



IAIS

INTERNATIONAL ASSOCIATION OF
INSURANCE SUPERVISORS

INSURANCE CORE PRINCIPLES, STANDARDS, GUIDANCE AND ASSESSMENT METHODOLOGY

ICP 4

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(Clean version)

ICP 4 Licensing

A legal entity which intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. The requirements and procedures for licensing must be clear, objective and public, and be consistently applied.

Introductory Guidance

- 4.0.1 Licensing plays an important role in ensuring efficiency and stability in the insurance sector. Strict conditions governing the formal approval through licensing of insurance legal entities are necessary to protect consumers. The relevant licensing criteria should be applied to prospective entrants consistently to ensure a level playing field at point of admission to the insurance sector.
- 4.0.2 The role of the supervisor is to ensure that insurance legal entities are able to fulfil their obligations to policyholders on an ongoing basis. The licensing procedure is the first step towards achieving this objective. Nevertheless, licensing requirements and procedures should not be used inappropriately to prevent or unduly delay access to the market.
- 4.0.3 Licensing is distinct from approval granted in terms of general domestic company, trade or commercial law. Apart from applying for a supervisory licence, other requirements pertaining to company, trade or commercial law should be met (e.g. filing incorporation documents or applying to the registrar of commerce).

Licensing requirements

4.1 The insurance legislation:

- **includes a definition of insurance activities which are subject to licensing;**
- **prohibits unauthorised insurance activities;**
- **defines the permissible legal forms of domestic insurance legal entities;**
- **allocates the responsibility for issuing licences; and**
- **sets out the procedure and form of establishment by which foreign insurers are allowed to conduct insurance activities within the jurisdiction.**

- 4.1.1 Jurisdictions may decide to exclude some activities from the definition of insurance activities subject to licensing. Any such activities should be explicitly stated in the legislation. Jurisdictions may do this for various reasons, such as:

- the insured sums do not exceed certain amounts;
- losses are compensated by payments in kind;
- activities are pursued following the idea of solidarity between policyholders (e.g., small mutuals, cooperatives and other community-based organisations, especially in the case of microinsurance); or
- the entities' activities are limited to a certain geographical area, limited to a certain number or class of policyholders and/or offer special types of cover such as products not offered by licensed domestic insurance legal entities.

4.1.2 Given the principle that all entities engaged in insurance activities must be licensed, the exclusion of limited insurance activities from licensing requirements should give due regard to having appropriate alternative safeguards in place to protect policyholders.

4.1.3 Similarly, jurisdictions may allow a simplified process for non-significant entities (e.g. limited geographic scope, limited size, and limited lines of business) for the purposes of licensing. In such situations, the legislation should state clearly the applicability, requirements and process for such authorisation.

4.1.4 In jurisdictions where an authority other than the insurance supervisor is responsible for issuing licences, the insurance supervisor should be able to give input and recommend conditions or restrictions (including refusal) on a licence where appropriate to the licensing authority.

4.2 A jurisdiction controls through licensing which entities are allowed to conduct insurance activities within its jurisdiction.

4.2.1 Entities should neither be allowed to present themselves nor act as licensed insurance legal entities without or before having been granted a licence.

4.2.2 Depending on the legal forms that might be permitted in a jurisdiction, foreign insurers may be allowed to conduct insurance activities within the jurisdiction by way of a local branch or subsidiary or on a cross-border provision of services basis. A subsidiary is a domestically established legal entity that needs to be licensed. A branch is not separate from the insurance legal entity, and can be established in a jurisdiction other than the insurance legal entity's home jurisdiction. A host jurisdiction may require that branches of foreign insurance legal entities be licenced or otherwise authorised by the host supervisor. Cross-border provision of services does not require a local establishment but may require authorisation from the host supervisor.

4.2.3 In some regions, a number of jurisdictions have agreed to a system of passporting as a manner of acknowledging each other's licences. This provides the opportunity for insurance legal entities established in one of the jurisdictions to open branches or provide insurance services across borders on the basis of their home jurisdiction authorisation to conduct insurance activities. Where a foreign insurer may be allowed to operate through a branch or cross-border provision of services without a licence or other authorisation from the host supervisor, it is important that bilateral or multilateral agreements are in place which ensure that the insurer:

- is subject to supervision in its home jurisdiction which has been recognised as adequate by the host jurisdiction; and
- may be subject to sanction or other supervisory measures if it does not meet the legal provisions of the host jurisdiction. In such circumstances, the home supervisor should be informed.

