



## CENTRALE BANK VAN ARUBA

### **POLICY RULE INSURANCE LICENCE REQUIREMENTS AND ADMISSION REQUIREMENTS FOR INSURANCE COMPANIES OPERATING IN OR FROM ARUBA**

#### **1. Introduction**

The most relevant sections of the State Ordinance Supervision Insurance Business (AB 2000 no. 82) (the Ordinance) relating to the application for an insurance licence are set out below. However, it is still necessary to review the whole Ordinance in order to have a complete picture of the conditions and requirements stipulated in this Ordinance. The Ordinance (including the unofficial English translation hereof) is also available at the website of the Centrale Bank van Aruba (CBA): [www.cbaruba.org](http://www.cbaruba.org).

#### **2. General licence requirements for insurance companies**

In accordance with section 5, paragraph 1 of the Ordinance an insurance company is prohibited to engage direct or indirect in the insurance business in or from Aruba without a license from the CBA. An insurance company should not conduct any activities other than in connection with or for the purposes of its specific insurance business. Operations not related to insurance within the same entity is not allowed. Pursuant to section 5, paragraph 2 of the Ordinance a license is granted either to engage in the life insurance or the general insurance business (principle of specialization). Furthermore, it is stipulated that a license to engage in the general insurance business shall be granted per line of insurance. The following five indemnity lines are distinguished:

- a. accident and health;
- b. motor vehicle;
- c. maritime, transport, and aviation;
- d. fire insurance and other property;
- e. other indemnity.

In accordance with section 2 of the Ordinance an insurance company may operate in or from Aruba through:

- a. an insurer incorporated under the Aruban law with the legal status of a Limited Liability Company (“Naamloze Vennootschap”), a private company with limited liability (“vennootschap met beperkte aansprakelijkheid”), an Aruba Exempt Corporation (“Arubaans Vrijgestelde Vennootschap”) or a Mutual insurance company;
- b. a local branch office; or
- c. an agency.

Under Section 7 of the Ordinance a license will be granted if the applicant<sup>1</sup> complies with the following conditions:

- the applicant’s day-to-day management is determined by at least one natural person;
- in so far it concerns a legal entity, the applicant has a supervisory board or a similar body, consisting of at least three natural persons;
- the expertise of the persons who determine or co-determine the policy of the insurer is sufficient to conduct the insurance business;
- the intentions or antecedents of the persons who determine or co-determine the policy of the insurer are such that they could not endanger the interests of the insureds, the insured or others entitled to payments;
- there is no question of an influence on the applicant which is contrary to a sound policy for insurers, or of a circumstance that could bring this about as a result of a qualified holding in the applicant;
- the declaration of the auditor that accompanies the annual financial statements or opening balance sheet should imply that these present a true and fair view of the size and composition of the capital of the applicant;

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<sup>1</sup> The applicant is the legal entity requesting a license to operate in or from Aruba.



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- the applicant is able to realize its intentions as mentioned in its program of activities, the envisaged management controls and administrative organization, or meet the requirements to be imposed on it in connection with the supervision;
- the granting of a license to the applicant does not lead to an undesirable development of the insurance sector, or to a circumstance that could bring this about;
- the applicant meets at least the minimum solvency margin requirements as mentioned in section 14, third paragraph of the Ordinance.

Furthermore, all insurance companies should be able to comply continuously with the requirements and conditions stipulated in the Ordinance, as well as the regulations issued by the CBA.

