

A BILL

To

Amend the Insurance Companies Ordinance.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Insurance Companies (Amendment) Ordinance 1999.

2. Deposit of accounts etc. with Insurance Authority

Section 20 of the Insurance Companies Ordinance (Cap. 41) is amended -

- (a) in subsection (1), by repealing “Any” and substituting “Subject to subsection (1A), any”;
- (b) by adding -

“(1A) Information required to be submitted under section 17 that is specified in Parts 8 and 9 of the Third Schedule shall be submitted in accordance with subsection (1), except that the references in that subsection to 6 months shall be read as 4 months.”.

**3. Maintenance of assets in Hong Kong –
general business**

Section 25A(9) and (11) is amended by repealing “6” and substituting “4”.

4. Sections substituted

Section 50 is repealed and the following substituted -

“50. Requirements to be complied with by Lloyd’s

During any period when a member of Lloyd’s is carrying on insurance business in Hong Kong, Lloyd’s and its members shall comply with the requirements contained in this Part.

50A. Requirement on solvency margin

(1) The members of Lloyd’s taken together shall, at all times, maintain assets of a value not less than the aggregate of the relevant amount, within the meaning of section 10(1), having regard only to the general business, and the greater of the following -

(a) the aggregate of -

(i) the amount of their liabilities; and

(ii) if any part of the long term business carried on is of a nature other than that specified in class G or H in Part 2 of the First Schedule, \$2,000,000 or its equivalent; or

(b) the aggregate of the amount of their liabilities and such amount as may be prescribed by or determined in accordance with regulations made under section 59(1)(aa).

(2) For the purposes of subsection (1), references to a company or an insurer in section 10 or in regulations made under section 59(1)(aa) shall be read as references to the members of Lloyd’s taken together.

50B. Fit and proper management

(1) Lloyd's shall appoint a person (not being a body corporate) as its authorized representative who shall reside in Hong Kong and be responsible for its overall operation in Hong Kong.

(2) Without limiting the generality of subsection (1), the authorized representative shall be responsible for -

- (a) accepting service of notices on behalf of Lloyd's and its members;
- (b) servicing Lloyd's policy holders in Hong Kong with a view to protecting their interests; and
- (c) ensuring compliance by Lloyd's and its members with the provisions of this Ordinance.

(3) Section 13A applies to all appointments of an authorized representative and a reference in that section to an authorized insurer and a controller shall be read as a reference to Lloyd's and the authorized representative respectively.

(4) Where a person has been appointed as the authorized representative and the Insurance Authority believes that he is no longer a fit and proper person to be so, the procedures in section 13A(5) to (8) apply to his removal as though it were a proposed appointment.

(5) Where, subsequent to the appointment of an authorized representative, there is any change in the representative's particulars as submitted to the Insurance Authority under this section, Lloyd's shall, within one month of such change occurring, notify in writing the Insurance Authority.

(6) Where Lloyd's contravenes subsection (5), it commits an offence and is liable, on conviction, to a fine of \$200,000 together with a fine of \$2,000 for each day on which the offence continues.

50C. Reporting requirements

(1) Lloyd's shall submit annually to the Insurance Authority the following accounts, statements and information -

- (a) a copy of any accounts and statements (as required by the law applicable to Lloyd's in the United Kingdom) summarizing the extent and character of the insurance business done by the members of Lloyd's;
- (b) a copy of any report published by Lloyd's on its global results;
- (c) accounts and information in respect of the Hong Kong insurance business of Lloyd's as required by Part 8 of the Third Schedule;
- (d) the Statement of Assets and Liabilities as required by Part 9 of the Third Schedule; and
- (e) a list showing the identities of Lloyd's syndicates who carried on insurance business in Hong Kong in the relevant financial year and their particulars as specified by the Insurance Authority.

(2) The accounts, statements and information submitted under subsection (1) shall comply with section 8(4) and a reference to an insurer in section 8(4) or in regulations made

under section 59(1)(a) shall be deemed for this purpose to be a reference to Lloyd's.

