

L.N. 64 of 2024

Insurance (Maintenance of Assets in Hong Kong) Rules

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Insurance (Maintenance of Assets in Hong Kong) Rules

(Made by the Insurance Authority under section 129(1) of the Insurance Ordinance (Cap. 41))

Part 1

Preliminary

1. Commencement

These Rules come into operation on the day on which sections 33 and 45 of the Insurance (Amendment) Ordinance 2023 (20 of 2023) come into operation.

2. Interpretation

In these Rules—

determining factor (釐定因子), in relation to an authorized insurer, means the factor applicable to the insurer as determined in accordance with rule 8;

general business with onshore risk (具在岸風險的一般業務) has the meaning given by section 25A(12) of the Ordinance;

insurance liabilities (保險負債) has the meaning given by rule 2(1) of the Insurance (Valuation and Capital) Rules;

marine insurer (海事保險人) has the meaning given by rule 2 of the Insurance (Marine Insurers and Captive Insurers) Rules;

net of reinsurance (已減除再保險) has the meaning given by rule 2(1) of the Insurance (Valuation and Capital) Rules;

prescribed rating agency (訂明評級機構) means—

- (a) S&P Global Ratings;
- (b) Moody's Investors Service;
- (c) Fitch Ratings; or
- (d) A.M. Best Company, Inc.

3. **Application**

- (1) These Rules apply to—
 - (a) authorized insurers which carry on general business in or from Hong Kong; and
 - (b) Lloyd's in respect of general business it carries on in or from Hong Kong.
 - (2) All amounts and calculations in these Rules are based on Hong Kong dollars.
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Part 2

Exemption

4. Exempted insurers

Pursuant to section 25A(2)(b) of the Ordinance, the following insurers are exempt from the requirements in section 25A of the Ordinance—

- (a) HK insurers;
 - (b) designated insurers; and
 - (c) captive insurers.
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Part 3

Amount of Assets in Hong Kong to be Maintained

- 5. Assets in Hong Kong for authorized insurers (except marine insurers)**
- (1) Pursuant to section 25A(3)(b) of the Ordinance—
- (a) subject to paragraph (b), the value of the assets an authorized insurer must maintain in Hong Kong in respect of its insurance liabilities (as referred to in section 25A(3A) of the Ordinance) in its current financial year, must not be less than the amount determined in accordance with subrule (2) as at the end of its last preceding financial year; and
 - (b) this rule does not apply to marine insurers.
- (2) The amount mentioned in subrule (1)(a) is the sum of—
- (a) the authorized insurer's insurance liabilities, net of reinsurance, for its general business with onshore risk carried on in or from Hong Kong in respect of direct business, valued in accordance with the Insurance (Valuation and Capital) Rules;
 - (b) the amount determined by multiplying A by B, where—
 - (i) A is the authorized insurer's insurance liabilities, net of reinsurance, for its general business with onshore risk carried on in or from Hong Kong in respect of reinsurance business, valued in accordance with the Insurance (Valuation and Capital) Rules; and
 - (ii) B is the determining factor applicable to the authorized insurer; and

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- (c) the amount determined by multiplying the onshore prescribed capital amount for the authorized insurer as determined in accordance with subrule (3), by the ratio of C to D, where—
- (i) C is the sum of—
 - (A) the amount of net premium for the insurer's general business with onshore risk carried on in or from Hong Kong in respect of direct business in its last preceding financial year; and
 - (B) the amount determined by multiplying the amount of net premium for the insurer's general business with onshore risk carried on in or from Hong Kong in respect of reinsurance business in its last preceding financial year, by the determining factor applicable to the insurer; and
 - (ii) D is the amount of net premium for the insurer's general business with onshore risk carried on in or from Hong Kong in its last preceding financial year.
- (3) For the purposes of subrule (2)(c), an authorized insurer to which subrule (2) applies must determine its onshore prescribed capital amount—
- (a) in the same manner as the insurer determines its prescribed capital amount in accordance with the Insurance (Valuation and Capital) Rules but with the modifications to those Rules mentioned in subrule (4); and
 - (b) based only on the insurer's—
 - (i) insurance liabilities for its general business with onshore risk carried on in or from Hong Kong