### **3. Licence and admission requirements applicable to all insurance companies**

In order to ensure a sound development of the insurance sector in Aruba (refer to section 7 sub e and h of the Ordinance), an insurance company will, in principle, only be considered for admission if all of the following conditions are met:

- a) The applicant will be a branch or a majority owned subsidiary of an existing insurance company, insurance holding company or, as the case may be, financial conglomerate, subject to comprehensive and effective consolidated supervision by the home country supervisor(s).
- b) The applicant's parent insurance company, insurance holding company or, as the case may be, financial conglomerate has adequate financial strength and a solid reputation.
- c) The supervision conducted by the home country supervisor(s) on the parent insurance company has an adequate level and is of a comprehensive nature.
- d) The home country supervisor(s) of the parent insurance company, has adopted and implemented the international standards issued by the IAIS and other relevant bodies in its laws, regulations, and supervisory practices.
- e) The home country supervisor(s) has adopted and implemented a strict enforcement policy that meets international standards.
- f) The home country supervisor(s) is able to exchange information with the CBA in accordance with the requirements of section 23 of the Ordinance.
- g) The parent insurance company maintains an adequate communicative and cooperative relationship with its home country supervisor(s).
- h) The “mind and management” of the Aruba subsidiary or branch office are in Aruba.

Furthermore, the CBA will reject licence applications of shell insurance companies. Shell insurance companies are insurance companies that have no physical presence (i.e., meaningful mind and management) in the country where they are incorporated and licenced, and are not affiliated to any financial services group that is subject to effective consolidated supervision.

The CBA may set, depending on the circumstances, additional requirements and may also attach conditions and restrictions to a licence pursuant to section 4(2) of the Ordinance.

### **4. Licence and admission requirements with respect to branches and agencies of insurance companies not established in Aruba**

In order to ensure a sound development of the insurance sector in Aruba (refer to section 7 sub e and h of the Ordinance), a branch office or an agency of an insurance company not established in Aruba will, in principle, only

be considered for granting or holding a licence as referred to in section 5 of the Ordinance if the following requirements are met:

1. It is an agency or branch of an existing foreign insurance company, insurance group or financial conglomerate that is active in the major financial markets around the world and with a balance sheet total of at least US\$ 10 billion and an “A” rating issued by Standard & Poors or a comparable rating agency.
2. The parent company has an adequate financial strength and a solid reputation.
3. The supervision conducted by the supervisory authorities of the parent company (the home country supervisor) is of an adequate level and of a comprehensive nature.
4. The Principles Applicable to the Supervision of International Insurers and Insurance Groups and their Cross-Border Operations (Insurance Concordat December 1999), issued by the International Association of Insurance Supervisors, are endorsed by the home country supervisor.

The elements listed under 1,2,3 and 4 are described in more detail below.

#### Branch offices or agencies

In view of the changing market conditions and in order to be able to better protect the interest of policyholders the CBA has deemed it necessary to strengthen its admission policy with respect to foreign insurance institutions operating via branch offices or agencies. Only international insurers that are able to comply with the requirements mentioned under point 3 above will be considered for admission as a branch office or agency.

#### Financial strength and solid reputation

It is a prerequisite that the applicant provides certified financial statements over the last three years to prove the financial soundness of the parent company. Important elements in the CBA's assessment of said financial strength are among other things: capitalization, profitability, liquidity, audit and internal controls, quality of management as well as policies and procedures.

#### Quality of the supervision of the home country authorities

The leading guideline for the CBA's policy continues to be that the supervision conducted by the home country supervision meets international standards. In addition, the CBA must be able to exchange information with the home country supervisor of the parent company so that it can be established that the home country supervision is adequate and meets international standards and the parent company meets the regulatory requirements of the home country.

#### Insurance Concordat December 1999

The CBA has endorsed the Principles Applicable to the Supervision of International Insurers and Insurance Group and their Cross-Border Business Operations issued by the International Association of Insurance Supervisors (IAIS). These Principles establish a framework for co-operation between insurance supervisors.

### **5. Shareholding in insurance companies established in Aruba**

In order to ensure a sound policy of the insurance industry in Aruba (refer also to section 7 sub e and h of the Ordinance), the shareholding in an insurance company established in Aruba must, in any event, comply with the following condition: the insurance company shall have as a major shareholder<sup>2</sup> a financial institution with solid financial strength and reputation subject to comprehensive and effective consolidated supervision by the home country supervisor(s).