(3) Notwithstanding subsection (2), section 60 applies to Lloyd's and a reference to an insurer in that section shall be deemed for this purpose to be a reference to Lloyd's.

(4) Lloyd's shall submit -

- (a) one copy each of the documents referred to in subsection (1) (a) and (b) within 6 months after the close of the financial year to which the documents relate; and
- (b) one copy each of the documents referred to in subsection (1)(c), (d) and (e) within 4 months after the close of the financial year to which the documents relate,

but the Insurance Authority may, on application, extend the period for submission of a document by not more than 3 months.

(5) Lloyd's shall submit to the Insurance Authority, on a quarterly basis, a list showing the names of all persons in Hong Kong who have been given binding authority by Lloyd's members to underwrite insurance business on their behalf, and the types of business carried on by each of them, and such list shall be submitted within 1 month after the close of the quarter to which it relates.

(6) Lloyd's shall ensure that the documents required to be submitted -

- (a) under subsection (1) are signed by the Chairman of Lloyd's and the authorized representative of Lloyd's in Hong Kong; and

(b) under subsection (5) are signed by the authorized representative of Lloyd's in Hong Kong.

(7) Where, on receiving a document under subsection (1) or (5), the Insurance Authority considers such document to be inaccurate or incomplete in any respect, he may require Lloyd's to supply additional information to remedy such inaccuracy or deficiency and Lloyd's shall forthwith comply with such requirement.

(8) On submitting the documents required under subsection (1) (a) and (b), Lloyd's shall submit copies of reports on its affairs submitted to its policy holders, if any, in respect of the same financial year.

(9) On submitting the documents required under subsection (1) (a) and (b), Lloyd's shall pay to the Insurance Authority a fee equal to the fee paid annually by an authorized insurer under section 13(1).

(10) If Lloyd's fails to comply with subsection (1), (4), (5), (6), (7) or (8), it commits an offence and is liable to a fine of \$200,000 together with a fine of \$1,000 for each day on which the offence continues.

50D. Local assets

Part IVA and section 59(1)(a) apply to Lloyd's and a reference to an insurer in those provisions or in subsidiary legislation made under one of those provisions shall be deemed to be a reference to Lloyd's.

50E. Insurance intermediaries

Part X applies to Lloyd's and a reference in that Part -

- (a) to an insurer shall be deemed for this purpose to be a reference to Lloyd's members;
- (b) to an insurance agent shall be deemed for this purpose to be a reference to an insurance agent of Lloyd's members; and
- (c) to an appointed insurance agent shall be deemed for this purpose to be a reference to an insurance agent appointed by Lloyd's members.

50F. Powers of intervention

(1) Part V, except section 40, applies to Lloyd's or its members carrying on insurance business in Hong Kong and a reference in those provisions to an insurer shall be deemed for this purpose to be a reference to Lloyd's or such members.

(2) For the purposes of subsection (1), the reference in section 33(1) to section 20 shall be read as a reference to section 50C.”.

5. Service of notices

Section 55 (c) is amended by repealing “50” and substituting “50B”.

6. Accounts and Statements

The Third Schedule is amended -

- (a) in Part 8, by repealing Forms 6, 7, 8 and 9 respectively and substituting the forms in the Schedule;
- (b) in Part 9, within the square brackets, by repealing

“ss. 25A & 25B” and substituting “ss. 20(1A), 25A, 25B & 50C”.

7. Proposed Appointment of Controller within the Meaning of Section 13A(1) or Authorized Representative under Section 50B

The Fourth Schedule, except Form B thereof, is repealed and the following substituted

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“FOURTH SCHEDULE [ss. 13A(2)(a)
& 50B]

PROPOSED APPOINTMENT OF CONTROLLER WITHIN THE
MEANING OF SECTION 13A (1) OR AUTHORIZED
REPRESENTATIVE UNDER SECTION 50B

1. Application of Fourth Schedule

This Schedule sets out -

- (a) the information to be furnished by an insurer to the Insurance Authority under section 13A(2)(a) of this Ordinance in respect of the proposed appointment of a person as a controller (within the meaning of section 13A(1) of this Ordinance) of the insurer; and
- (b) the information to be furnished by Lloyd’s to the Insurance Authority under section 50B(3) of this Ordinance in respect of the proposed appointment of a person as an authorized representative of Lloyd’s.