4.2.4 In some jurisdictions, licensing of foreign insurance legal entities that conduct cross-border business without a physical presence takes the form of an authorisation to conduct insurance activities.

4.3 Licensing requirements and procedures are clear, objective and public, and are consistently applied, requiring:

- **the applicant to have sound business and financial plans;**
- **the applicant to have a corporate or group structure that does not hinder effective supervision;**
- **the applicant's Board Members, both individually and collectively, Senior Management, Key Persons in Control Functions and Significant Owners to be suitable;**
- **the applicant to have an appropriate governance framework; and**
- **the applicant to satisfy capital requirements.**

4.3.1 In addition to being publicly available, licensing requirements should also be easily accessible. Supervisors should issue guidelines on how to file an application for a licence, which include advice on the required format of documents and the expected time it would take to process an application upon the receipt of all relevant documents.

4.3.2 Supervisors should assess the applicant's business and financial plans to ensure that the proposed business lines will be soundly managed and adequately capitalised. Business and financial plans should be projected for a minimum of three years by the applicant and include information such as the products to be offered, distribution methods and channels to be used, risk profile, projected setting-up and development costs by business line, capital requirements and solvency margins. Information regarding primary insurance and reinsurance should also be provided.

- 4.3.3 It is important for the supervisor to understand the applicant's corporate or group structure; a complex structure could hinder effective supervision. Where the applicant is part of a group, the applicant should submit its corporate and group structure, indicating all of the material entities within the group (including both insurance legal entities and other entities, including non-regulated entities). Information on the type of related party transactions and/or relationships between all material entities within the group should also be provided.
- 4.3.4 The applicant should also provide information on its systems of risk management and internal controls, including contracts with affiliates, outsourcing arrangements, information technology systems, policies and procedures.
- 4.3.5 If applying to be licensed to underwrite both life insurance business and non-life insurance business (where such is allowed), the applicant should demonstrate to the satisfaction of the supervisor that its systems of risk management and internal controls are adequate to manage the risks separately for each business stream on both a going concern and a gone concern basis.
- 4.3.6 Further guidance on suitability, governance and capital requirements can be found in other ICPs.¹

Requirements on the supervisor

4.4 The supervisor assesses applications, makes decisions and informs applicants of the decision within a reasonable time, which is clearly specified, and without undue delay.

- 4.4.1 The supervisor should require an entity to submit an application if it proposes to conduct insurance activities. The application should include information on the types of business to be written and contain all the documents and information required by the legislation to confirm that the licensing requirements are met.
- 4.4.2 In instances where the application is deemed not complete, the supervisor should inform the applicant without delay, and the applicant should be given the opportunity to provide additional information to complete the application.
- 4.4.3 In assessing the application, the supervisor could rely on audits by external bodies, actuarial reports, or in the case of branches or foreign subsidiaries on the opinion of other supervisors. Supervisors

¹ See ICP 5 (Suitability of Persons), ICP 7 (Corporate Governance), ICP 8 (Risk Management and Internal Controls) and ICP 17 (Capital Adequacy).

should consider the reports or opinions from these various sources carefully and apply their own judgment in making the final decision on the application. Before placing reliance on reports from external auditors or actuaries, supervisors should consider:

- whether the external auditors and actuaries have the necessary expertise and experience to perform the roles; and
- their independence from the entity and the consideration they give to the protection of policyholders' interests.

4.4.4 The supervisor should make its assessment and finalise its decision within a reasonable timeframe and without undue delay. A time period should be indicated to the applicant for the assessment procedure, commencing from the date on which all complete application documentation has been submitted to the supervisor. Within this period, the supervisor should decide on the acceptability of the application for a licence. However, this does not preclude the supervisor from conducting additional due diligence if necessary. If the supervisor has not come to a decision within the indicated timeframe and the licence cannot be granted, the supervisor should communicate the reason for the delay to the applicant.