- (subject to subrule (4)(c)) allocated to the fund the insurer is required to maintain under section 25AA(2), (4)(b) or (6) of the Ordinance, as the case may be; and
- (ii) assets in Hong Kong allocated to the fund the insurer is required to maintain under section 25AA(2), (4)(b) or (6) of the Ordinance, as the case may be.
- (4) For the purposes of subrule (3), the modifications to the Insurance (Valuation and Capital) Rules are—
- (a) in determining its risk capital amount for counterparty default and other risk in accordance with rule 81 of the Insurance (Valuation and Capital) Rules, an authorized insurer must include any letter of credit or other commitment from a bank approved under section 25C of the Ordinance;
- (b) in determining its risk capital amount for natural catastrophe risk—
- (i) an insurer is only required to include Hong Kong windstorm in that determination; and
- (ii) its adjustment in rule 68(9)(b) of the Insurance (Valuation and Capital) Rules is multiplied by the ratio of its insurance risk mitigation effect for Hong Kong windstorm to its total insurance risk mitigation effect for natural catastrophe risk; and
- (c) in determining its risk capital amount for man-made non-systemic catastrophe risk and risk capital amount for man-made systemic catastrophe risk, the insurer must include all its business allocated to the funds mentioned in subrule (3), irrespective of any portion of such business being offshore risk.

(5) In this rule—

gross premium (毛保費), in relation to a period of time, means the premiums paid or payable to a relevant insurer in respect of contracts of insurance written or renewed in that period of time before deducting commissions of agents or brokers but after deducting any discounts specified in policies or refunds of premiums made in respect of any termination or reduction of risks;

net premium (淨保費), in relation to a period of time, means the amount determined by deducting from gross premium, the amount of any premiums payable by a relevant insurer in respect of reinsurance in that period of time covering insurance business other than long term business.

6. Assets in Hong Kong for marine insurers

- (1) Pursuant to section 25A(3)(b) of the Ordinance, the value of the assets a marine insurer must maintain in Hong Kong in respect of its insurance liabilities (as referred to in section 25A(3A) of the Ordinance) in its current financial year, must not be less than the amount determined in accordance with subrule (2) as at the end of its last preceding financial year.
- (2) The amount mentioned in subrule (1) is the sum of—
 - (a) the marine insurer's insurance liabilities, net of reinsurance, for its general business with onshore risk carried on in or from Hong Kong in respect of direct business, valued in accordance with rule 7 of the Insurance (Marine Insurers and Captive Insurers) Rules;
 - (b) the amount determined by multiplying E by F where—

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- (i) E is the marine insurer's insurance liabilities, net of reinsurance, for its general business with onshore risk carried on in or from Hong Kong in respect of reinsurance business, valued in accordance with rule 7 of the Insurance (Marine Insurers and Captive Insurers) Rules; and
 - (ii) F is the determining factor applicable to the marine insurer; and
 - (c) the onshore prescribed capital amount for the marine insurer determined in accordance with subrule (3).
- (3) For the purposes of subrule (2)(c), a marine insurer's onshore prescribed capital amount is the prescribed capital amount that would be determined in accordance with the Insurance (Marine Insurers and Captive Insurers) Rules, as being the applicable amount in column 3 of Table 1 in rule 8 of those Rules, based on the applicable case in column 2 of that Table, but with the following modifications to column 2 of that Table—
- (a) the reference to “net premium” in column 2 of that Table refers to the sum of the marine insurer's—
 - (i) net premium in respect of its general business with onshore risk which is direct business; and
 - (ii) net premium in respect of its general business with onshore risk which is reinsurance business, multiplied by the determining factor applicable to the marine insurer; and
 - (b) the reference to “relevant claims outstanding” in column 2 of that Table refers to the sum of the marine insurer's—
 - (i) relevant claims outstanding in respect of its general business with onshore risk which is direct business; and

- (ii) relevant claims outstanding in respect of its general business with onshore risk which is reinsurance business, multiplied by the determining factor applicable to the marine insurer.