2. Particulars of proposed controller or proposed authorized representative

- (a) Any particulars furnished by an insurer to the Insurance Authority pursuant to section 13A(2) (a) of this Ordinance in respect of a person proposed to be appointed as a controller (within the meaning of section 13A(1) of this Ordinance) shall contain -
 - (i) in the case of an individual, the particulars specified in Form A in this Schedule;
 - (ii) in the case of a body corporate, the particulars specified in Form B in this Schedule; and
 - (iii) in the case of a partnership -
 - (A) the particulars specified in Form A in this Schedule in respect of each partner who is an individual;
 - (B) the particulars specified in Form B in this Schedule in respect of each partner which is a body corporate.
- (b) Any particulars furnished by Lloyd's to the Insurance Authority pursuant to section 50B(3) of this Ordinance in respect of a person proposed to be appointed as an authorized representative of Lloyd's shall contain the particulars specified in Form A in this Schedule.

FORM A

[para. 2, 4th Sch.]

PARTICULARS REQUIRED IN RESPECT OF INDIVIDUALS WHO ARE PROPOSED TO BE APPOINTED AS CONTROLLERS WITHIN THE MEANING OF SECTION 13A(1) OR AUTHORIZED REPRESENTATIVE UNDER SECTION 50B

Name of Proposer*

The following are particulars of -

#(a)+

#(b)++, of which+.....

..... is a partner.

1. Family name Other names

.....

Any other name(s) by which he has been known or is known

.....

2. Private address.

3. Date of birth.

Place of birth (including town or city).

4. Nationality, including a statement as to whether it was acquired by birth or naturalization.

5. Qualifications and experience, including those relating to insurance and allied matters.

6. Present occupation or employment and occupations and employment during the last 10 years, including the name of the employer, the nature of the business, the position held and relevant dates.

7. Has he at any time been convicted of any criminal offence (other than an offence committed when he was of or under the age of 16 years unless the same was committed within the last 10 years) by any court, including a military tribunal, in

Hong Kong or elsewhere? If so, give full particulars of the court by which he was convicted, the offence and the penalty imposed and the date of the conviction.

8. Has he in the last 10 years, in Hong Kong or elsewhere, been censured, disciplined or publicly criticized by any professional body to which he belongs or belonged or been dismissed from any office or employment or refused entry to any profession or occupation? If so, give full particulars.
9. Has he at any time been adjudicated bankrupt by a court in Hong Kong or elsewhere? If so, give full particulars.
10. Has he at any time in the last 10 years failed to satisfy any debt adjudged due and payable by him as a judgment-debtor under an order of a court in Hong Kong or elsewhere? If so, give full particulars.
11. Has he, in connection with the formation or management of any body corporate or insurer, been adjudged by a court in Hong Kong or elsewhere civilly liable for any fraud, misfeasance or other misconduct by him towards such a body or insurer or towards any members thereof? If so, give full particulars.
12. Has any body corporate or insurer with which he was associated as director or controller (within the meaning of section 9 of this Ordinance) in the last 10 years, in Hong Kong or elsewhere, been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either whilst he was associated with it or within one year

after he ceased to be associated with it? If so, give full particulars.

(Note: In relation to a body corporate which is not an insurer, “controller” (控權人) is to be construed as a reference to a person who would, if he were a company, be a holding company of that body in accordance with section 2(7) of the Companies Ordinance (Cap. 32)).

13. Of what bodies corporate or insurers -

(a) is he now a director or controller (within the meaning of section 9 of this Ordinance)?

(b) has he been a director or controller (within the meaning of section 9 of this Ordinance)?

14. Has he any other occupation other than that disclosed at items 6 and 13 above. If so, give full details.

15. In carrying out his duties, will he be acting on the directions or instructions of any other person? If so, give full particulars.