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<sup>2</sup> A major shareholder is considered by the CBA as a shareholder that either has a majority of the shares outstanding or a portion of the shares that in view of the CBA is significant enough to allow him to exert a material influence over the institution's decisions and its decision making bodies.



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In the event that the CBA is of the opinion that the condition of comprehensive and effective consolidated supervision by the (ultimate) home country supervisor(s) is no longer met or that there are significant doubts on the adequacy of the solvency or technical provisions of the parent insurance company, the shares in the Aruban insurance company must be transferred to a pure holding company<sup>3</sup> (“*zuivere houdstermaatschappij*”). The shares in the Aruban insurance company may no longer be held, directly or indirectly, by an insurance company in a country where, according to the CBA, the condition of comprehensive and effective consolidated supervision conducted by that country’s supervisor(s) is no longer met. This to prevent any negative spill-over effects on the Aruban insurance company .

### **6. Representative body**

All insurance companies operating in the domestic market should become a member of the representative body for insurers designated by the Minister of Finance.

### **7. Procedure**

In accordance with section 6, paragraph 4 of the Ordinance, the CBA will take a decision on the application within thirteen (13) weeks upon receipt of all relevant documents for its evaluation.

### **8. Application**

Pursuant to section 6 paragraph 1 of the Ordinance and the CBA’s admission policy, an applicant shall at least submit the following documents:

- a. Articles of incorporation and by-laws of the applicant.
- b. An extract of the registration in the trade register at the Chamber of Commerce not older than 6 months.
- c. The completed questionnaire for each of the persons who determine the day-to-day policy of the company<sup>4</sup> and for each of the members of the supervisory board of the company.
- d. The completed questionnaires of shareholders – natural persons with a qualifying holding.
- e. A business plan for a three year period, including the projected balance sheet and income statements, containing at least information on:
  - the risks to be insured -direct, assumed and ceded - by line of business;
  - the rating program and actuarial assumptions;
  - the reinsurance program;
  - three year financial projections, including projections of the solvency margin and liquidity position;
  - the envisaged internal and administrative organization and internal controls.
- f. The certified annual financial statements over the past three years of the applicant. If the applicant is a local entity, an opening balance sheet certified by an external auditor is required.
- g. A confirmation from the home supervisor that the insurance company is authorized to conduct the types of insurance business proposed.
- h. A confirmation from the home supervisor, if applicable, that the insurance company is solvent and meets all regulatory requirements in the home jurisdiction.

If the day-to-day policy of the company is performed by an insurance management company or an agent (legal representative) the following information shall be provided:

- i. A certified copy of the articles of incorporation of the representative.
- j. A recent extract of its registration in the trade register at the Chamber of Commerce.
- k. A deed of appointment of the representative.

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<sup>3</sup> Pure holding company: a company that has the sole purpose of being the shareholder of the Aruban insurance company.

<sup>4</sup> If the day-to-day policy is performed by a legal representative, e.g. a management company or an agent, the representative must be professionally qualified, reliable and of good repute.



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In the event that the applicant forms part of a group, the information on the formal and actual control structures within the group and a list of names of the persons who determine or co-determine the group's policy shall also be provided.

If the applicant intends to conduct motor vehicle insurance, its application should include a statement stating that its insurance terms comply with the stipulations laid down in the State Ordinance Motor Vehicles Liability Insurance (AB 1999, no. GT 12).

The CBA maintains the right to request, if deemed necessary, additional information.

### **8. Entry into force and transition period**

This policy rule will enter into force on July 1, 2018.

Insurance companies whose shareholders' structure is not in compliance with the condition mentioned under paragraph 5 above are granted a grace period of one (1) year to comply with the requirements set forth in said paragraph. The CBA may extend this period, to be decided on a case by case basis.

In the event that a major shareholder of an already licenced insurance company wants to sell (all or part of) its shares the CBA will only give its approval if the requirements with regard to the shareholder structure set forth in paragraph 5 is met to the CBA's satisfaction.

Oranjestad, May 7, 2018