

Insurance (Amendment) Bill 2023

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A BILL

To

Amend the Insurance Ordinance to enable the implementation of a risk-based capital regime for authorized insurers; to adjust the requirements and restrictions in relation to managing directors, chief executives, directors, key persons in control functions, shareholder controllers and actuaries of authorized insurers; to adjust the requirements and restrictions in relation to shareholder controllers of designated insurance holding companies; to make related amendments to the Inland Revenue Ordinance to provide for the spreading over of tax implications and the tax arrangements arising from the implementation of the risk-based capital regime; to make miscellaneous amendments to the Ordinances; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Insurance (Amendment) Ordinance 2023.
- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) Parts 2 and 4 come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2, 3 and 4 are amended as set out in those Parts.

Part 2

Amendments to Insurance Ordinance (Cap. 41)

3. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *prescribed person*—

Repeal paragraph (a)

Substitute

- “(a) an auditor, former auditor, actuary or former actuary of an authorized insurer or a former insurer—
- (i) who is appointed under section 15 or 15AAA or the rules made under section 129;
 - (ii) who is appointed under section 15 as in force immediately before the commencement date of section 23 of the Insurance (Amendment) Ordinance 2023 (of 2023); or
 - (iii) who audits the forms and statements mentioned in paragraph 4(1A) of Part 1 of Schedule 3 as in force immediately before the commencement date of section 98 of the Insurance (Amendment) Ordinance 2023 (of 2023);”.

- (2) Section 2(1), definition of *shareholder controller*—

Repeal

“has the meaning given by section 95A(1)”

Substitute

“—

- (a) in relation to an authorized insurer—means a majority shareholder controller or a minority shareholder controller of the insurer; or

(b) in relation to a designated insurance holding company—has the meaning given by section 95A(1)”.

(3) Section 2(1)—

(a) definition of *gross premium income*;

(b) definition of *premiums receivable*—

Repeal the definitions.

(4) Section 2(1)—

Add in alphabetical order

“*applicable company* (適用公司) means—

(a) a company that makes an application under section 7 (other than an application for authorization to carry on special purpose business); or

(b) an authorized insurer (other than a special purpose insurer);

***capital requirement* (資本規定)—see section 10(1);**

***contract of insurance* (保險合約) includes a contract of reinsurance;**

***designated insurer* (指定保險人) means a non-HK insurer in relation to which a designation under section 3B(1) is in effect;**

***gross premiums* (毛保費)—**

(a) means premiums—

(i) after deduction of discounts specified in policies or refunds of premiums made in respect of any termination or reduction of risks; but

- (ii) before deduction of premiums for reinsurance ceded and of commission payable by the authorized insurer; and
- (b) includes premiums receivable by the insurer under contracts of reinsurance accepted by the insurer;

HK insurer (香港保險人) means an authorized insurer that is incorporated in Hong Kong;

majority shareholder controller (大股東控權人)—

- (a) in relation to an authorized insurer—
 - (i) means a person who, alone or with an associate (as defined by section 9(4)) or through a nominee, is entitled to exercise, or control the exercise of, 50% or more of the voting power at a general meeting of the insurer; but
 - (ii) does not include a Manager; or
- (b) in relation to a designated insurance holding company—has the meaning given by section 95A(1);

minimum capital amount (最低資本額), in relation to an authorized insurer, means the minimum capital amount that is determined for the insurer in accordance with the rules made under section 129 by virtue of section 10;

minority shareholder controller (小股東控權人)—

- (a) in relation to an authorized insurer—
 - (i) means a person who, alone or with an associate (as defined by section 9(4)) or through a nominee, is entitled to exercise, or control the exercise of, 15% or more but

less than 50%, of the voting power at a general meeting of the insurer; but

- (ii) does not include a Manager; or
- (b) in relation to a designated insurance holding company—has the meaning given by section 95A(1);

non-HK insurer (非香港保險人) means an authorized insurer that is not an HK insurer;

premiums (保費) includes the consideration for the granting of an annuity;

prescribed capital amount (訂明資本額), in relation to an authorized insurer, means the prescribed capital amount that is determined for the insurer in accordance with the rules made under section 129 by virtue of section 10;

reinsurance (再保險) includes retrocession;”.