4.5 The supervisor refuses to issue a licence where the applicant does not meet the licensing requirements. Where the supervisor issues a licence, it imposes additional requirements, conditions or restrictions on an applicant where appropriate. If the licence is denied, conditional or restricted, the applicant is provided with an explanation.

4.5.1 In general, requirements, conditions or restrictions that are imposed on an applicant at the point of issue of the licence deal with the scope of activities that an insurance legal entity is permitted to conduct or the nature of its customers (e.g. retail versus sophisticated customers). The supervisor should have the authority to impose additional requirements, conditions or restrictions on an applicant not only at the point of issue of the licence, but also as part of its on-going supervision of the insurance legal entity. Further standards and guidance on supervisory review and reporting and on preventive and corrective action can be found in ICP 9 (Supervisory Review and Reporting) and ICP 10 (Preventive and Corrective Measures).

4.5.2 The denial of a licence or conditions or restrictions on a licence should be confirmed in writing to the applicant. The explanation should be provided to the applicant in a transparent manner. Supervisors should convey their concerns with regard to an applicant's proposed insurance activities to explain the reasons for imposing licensing conditions or restrictions.

4.6 A licence clearly states its scope.

- 4.6.1 A licence should clearly state the classification of insurance activities that the insurance legal entity is licensed to conduct. Regarding classification, legislation should categorise insurance business into types and classes of insurance (at least into life and non-life).
- 4.6.2 Before adding new classes of insurance to the list of classes already granted to the insurance legal entity, the supervisor should consider all of the above mentioned licensing requirements, as applicable.

4.7 The supervisor publishes a complete list of licensed insurance legal entities and the scope of the licences granted.

- 4.7.1 The supervisor should publish the complete list of licensed insurance legal entities and clearly state the scope of licence that has been granted to each insurance legal entity. This would provide clarity to the public as to which entities are licensed for specific classes of business.
- 4.7.2 If the conditions or restrictions would impact the public or any person dealing with the insurance legal entity, the supervisor should either publish these conditions or restrictions or require the insurance legal entity to disclose these conditions or restrictions accordingly. Conditions or restrictions that would impact the public could include, for example, the lines or classes of insurance business an insurance legal entity is permitted to conduct or a minimum or maximum level of premiums it is allowed to write.

Foreign operations

4.8 In deciding whether, and if so on what basis, to license or continue to license a branch or subsidiary of a foreign insurer in its jurisdiction, the supervisor consults the relevant supervisor(s) as necessary.

- 4.8.1 As part of the consultation, supervisors should use the modes available for supervisory cooperation, in particular, the ability to exchange information relevant for the application (e.g. check of suitability of directors and owners) with domestic or foreign authorities. The exchange of information may be governed by law, agreement or memorandum of understanding, especially if the information is deemed confidential. Having such arrangements in place is important so as to not unduly delay the processing of an application.
- 4.8.2 Before making a decision to grant the licence, the host supervisor should have an understanding of how the home supervisor and/or the group-wide supervisor supervise the insurer on an ongoing basis.

4.8.3 Host supervisors should consult home supervisors on relevant aspects of any licensing proposal, but in any event they should always consider checking that the home supervisor of the insurance legal entity has no objection before granting a licence. The home supervisor and/or the group wide supervisor should assess the risks posed to the insurer of establishing an insurance legal entity in a foreign jurisdiction and highlight any material reservations or concerns to the host supervisor as soon as practicable. The host supervisor should inform the home supervisor of the scope of the licence, including any restrictions or prohibitions imposed on the licence.

4.8.4 Host supervisors should reject applications for a licence from foreign entities which are not subject to regulation and supervision in the home jurisdiction. In the case of joint ventures, if there is lack of clear parental responsibility, the supervisor should reject such applications.

4.9 Where an insurance legal entity is seeking to conduct cross- border insurance activities without a physical presence in the jurisdiction of the host supervisor, the host supervisor concerned consults the home supervisor before allowing such activities.

- 4.9.1 Information exchanged as part of the consultation should include:
- confirmation from the home supervisor that the insurance legal entity is authorised to conduct the proposed types of insurance activities; and
 - confirmation from the home supervisor that the insurance legal entity meets all the insurance regulatory requirements in the home jurisdiction.