7. Assets in Hong Kong for Lloyd's

- (1) Pursuant to section 25A(3)(b) of the Ordinance, the value of the assets Lloyd's must maintain in Hong Kong in respect of its insurance liabilities (as referred to in section 25A(3A) of the Ordinance) in its current financial year, must not be less than the amount determined in accordance with subrule (2) as at the end of its last preceding financial year.
- (2) The amount mentioned in subrule (1) is the sum of—
 - (a) Lloyd's insurance liabilities, net of reinsurance, for its general business with onshore risk carried on in or from Hong Kong, valued in accordance with rule 7 of the Insurance (Lloyd's) Rules; and
 - (b) the onshore prescribed capital amount for Lloyd's determined in accordance with subrule (3).
- (3) For the purposes of subrule (2)(b), the onshore prescribed capital amount for Lloyd's is the prescribed capital amount that would be determined in accordance with the Insurance (Lloyd's) Rules, as being the applicable amount in column 3 of the Table in rule 8 of those Rules, based on the applicable case in column 2 of that Table, but with the following modifications to column 2 of that Table—
 - (a) the reference to “net premium” in column 2 of that Table refers to Lloyd's net premium in respect of its general business with onshore risk; and

- (b) the reference to “relevant claims outstanding” in column 2 of that Table refers to Lloyd’s relevant claims outstanding in respect of its general business with onshore risk.

8. Determining factor

- (1) For the purposes of rules 5(2) and 6(2) and (3), the determining factor applicable to an authorized insurer to which those rules apply is—
 - (a) 100% if the insurer is—
 - (i) not assigned with any financial strength rating by a prescribed rating agency; or
 - (ii) assigned at least one financial strength rating by a prescribed rating agency that is a rating in category 3 of the Table;
 - (b) 50% if the insurer is assigned at least one financial strength rating by a prescribed rating agency that is a rating in category 2 of the Table and none of the insurer’s other assigned financial strength ratings is in category 3 of the Table;
 - (c) 0% if the insurer is only assigned one financial strength rating by a prescribed rating agency and that is a rating in category 1 of the Table, or if the insurer is assigned more than one financial strength rating by a prescribed rating agency, all such ratings are in category 1 of the Table; or
 - (d) if the Authority has served a notice on the insurer pursuant to subrule (2) and that notice remains valid, the percentage stated in that notice.

Table**Financial Strength Rating Category**

Column 1	Column 2	Column 3	Column 4	Column 5
Rating agency	S&P Global Ratings	Moody's Investors Service	Fitch Ratings	A.M. Best Company, Inc.
Financial Strength Rating— category 1	AAA	Aaa	AAA	A++
	AA+	Aa1	AA+	A+
	AA	Aa2	AA	A
	AA-	Aa3	AA-	
	A+	A1	A+	
	A	A2	A	
Financial Strength Rating— category 2	A-	A3	A-	A-
Financial Strength Rating— category 3	BBB+	Baa1	BBB+	B++
	BBB	Baa2	BBB	B+
	BBB-	Baa3	BBB-	B
	BB+	Ba1	BB+	B-
	BB	Ba2	BB	C++
	BB-	Ba3	BB-	C+
	B+	B1	B+	C and lower
	B	B2	B	

Column 1	Column 2	Column 3	Column 4	Column 5
Rating agency	S&P Global Ratings	Moody's Investors Service	Fitch Ratings	A.M. Best Company, Inc.
	B- CCC and lower	B3 Caa and lower	B- CCC and lower	