4. Sections 3B and 3C added

Part I, after section 3A—

Add

“3B. Designation of non-HK insurer

- (1) If, in the opinion of the Authority, a non-HK insurer carries on a majority of its insurance business in or from Hong Kong, the Authority may, by a written notice served on the insurer, designate the insurer as a designated insurer.
- (2) If, in the opinion of the Authority, a non-HK insurer designated under subsection (1) no longer carries on a majority of its insurance business in or from Hong

Kong, the Authority may, by a written notice served on the insurer, withdraw the designation.

- (3) A designation under subsection (1)—
 - (a) takes effect on the date specified in the notice under that subsection; and
 - (b) ceases to have effect on the date specified in the notice under subsection (2).
- (4) If the Authority makes a designation under subsection (1) or withdraws a designation under subsection (2), the Authority must, as soon as practicable after the designation or withdrawal, publish in the Gazette a notice of the designation or withdrawal.

3C. Determination of value of assets and amount of liabilities

For the purposes of this Ordinance—

- (a) subject to paragraph (b), in computing the amount of the liabilities of an applicable company—
 - (i) all contingent and prospective liabilities must be taken into account; and
 - (ii) liabilities in respect of the company's share capital must not be taken into account;
- (b) the value of any assets and the amount of any liabilities of an applicable company must be determined in accordance with any applicable rules made under section 129(1)(a);
- (c) if no such rules are applicable to an applicable company—

- (i) in determining the value of its assets—regard must be had to their market value and the cost of realizing such assets; and
- (ii) in determining the amount of its liabilities—regard must be had to the cost of the settlement of the liabilities and, if the amount of the liabilities is assessed or estimated, to the experience of the company in carrying on any relevant insurance business or of other persons carrying on the same or similar insurance business.”.

5. Section 5H amended (register of authorized insurers)

- (1) Section 5H(1)(e)—

Repeal

“and”.

- (2) Section 5H(1)(f)—

Repeal the full stop

Substitute

“; and”.

- (3) After section 5H(1)(f)—

Add

- “(g) any financial information or other particulars of an authorized insurer that the Authority considers appropriate.”.

6. Section 7 amended (application for authorization to carry on insurance business)

Section 7—

Repeal subsection (2)

Substitute

“(2) The application must—

- (a) be in the specified form; and
- (b) be accompanied by any information specified by the Authority.”.

7. Section 8 amended (authorization—long term business and general business)

(1) Section 8(3), English text—

Repeal

“shall”

Substitute

“must”.

(2) Section 8(3)—

Repeal paragraphs (a) and (b)

Substitute

- “(a) that the company complies with the capital requirements for the company; and
- (b) that, having regard to the nature and scale of the company’s proposed operation, the company has adequate capital to enable its continued compliance with the capital requirements for the company after authorization; and”.

(3) Section 8—

Repeal subsections (4) and (5).

8. Section 8C amended (requirements under section 17, 20 or 21 may be modified or varied for special purpose insurers)

(1) Section 8C, heading—

Repeal

“under section 17, 20 or 21”

Substitute

“prescribed by virtue of section 17”.

(2) Section 8C—

Repeal

“under section 17, 20 or 21”

Substitute

“prescribed by virtue of section 17”.

9. Section 9 amended (meaning of *controller* (控權人))

(1) Section 9(1)—

Repeal

“Except”

Substitute

“In this Ordinance, except”.

(2) Section 9(1)—

Repeal

“13B(1),”.

(3) Section 9(1)(a)(iii)(B), Chinese text—

Repeal

“有權”

Substitute

“在”.

- (4) Section 9(1)(a)(iii)(B), Chinese text—

Repeal

“或連同任何”

Substitute

“、連同”.

- (5) Section 9(1)(a)(iii)(B), Chinese text—

Repeal

“人，在”

Substitute

“人的情況下，有權行使”.

- (6) Section 9(1)(a)(iii)(B), Chinese text—

Repeal

“行使或控制行使15%或以上的投票權”

Substitute

“的投票權中的15%或以上，或對該比例的投票權的行使有控制權”.

