Art. 68 ISD. It must amount to at least CHF 100,000 (Art. 70 ISD) at the time of creation and the funds must be paid into an approved financial institution in Switzerland.

The component of tied assets that show the technical liabilities must at any times be covered by a given asset value allocated to the tied assets. The building up of this asset takes places simultaneously alongside increases in technical provisions. The initial formation of the tied assets takes place at the time of the commencement of business. For subsequent years, FOPI sends the appropriate form to the undertaking in January each year. The submission date is the end of March of that year (Art. 72 ISD).

The insurance undertaking must commission an audit undertaking for the annual verification of the tied assets in its head office and must inform FOPI by filling a completed questionnaire. FOPI will provide the insurance undertaking with a pre-form-prepared contract for this purpose.

f) Financial derivatives

The insurance undertaking is to provide the supervisory authorities with an annual report on its business in financial derivatives. The use of instruments of financial derivatives is governed by Art. 100ff ISD.

g) Reinsurance business

An authorization issued for conducting business in one particular insurance class includes the authorization to operate reinsurance in this same class. For information on an authorization for the insurance class C2 please refer to the relevant fact sheet listed under Art. 2.2.

h) Reporting obligations

Insurance undertakings are to prepare annually a corporate report and a supervisory report. The supervisory report is to be submitted to FOPI by 30 April in the electronic form provided, together with the annual report (Art. 25 ISL).

i) Groups and conglomerates

For insurance undertakings which are subject to group supervision, there are additional requirements according to Art. 64 – 71 of the ISL and Art. 191 – 203 ISD. For undertakings which are subject to conglomerate supervision, there are additional requirements according to Art. 72 – 79 ISL and Art. 204 – 206 ISD.

j) Fees and supervisory levies

The cost of insurance supervision is covered by fees as well as by an annual supervision levy. The supervision levy amounts to a minimum of CHF 3,000 (Art. 50 ISL; Art. 209ff ISD). Specific information on fees can be found in the fact sheet "Decreases attracting fees in insurance supervision".

k) Operating in additional insurance classes

If the insurance undertaking wishes to conduct business in additional classes of insurance, an authorization from FOPI is required for each additional insurance class (Art. 4, par. 2k of the ISL in association with Art. 5, par. 1 ISL). In submitting its application, the insurance undertaking is to attach details on all those elements of its business plan that have changed or have been newly introduced since earlier details under Art. 2.1.1 to 2.1.20 were provided.

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