- (2) For the purposes of subrule (1)(d), if the Authority is of the opinion that, based on the financial status of the authorized insurer, a lower determining factor may be applied in place of that which would otherwise apply in accordance with subrule (1)(a) or (b), it may by written notice served on the insurer, assign the following determining factor to the insurer—
- (a) 50%; or
 - (b) 0%.
- (3) In assigning by written notice a lower determining factor to an authorized insurer under subrule (2), the Authority may limit the validity of the assignment in the notice to a specified period.
- (4) In respect of any assignment of a determining factor under subrule (2), and irrespective of whether the assignment is subject to a specified period, the Authority may by notice in writing to an authorized insurer at any time—
- (a) if the insurer is assigned a 50% determining factor under subrule (2)(a), revise the assignment to 0%;
 - (b) if the insurer is assigned a 0% determining factor under subrule (2)(b), revise the assignment to 50%;

- (c) extend the specified period given under subrule (3);
or
- (d) if it appears to the Authority that it is no longer necessary for the assignment to remain in force, revoke the assignment.

9. Notification, filing and maintenance of assets in Hong Kong after change of determining factor

- (1) For the purposes of section 17(1) of the Ordinance, if there is any change to a financial strength rating assigned to an authorized insurer by a prescribed rating agency and, by reason of such change the insurer is assigned a different determining factor in accordance with rule 8, the insurer must, within 1 month of such change, serve on the Authority a notice in writing stating the date of the change and its applicable determining factor resulting from the change.
- (2) For the purposes of section 17(1) of the Ordinance, an authorized insurer must, within 3 months of any change to its determining factor, report to the Authority, the amount of assets in Hong Kong it must maintain in accordance with rule 5 or 6, as the case may be.
- (3) For the purposes of section 25A(3)(b) of the Ordinance, where any change to the determining factor of an authorized insurer results in the insurer having to increase its assets in Hong Kong, the insurer must, within 3 months of such change, increase its amount of assets maintained in Hong Kong to the amount required under rule 5 or 6, as the case may be.

Insurance (Maintenance of Assets in Hong Kong) Rules

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Insurance Authority

29 April 2024

Explanatory Note

These Rules set out the methods of determining the amount of assets required to be maintained in Hong Kong by authorized insurers and Lloyd's which carry on general business in or from Hong Kong. These methods of calculation take into consideration of onshore insurance liabilities, prescribed capital amount calculated using onshore insurance liabilities and eligible assets, and the financial strength rating of the insurer (except Lloyd's). These Rules also set out the requirements of increasing and maintaining the amount of assets in Hong Kong, notification requirement and reporting requirements with respect to any change in an insurer's determining factor.

2. Rule 1 sets out the date of commencement of these Rules.
3. Rule 2 defines terms and expressions used in these Rules.
4. Rule 3 specifies the scope of application of these Rules.
5. Rule 4 specifies that HK insurers, designated insurers and captive insurers are exempted from the requirement of maintenance of assets in Hong Kong.
6. Rules 5 to 7 respectively set out the method of determining the amount of assets required to be maintained in Hong Kong by authorized insurers (except marine insurers), marine insurers, and Lloyd's in respect of general business with onshore risk.
7. Rule 8 sets out the determining factor applicable to an authorized insurer in calculating the amount of assets required to be maintained in Hong Kong by the insurer for the purposes of rule 5 or 6 (as the case may be).

Insurance (Maintenance of Assets in Hong Kong) Rules

Explanatory Note
Paragraph 8

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8. Rule 9 requires an authorized insurer to notify the Insurance Authority when there is any change to the insurer's determining factor and report the amount of assets required to be maintained in Hong Kong after such change. Additionally, if such change results in the insurer having to increase its assets in Hong Kong it must maintain the increased amount of assets in Hong Kong in accordance with rule 5 or 6 (as the case may be).