- (7) After section 9(1)—

Add

“(1A) In this Ordinance, except as otherwise defined by section 13A(12), 64F or 80(1), *controller* (控權人), in relation to a special purpose insurer, means an individual who (alone or jointly with others) is responsible for the administration of the whole business of the special purpose insurer.”.

- (8) Section 9(3), after “outside Hong Kong”—

Add

“(other than a designated insurer)”.

(9) Section 9(4)—

Repeal

““child””

Substitute

“*child* (子女)”.

(10) Section 9—

Repeal subsection (5).

10. Section 10 substituted

Section 10—

Repeal the section

Substitute

“10. Meaning of *capital requirement*”

(1) In relation to an applicable company, a capital requirement is—

(a) a requirement prescribed by virtue of subsection (2) that applies to the company; or

(b) if the requirement is varied under subsection (3) or relaxed under section 130(1) for the company—the requirement so varied or relaxed.

(2) The Authority may, by rules made under section 129—

(a) prescribe requirements in relation to the capital of an applicable company, including requirements as to the following matters—

(i) the amount of capital that the company must at least maintain, taking into account the risks associated with the company;

- (ii) the types and amounts of capital resources of the company that are eligible for being counted towards satisfying the amount of capital;
 - (b) provide for the determination of the amount of capital required to be maintained, including determination by alternative approaches approved by the Authority; and
 - (c) prescribe, or provide for the determination of, the prescribed capital amount and the minimum capital amount for the purposes of this Ordinance.
- (3) The Authority may, by a written notice served on an applicable company, vary a requirement prescribed by virtue of subsection (2) that applies to the company if the Authority is satisfied, on reasonable grounds, that it is prudent to make the variation so that the requirement for the company is commensurate with the risks associated with the company.”.

11. Section 13AA added

After section 13—

Add

“13AA. Compliance with capital requirements and related reporting requirements

- (1) An authorized insurer must ensure that the capital requirements for the insurer are at all times complied with.

- (2) The Authority may, by rules made under section 129(1), prescribe requirements for an authorized insurer to report to the Authority any information relevant to the compliance with the capital requirements for the insurer (including requirements as to how and when such a report must be made).
- (3) An authorized insurer must comply with a requirement prescribed by virtue of subsection (2) that applies to the insurer.
- (4) An authorized insurer that contravenes subsection (3) commits an offence and is liable on conviction on indictment—
 - (a) to a fine of \$200,000; and
 - (b) in the case of a continuing offence—to a further fine of \$5,000 for each day during which the offence continues.”.

12. Section 13A amended (approval of certain controllers of authorized insurers)

- (1) Section 13A(2)(a)—

Repeal

“in the manner specified by the Authority”.

- (2) Section 13A—

Repeal subsection (3)

Substitute

- “(3) An application made under subsection (2)(a) must—
- (a) be in the specified form;
 - (b) be accompanied by any information specified by the Authority; and
 - (c) be served on the Authority.”.

- (3) Section 13A(5)—

Repeal

“The”

Substitute

“After deciding on the application, the”.

- (4) Section 13A(5)—

Repeal

“made under subsection (2)”.

- (5) After section 13A(6)—

Add

“(6A) If an individual is a managing director or chief executive of a non-HK insurer immediately before the insurer is designated as a designated insurer under section 3B(1)—

- (a) the individual is taken to be appointed as a controller of the designated insurer on the date of designation; and
- (b) the appointment under paragraph (a) is taken to be approved under subsection (2) on the date of designation.

(6B) If the Authority withdraws the designation of a designated insurer under section 3B(2), and an individual is a controller of the designated insurer immediately before the withdrawal takes effect—

- (a) the individual is taken to be appointed as a controller of the insurer (being a non-HK insurer other than a designated insurer) on the date on which the withdrawal takes effect; and

(b) the appointment under paragraph (a) is taken to be approved under subsection (2) on the date on which the withdrawal takes effect.”.

- (6) Section 13A(7), after “the insurer”—

Add

“(given under subsection (2) or taken to be given by virtue of subsection (6A) or (6B))”.

- (7) Section 13A(7), Chinese text—

Repeal

“則可”

Substitute

“可藉”.

- (8) Section 13A(12), definition of *controller*, paragraph (a)(i)—

Repeal

“authorized insurer (other than a special purpose insurer) which is incorporated in Hong Kong”

Substitute

“HK insurer (other than a special purpose insurer) or a designated insurer”.

