



Conditions for Permission to Conduct Business

Life insurance

Life insurance companies with head office outside Switzerland and Liechtenstein

Status as at:

1st January 2006

1. Background

Insurance companies with their headquarters outside Switzerland and Liechtenstein require a permit 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 companies which intend to conduct insurance business in Switzerland and abroad from Switzerland.

A permit is required for each and every individual insurance category (Art. 3 – 6 of the Federal Insurance Supervision Law - ISL). Swiss life insurance companies may carry out reinsurance activities only in the life insurance categories for which they have been authorised. (Art. 3, par. 5, Insurance Supervision Decree - ISD).

The permit will be issued if legal requirements are met and the interests of policy holders are protected (Art. 6 ISL). Following the granting of a permit, FOPI will exercise ongoing supervision on the entire business activity of the insurance company (Art. 46 ISL).

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

Without this permit it is prohibited to conduct insurance business within Switzerland or from Switzerland (Art. 87 ISL).

2. Procedures for meeting the requirements for a permit

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

The insurance company must submit a request to FOPI for a permit 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 already prior to the formal submission of the request in order that the plan can be revised in mutual collaboration.

A permit will be issued for one or more categories of insurance listed in Appendix 1 to the ISD (A - Life Insurance).

Insurance companies approved in the country 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).

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

a) Business plan

The business plan must contain the following details and documentation (Art. 4 ISL):

- Extract from the Commercial Register for the branch office in Switzerland.
- The statutes of the applicant and the last three corporate reports.
- The organisational and geographical area of activities of the insurance company, or of the insurance group or of the insurance conglomerate as the case may be, to which the insurance company belongs.
 - The insurance company is to provide details on the overall organisation of the enterprise and of the management and controlling instruments. The insurance company also reports on its internal controlling system and on its internal auditing.
 - An organisation chart of the insurance company should be attached and in the case where it belongs to an insurance group or to a conglomerate an organigram of the insurance group or conglomerate should also be attached.
 - An organisation chart of the branch office in Switzerland
- For insurance activities abroad: a permit from the responsible foreign supervisory authority or a comparable certification is required.
- Details on financial solvency and on provisions. In particular this includes:
 - Financial solvency: the foreign insurance company must
 - have capital at its disposal at its headquarters in accordance with Art. 8 ISL and a solvency margin in accordance with Art. 9 ISL, which also cover 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. 23 – 26 ISD).

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

- CHF 450,000 for insurance categories A2.1, A2.3, A2.4, A2.6 and A7, so long as there are no guarantees given on capital, interest or durability, as well for insurance companies which sell life insurance under the legal form of a cooperative (Art. 15, par. 2b, ISD).
 - CHF 600,000 in the other cases (Art. 15, par. 2a, ISD).
 - Technical provisions: the conditions 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 ISA; Art. 54 - 67 ISD).
- 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 favourable reputation, be professionally qualified and be in a position to accurately estimate the financial implications of the activities of the insurance company (Art. 23 ISL).
 - He or she must hold the title of "Actuary of the Swiss Association of Actuaries " or a equivalent qualification. Upon request the supervisory authorities can also accredit 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 company are to be outsourced.
 - Essential functions of an insurance company are those activities which must imperatively belong to an insurance company. 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 company.
 - 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 category and the type of risks to be insured as well as details on the envisaged corporate policy.
- Reinsurance plan, as well as the retrocession plan for active reinsurance. The insurance company must be able to prove that the reinsurer is prepared to take on the risks. For reasons of security, all reinsurance contracts must include a cash deposit requirement. Copies of reinsurance agreements should be submitted to FOPI.
- The envisaged set-up and establishment costs or an exceptional business expansion of the branch office (Art. 15, par. 1d, ISL).
- The projected figures for the first three years of business.
- Details on the estimation, limitation and supervision of risks. The subsidiary must possess adequate risk management appropriate to its corporate size (Art. 22 ISA; Art. 96 – 98 ISD).

Tariffs and general insurance conditions to be applied in Switzerland in offering all risk insurance in occupational pension plans and in supplementary insurance in social health insurance (supplementary health insurance). These tariffs and general insurance conditions are subject to approval.

