



# Conditions for authorization to conduct business

## Non-life insurance

### Non-life insurance undertakings with head office outside the EU, Switzerland and Liechtenstein

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#### 1. Background

Insurance undertakings with their head office outside the EU, Switzerland and Liechtenstein 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.

The following remarks refer to insurance undertakings which propose to conduct insurance business in Switzerland and abroad from Switzerland.

An authorization is required for each and every individual insurance class (Art. 3 – 6 of the Federal Insurance Supervision Law - ISL). The granting of an authorization for a particular insurance class also incorporates an authorization for carrying out reinsurance in this insurance class (see Art. 3, par. 5 of the 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 on the entire business activity of the branch in Switzerland (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

The insurance undertaking must set up a branch in Switzerland for overall business in Switzerland and appoint as its manager a person with general power of attorney (Art. 15 ISL).

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 collaboration.

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

Furthermore, the insurance undertaking may carry out other business besides the insurance business basically only where this is directly linked to the insurance business (Art. 11 ISL).

Insurance undertakings approved in the jurisdiction in which they have their head office for both life and non-life business (composite insurers) may only operate non-life business in Switzerland, i.e. they may not operate life business (Article 12 ISL).

*a) Business plan*

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

- Extract from the commercial register for the branch in Switzerland.
- The articles of association (statutes) of the applicant and the last three corporate reports.
- 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 on 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.
  - An organisation chart of the branch in Switzerland.
- For insurance activities abroad: an authorization from the responsible foreign supervisory authority.
- Details on financial solvency and on provisions. In particular this includes:
  - Financial solvency: the foreign insurance undertaking must
    - have capital at its disposal at its head office in accordance with Art. 8 of the ISL and a solvency margin in accordance with Art. 9 ISL, which also covers business activities in Switzerland;
    - make a guarantee deposit in Switzerland (at the Swiss National Bank), corresponding to the amount of 10 % of the required solvency margin of business in Switzerland (Art. 27 – 32 ISD).

There are minimum requirements to be complied with depending on the insurance class. If business is conducted in several insurance classes, then the guarantee deposit of the higher insurance class is applicable respectively (Art. 15 ISL and Art. 15 ISD).

| <b>Numbers</b> | <b>Insurance class</b>  | <b>Minimum amount in Swiss Francs</b> |
|----------------|---|---------------------------------------|
| B1             | Accident (including industrial injury and occupational diseases)      | 60'000.--                             |
| B2             | Sickness  | 60'000.--                             |
| B3             | Land vehicles (other than railway rolling stock)                      | 60'000.--                             |
| B4             | Railway rolling stock   | 60'000.--                             |
| B5             | Aircraft  | 60'000.--                             |
| B6             | Ships (sea, lake and river and canal vessels)                         | 60'000.--                             |
| B7             | Goods in transit (including merchandise, baggage and all other goods) | 60'000.--                             |
| B8             | Fire and natural forces   | 60'000.--                             |
| B9             | Other damage to property  | 40'000.--                             |
| B10            | Motor vehicle liability   | 80'000.--                             |
| B11            | Aircraft liability  | 80'000.--                             |
| B12            | Liability for ships (sea, lake and river and canal vessels)           | 80'000.--                             |
| B13            | General liability   | 80'000.--                             |
| B14            | Credit  | 280'000.--                            |
| B15            | Suretyship  | 80'000.--                             |
| B16            | Miscellaneous financial loss  | 60'000.--                             |

|     |                |           |
|-----|----------------|-----------|
| B17 | Legal expenses | 60'000.-- |
| B18 | Assistance     | 60'000.-- |

- Technical provisions: rules for accumulating and depleting technical provisions should be mentioned. The provision methods applied and the figures used in the technical insurance liabilities must be documented (Art. 16 ISL; Art. 54 and 69 ISD).
- Details on proposed investment policy.
- Certificate of appointment and power of attorney (in accordance with the FOPI form), together with the curriculum vitae of the person with general power of attorney (Art. 15, par. 1b ISL and Art. 16 ff. 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 a 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).
- 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 insurance class should amount to no less than 10 %. Copies of reinsurance agreements should be appended.
- Envisaged costs for building up the branch.
- The projected figures for the first three years of business.
- Details on the estimation, limitation and control of risks. The branch 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.

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

Swiss supervision law subjects insurance undertakings, respectively the branch, to ongoing supervision. This implies that the insurance undertaking, respectively the branch, must not only take care to fulfil the requirements mentioned under fig. 2 for receiving 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, as long as the supervisory authorities do not initiate their review within four weeks.

#### *b) Organisation of the branch*

The organisation and directors of the branch must guarantee flawless management of affairs in Switzerland.

The CEO represents the foreign insurance undertaking in relation to the supervisory authority and third parties in all matters which concern the implementation of insurance supervision legislation (Art. 17 ISD).

#### *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*

The insurance undertaking must have a solvency margin in accordance with Art. 9 ISL which also covers the business activities in Switzerland.

In Switzerland the insurance undertaking has available unencumbered assets amounting to the required solvency margin, which, in accordance with Art 23-32 ISD, are required for business operations in Switzerland (Art. 15 ISD).

The insurance undertaking must submit proof of solvency relating to total business on an annual basis to the supervisory authority.

*e) Tied assets*

The technical provisions of business in Switzerland are secured by so-called tied assets (Art. 17 ISL; Art. 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 the 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 place simultaneously alongside increases in funds of the 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 for that year (Art. 72 ISD).

The insurance undertaking must commission an audit undertaking for the annual check on 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 deployment 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.

*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 on the electronic form provided, together with the annual report (Art. 25 ISL).

*i) Fees and supervisory levies*

The cost of insurance supervision is covered by fees as well as from 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 "Decrees attracting fees in insurance supervision".

*j) Operating in additional insurance classes*

If the insurance undertaking wishes to conduct business in additional insurance classes, an authorization from FOPI is required for each additional insurance class (Art. 4, par. 2k 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 the time where details under Art. 2.1.1 to 2.1.16 were provided.

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