I certify that the above information is complete and correct to the best of my knowledge and belief.

Date.....

Signed
(individual named in paragraph 1 above.)

I certify that+
has supplied the above information and that in respect
of*.....he is -

- # (a) proposed to be appointed as a controller within the meaning of section 13A(1) of this Ordinance;
- # (b) a partner in ++ which is proposed to be appointed as a controller within the meaning of section 13A(1) of this Ordinance;
- # (c) proposed to be appointed as an authorized representative of Lloyd's under section 50B of this Ordinance.

Date.....

Signed.....
(Director/Secretary# of the Insurer) /(Chairman of Lloyd's)#

- * Insert name of Insurer or Lloyd's.
- + Insert name of individual to whom particulars relate.
- ++ Insert name of partnership.
- # Delete as necessary."

8. Assets which qualify as assets in Hong Kong

The Eighth Schedule is amended, in paragraph 1(c), by adding "and kept in Hong Kong" after "deposited".

9. Transitional provisions

(1) The amendments to sections 20 and 25A of the principal Ordinance contained in sections 2 and 3 of this Ordinance shall take effect for each insurer, in relation to the submission of any document required under the Third Schedule, in respect of any financial year of the insurer that ends on or after the first anniversary of the day on which sections 2 and 3 of this Ordinance come into operation.

(2) Notwithstanding the repeal of section 50 of the principal Ordinance by section 4 of this Ordinance, section 50(2) and (3) as they existed immediately before this Ordinance came into operation shall continue to apply to Lloyd's for a period of one year after their repeal.

(3) The person who is, on the day section 4 of this Ordinance comes into operation, lawfully acting as the authorized representative of Lloyd's shall be deemed to have been appointed in accordance with section 50B of the principal Ordinance as enacted by section 4 of this Ordinance.

(4) The submission of documents required under section 50C of the principal Ordinance as enacted by section 4 of this Ordinance shall take effect in respect of any period to which a document relates, which period ends on or after the first anniversary of the day on which section 4 of this Ordinance comes into operation.

(5) Section 50E of the principal Ordinance as enacted by section 4 of this Ordinance shall take effect on the first anniversary of the day on which section 4 of this Ordinance comes into operation.

(6) Notwithstanding the repeal and replacement of Forms 6, 7, 8 and 9 in Part 8 of the Third Schedule of the principal Ordinance by section 6 and the Schedule of this Ordinance, an insurer need only supply the additional information required by the replacement forms

for one additional year each year for 4 years, by the end of which the insurer shall supply the required information for all 12 years specified in such forms.

10. Further transitional provisions

(1) In this section, “financial year end” (財政年度終結) means the end of the financial year established by Lloyd’s for its accounting purposes.

(2) Section 50D of the principal Ordinance as enacted by section 4 of this Ordinance shall take effect 4 months after the first financial year end that occurs on or after the first anniversary of the day on which section 4 of this Ordinance comes into operation.

SCHEDULE

[s. 6(a)]

FORM 6

HONG KONG INSURANCE BUSINESS - CLAIMS PAID STATISTICS (GROSS)

OF(Name of insurer)

for the period commencing on and ending on

in respect of Accounting Class of General

Business: (All in \$’000)

| Accident/ Underwriting Year* | Claims Paid in each year of development | | | | | | | | | | | |
|------------------------------------|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) |
| Prior years | | | | | | | | | | | | |
| (Year) | | | | | | | | | | | | |
| (Year) | — | | | | | | | | | | | |
| (Year) | — | — | | | | | | | | | | |
| (Year) | — | — | — | | | | | | | | | |
| (Year) | — | — | — | — | | | | | | | | |
| (Year) | — | — | — | — | — | | | | | | | |
| (Year) | — | — | — | — | — | — | | | | | | |

| | | | | | | | | | | | | |
|--------|---|---|---|---|---|---|---|---|---|---|---|---|
| (Year) | — | — | — | — | — | — | — | — | — | — | — | — |
| (Year) | — | — | — | — | — | — | — | — | — | — | — | — |
| (Year) | — | — | — | — | — | — | — | — | — | — | — | — |
| (Year) | — | — | — | — | — | — | — | — | — | — | — | — |
| (Year) | — | — | — | — | — | — | — | — | — | — | — | — |
| TOTAL | | | | | | | | | | | | |

We certify that the above information is true and correct.

