

Responsibilities of Insurance Managers in the Cayman Islands

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Introduction

On August 28, 2017, the Cayman Islands Monetary Authority (**CIMA**) released an updated Statement of Guidance (**SOG**) on the Responsibilities of Insurance Managers, updating the original SOG first issued in 2003. The new SOG was issued in response to updates in the relevant law as well as requests from the industry for clarification from CIMA on compliance with the previous SOG.

SOGs contain recommendations on how licensees should operate and represent a measure against which CIMA will assess compliance by licensees. This particular SOG sets out the minimum expectations on the responsibilities of Insurance Managers (as defined under the Insurance Law, 2010 (Revised) (**Law**)) of Class B and Class C insurance licensees (**Client Insurers**) as service providers to clients and as licensees to CIMA. Prior to finalising this SOG, CIMA consulted with the private sector and has published its feedback from the consultation process which can be accessed [here](#).

CIMA has stated that the SOG is not intended to be prescriptive or exhaustive and should be read in conjunction with the regulatory measures governing all Insurance Managers in the Cayman Islands.

Key Features of the SOG

The SOG is split into 3 separate sections:

- (a) Role of Insurance Managers;
- (b) Relations with CIMA; and
- (c) Relations with Client Insurers.

Role of Insurance Managers

The SOG states that Insurance Managers are responsible for the day to day operations of their Client Insurers and should have the requisite knowledge, competence or access to expertise to help Client Insurers fulfil their financial, legal, and regulatory obligations.

The SOG includes a non-exhaustive list of the responsibilities of an Insurance Manager towards a Client Insurer, including:

- acting as consultant and advisor in respect of insurance matters;
- verifying that the Client Insurer remains fit and proper;
- policy administration;
- recording claims reserves;
- assisting with the administration of reinsurance protection;
- paying or monitoring the payment from the Client Insurer's funds for all debts and other liabilities as they fall due;
- maintaining books and records in the Cayman Islands for the Client Insurers; and
- maintaining knowledge of the law and regulatory framework for Insurance Managers and Client Insurers.

The SOG acknowledges that Insurance Managers may delegate some of their responsibilities, but states that they retain ultimate responsibility for those functions.

Minimum requirements relating to the role of the Insurance Manager include:

- having a place of business in the Cayman Islands with resources sufficient to discharge its obligations and adequately service the needs of each Client Insurer;
- having sufficient knowledge about the business of each Client Insurer (including their lines of business and specific risks);
- having appropriately skilled and qualified staff to provide insurance expertise in relation to each Client Insurer;
- controlling, from within the Cayman Islands, all bank accounts relating to the insurance business of a Client Insurer and safeguarding assets belonging to a Client Insurer; and
- maintaining complete books and records for each Client Insurer. These books and records should be maintained at all times and for at least five years following cessation of any Client Insurer relationship and be accessible by CIMA.

CIMA expects that the Insurance Manager's "mind and management" will be in the Cayman Islands.

Relations with CIMA

CIMA expects that the Insurance Manager will be the principal point of contact between the Client Insurer and CIMA and that it is the responsibility of the Insurance Manager to keep CIMA updated in relation to the Client Insurer and to respond, in a timely manner, to any questions from CIMA related to the Client Insurer. CIMA may, however, communicate directly with a Client Insurer.

A non-exhaustive list of specific responsibilities of the Insurance Manager as point of contact includes:

- providing a list of potential Client Insurers during the initial application process to CIMA;
- timely submission of applicable prudential reports, financial statements and statistical returns on behalf of the Client Insurer;
- timely payment of the Client Insurer's licence fees to CIMA;
- seeking CIMA's prior approval for change of shareholders, directors, managers or officers of the Client Insurer;
- seeking CIMA's prior approval, or notifying CIMA, of a change in the business plan of the Client Insurer;
- informing CIMA of any legal or regulatory breaches of the Client Insurer whether in the Cayman Islands or abroad;
- notification of difficulties in obtaining information from the Client Insurer;
- monitoring the capital and solvency positions of the Client Insurer to meet legal and regulatory requirements; and
- meeting with CIMA to provide assistance in respect of the Client Insurer.

As the SOG highlights, it is a legal requirement that all Insurance Managers notify CIMA if they have concerns about the fitness and probity, or the financial soundness, of a Client Insurer.

Relations with Client Insurers

The SOG states that Insurance Managers should diligently manage the business of Client Insurers and provide such insurance expertise as may be required. In addition to day-to-day management of Client Insurers' insurance businesses, this includes:

- keeping track of and resolving any complaints from Client Insurers and policyholders; and

- avoiding situations that could result in conflicts of interest with a Client Insurer (as well as having documented policies for handling any conflicts of interest that arise).

Minimum requirements relating to the relationship of Insurance Managers with Client Insurers include:

- arranging access to the Client Insurer's business to ensure that the Insurance Manager is able to access and maintain accurate and adequate records of the Client Insurer;
- providing necessary information regarding applicable legislation and regulatory measures to the Client Insurer, together with timely updates on any changes thereto;
- providing and explaining any other information reasonably necessary for the Client Insurer to comply with the above; and
- ensuring that Client Insurers understand their financial, legal and regulatory obligations.

The SOG recommends a formal written agreement between the Insurance Manager and the Client Insurer which should be reviewed periodically and should include (among other things):

- details regarding the fees payable by the Client Insurer;
- the power of the Insurance Manager to act on behalf of and in the name of the Client Insurer;
- an acceptance by the Client Insurer of actions taken by the Insurance Manager on its behalf;
- terms for the provision of regular management information by the Insurance Manager to the Client Insurer;
- service of legal process provisions pertaining to the Client Insurer;
- a requirement that records of the Client Insurer be maintained in accordance with the Law;
- a description of the legal and regulatory responsibilities of the Insurance Manager;
- termination arrangements that comply with the Law (either party must give CIMA 60 days' written notice of intended termination. Further, the termination arrangements should require a terminating party to give sufficient notice to the other party of the intention to terminate to enable both parties to make alternative arrangements);
- a specification of confidentiality for both parties; and
- a governing law clause that states that the management agreement is governed by the laws of the Cayman Islands.

A copy of the SOG can be obtained from the CIMA website or by clicking [here](#).

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Meet the Author



Bradley Kruger

Partner

Cayman Islands

E: bradley.kruger@ogier.com

T: [+1 345 815 1877](tel:+13458151877)

Key Contacts



James Bergstrom

Partner

Cayman Islands

E: james.bergstrom@ogier.com

T: [+1 345 815 1855](tel:+13458151855)



Angus Davison

Partner

Cayman Islands

E: angus.davison@ogier.com

T: [+1 345 815 1788](tel:+13458151788)



Joanne Huckle

Partner

Cayman Islands

E: joanne.huckle@ogier.com

T: +1 345 815 1895



Nick Rogers

Partner

Cayman Islands

E: nick.rogers@ogier.com

T: +1 345 815 1844



Giorgio Subiotto

Partner

Cayman Islands

E: giorgio.subiotto@ogier.com

T: +1 345 815 1872



James Bagnall

Consultant

Cayman Islands

E: james.bagnall@ogier.com

T: +1 345 815 1754

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