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

Insurance companies to which ownership of assets of the economically or organisationally dependent personnel welfare institutions set up by them, was transferred, must at least pay the benefits of the mandatory occupational pension plans. (Art. 39 ISL).

Rates not subject to approval and general insurance conditions in the remaining insurance categories are also to be submitted. The provisions in accordance with Art. 120 – 138 of the ISD for

tariffication, the requirements of life insurance contracts and the surplus in life insurance outside occupational pension plans are applicable.

- Settlement values (Art. 127 ISD): Settlement values must be submitted for approval before being applied. The exception are settlement values which the insurance company voluntarily guarantees.

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

Concerning group life insurance within the scope of occupational pension plans, FOPI has supplementary information leaflets available:

- Aspects concerning the capital bonus in occupational pension plans¹.
- Aspects concerning the annual operating statement in occupational pension plans².

3. A few comments on the supervisory requirements following the granting of a permit (for on-going business)

Swiss supervision law subjects insurance companies, respectively the branch, to perpetual supervision. This implies that the insurance company, respectively the branch, must not only take care to fulfil the requirements mentioned under Art. 2 for receiving a permit. Beyond this point they have a number of additional supervisory legal obligations to fulfil.

Some of the most important of these obligations are presented in the list below, although this list is not conclusive. This list presents some general information but cannot replace reading and acknowledgment 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 of the ISL, alterations to the business plan are to be submitted to FOPI prior to their implementation.

According to Art. 5, par. 2 of the 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 open an examination within four weeks.

b) Organisation of the branch office

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

The CEO represents the foreign insurance company 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 company must set up an effective internal controlling system which covers all of its business activities. In addition, it is to nominate an internal inspectorate independent of management.

¹ Will be amended in the course of 2006

² Will be made available in the course of 2006

In certain justifiable individual cases FOPI can dispense the insurance company from the obligation of nominating an internal inspectorate (Art. 27 ISL). An insurance company 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 company must have a solvency margin in accordance with Art. 9 of the ISL which also covers the business activities in Switzerland.

The insurance company has available in Switzerland unencumbered assets amounting to the required solvency margin, which, in accordance with Art. 23-26 ISD, are required for business operations in Switzerland (Art. 15 ISD).

The insurance company 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. 56 ISD. It must amount to at least CHF 750,000 (Art. 70 ISD) at the time of creation and the funds must be paid into an approved financial institution in Switzerland.

The amount of the tied assets required must at all times be covered by a given asset value allocated to the tied asset. The building up of this asset takes place simultaneously alongside increases in funds of the technical provisions. The initial creation of the tied assets takes place at the time of the commencement of business. For subsequent years FOPI sends the appropriate form to the company in January each year. The submission date is the end of March for that year (Art. 72 ISD).

Separate tied assets have to be set up for insurance in occupational pension plans, for the savings portion of the insurance contracts of the funds-linked life insurance and for the savings portion of life insurance linked to internal portfolio investments or other reference values (Art. 77 ISD).

The insurance company must commission an audit company for the annual check on the tied assets in its head office and must inform FOPI by means of a questionnaire. FOPI will provide the insurance company with a pre-prepared contract for this purpose.

f) Financial derivatives

The insurance company 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

The permit issued for conducting business in one particular insurance category includes the authorisation to operate reinsurance in this same category.

h) Reporting obligations

The insurance companies are to prepare annually a corporate report and a report on supervision. The report on supervision is to be submitted to FOPI by 30 April on the electronic form provided together with the annual report (Art. 25 ISL).

i) Special provisions for insurance in occupational pension plans

For insurance companies which conduct business in occupational pension plans, in addition the provisions in accordance with Art. 37 ISL and Art. 139 – 154 ISD are applicable. Please refer to the corresponding information leaflets.

j) 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".

k) Operating in additional insurance categories

If the insurance company wishes to conduct business in additional categories of insurance, a permit from FOPI is required for each additional insurance category (Art. 4, par. 2k ISL in association with Art. 5, par. 1 ISL). In submitting its application, the insurance company 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 fig. 2 were provided.