 (Director) (Director) (*Chief Executive/Secretary)

- Notes: (a) Amounts must be expressed in Hong Kong dollars.
 (b) A separate form must be submitted in respect of each of the classes of direct business set out in Form 1 (with a separate form for employees' compensation insurance business) and each of the classes of reinsurance business set out in Form 2.
 (c) This form must be completed on a gross basis (i.e. before deduction of any reinsurance).
 (d) In compiling claims statistics -
 (i) direct insurers must use accident year basis for direct and facultative business and the underwriting year basis for treaty business;
 (ii) insurers transacting only reinsurance business must use the underwriting year basis for both facultative and treaty business.

* Delete as necessary.

FORM 7
HONG KONG INSURANCE BUSINESS - OUTSTANDING CLAIMS PROVISION
STATISTICS (GROSS) OF(Name of insurer)
AS AT
Accounting Class of General Business:(All in \$'000)

| Accident/Underwriting Year* | Outstanding Claims Provision at the end of each year of development | | | | | | | | | | | |
|-----------------------------|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) | (Year) |
| Prior years | | | | | | | | | | | | |
| (Year) | | | | | | | | | | | | |
| (Year) | — | | | | | | | | | | | |
| (Year) | — | — | | | | | | | | | | |
| (Year) | — | — | — | | | | | | | | | |
| (Year) | — | — | — | — | | | | | | | | |
| (Year) | — | — | — | — | — | | | | | | | |
| (Year) | — | — | — | — | — | — | | | | | | |

| | | | | | | | | | | | | |
|--------|---|---|---|---|---|---|---|---|---|---|---|--|
| (Year) | — | — | — | — | | | | | | | | |
| (Year) | — | — | — | — | — | | | | | | | |
| (Year) | — | — | — | — | — | — | | | | | | |
| (Year) | — | — | — | — | — | — | — | | | | | |
| (Year) | — | — | — | — | — | — | — | — | | | | |
| (Year) | — | — | — | — | — | — | — | — | — | | | |
| (Year) | — | — | — | — | — | — | — | — | — | — | | |
| (Year) | — | — | — | — | — | — | — | — | — | — | — | |
| TOTAL | | | | | | | | | | | | |

We certify that the above information is true and correct.

 (Director) (Director) (*Chief Executive/Secretary)

- Notes:
- (a) Amounts must be expressed in Hong Kong dollars.
 - (b) A separate form must be submitted in respect of each of the classes of direct business set out in Form 1 (with a separate form for employees' compensation insurance business) and each of the classes of reinsurance business set out in Form 2.
 - (c) This form must be completed on a net basis (i.e. net of reinsurances).
 - (d) In compiling claims statistics -
 - (i) direct insurers must use accident year basis for direct and facultative business and the underwriting year basis for treaty business;
 - (ii) insurers transacting only reinsurance business must use the underwriting year basis for both facultative and treaty business.
 - (e) References to outstanding claims provision shall include outstanding claims and claims incurred but not reported.

* Delete as necessary.

Explanatory Memorandum

The purpose of this Bill is to amend the Insurance Companies Ordinance (Cap. 41).

2. The Bill -

- (a) changes the period within which certain information must be filed by an insurer with the Insurance Authority (clauses 2 and 3);
- (b) provides for greater regulation of the operations of Lloyd's within Hong Kong (clause 4);
- (c) makes consequential amendments (clauses 5 and 7);

- (d) increases the amount of information that must be filed by an insurer with the Insurance Authority under Part 8 of the Third Schedule to the Insurance Companies Ordinance (Cap. 41)(clause 6);
- (e) clarifies that money must be deposited in Hong Kong to qualify as a Hong Kong asset of an insurer (clause 8);
- (f) provides for transitional arrangements for implementation of the new requirements (clauses 9 and 10).