- (9) Section 13A(12), definition of *controller*, paragraph (a)(ii)—

Repeal

“an authorized insurer (other than a special purpose insurer) which is incorporated outside Hong Kong”

Substitute

“a non-HK insurer (other than a special purpose insurer or a designated insurer)”.

- (10) Section 13A(12), definition of *controller*, paragraph (a)(iii)—

Repeal

“authorized insurer that is a special purpose insurer (whether incorporated in Hong Kong or outside Hong Kong)”

Substitute

“HK insurer or non-HK insurer that is a special purpose insurer”.

- (11) Section 13A(12), definition of *controller*, paragraph (a)(iii)—

Repeal

“the authorized insurer”

Substitute

“the HK insurer or non-HK insurer”.

13. Section 13AC amended (approval of directors of certain authorized insurers)

- (1) Section 13AC, heading—

Repeal

“certain authorized insurers”

Substitute

“HK insurers or designated insurers”.

- (2) Section 13AC(1)—

Repeal

“authorized insurer which is incorporated in Hong Kong”

Substitute

“HK insurer or designated insurer”.

- (3) Section 13AC(1), Note—

Repeal

“authorized insurer”

Substitute

“HK insurer or designated insurer”.

- (4) Section 13AC(2)—

Repeal

“authorized insurer”

Substitute

“HK insurer or designated insurer”.

- (5) Section 13AC(2)(a)—

Repeal

“in the manner specified by the Authority”.

- (6) Section 13AC—

Repeal subsection (3)

Substitute

“(3) An application made under subsection (2)(a) must—

- (a) be in the specified form;
- (b) be accompanied by any information specified by the Authority; and
- (c) be served on the Authority.”.

- (7) Section 13AC(4)—

Repeal

“authorized insurer”

Substitute

“HK insurer or designated insurer”.

- (8) Section 13AC(5)—

Repeal

“The”

Substitute

“After deciding on the application, the”.

- (9) Section 13AC(5)—

Repeal

“authorized insurer”

Substitute

“HK insurer or designated insurer”.

- (10) Section 13AC(5)—

Repeal

“made under subsection (2)”.

- (11) After section 13AC(6)—

Add

“(6A) If a person is a director of a non-HK insurer immediately before the insurer is designated as a designated insurer under section 3B(1)—

(a) the person continues to be the insurer’s director;
and

(b) the appointment of the person as such a director is taken to be approved under subsection (2) on the date of designation.”.

- (12) Section 13AC(7)—

Repeal

“authorized insurer”

Substitute

“HK insurer or designated insurer”.

- (13) Section 13AC(7), after “the insurer”—

Add

“(given under subsection (2) or taken to be given by virtue of subsection (6A))”.

- (14) Section 13AC(7), Chinese text—

Repeal

“則可”

Substitute

“可藉”.

- (15) Section 13AC(8), (9) and (11)—

Repeal

“authorized insurer”

Substitute

“HK insurer or designated insurer”.

14. Section 13AE amended (approval of key persons in control functions of certain authorized insurers)

- (1) Section 13AE(2)(a)—

Repeal

“in the manner specified by the Authority”.

- (2) Section 13AE—

Repeal subsection (3)

Substitute

- “(3) An application made under subsection (2)(a) must—
- (a) be in the specified form;
 - (b) be accompanied by any information specified by the Authority; and
 - (c) be served on the Authority.”.

- (3) Section 13AE(5)—

Repeal

“The”

Substitute

“After deciding on the application, the”.

- (4) Section 13AE(5)—

Repeal

“made under subsection (2)”.

- (5) After section 13AE(6)—

Add

- “(6A) If an individual is a key person in control functions of a non-HK insurer immediately before the insurer is designated as a designated insurer under section 3B(1)—
- (a) the individual is taken to be appointed as a key person in control functions of the designated insurer on the date of designation; and
 - (b) the appointment under paragraph (a) is taken to be approved under subsection (2) on the date of designation.

- (6B) If the Authority withdraws the designation of a designated insurer under section 3B(2), and an individual is a key person in control functions of the designated insurer immediately before the withdrawal takes effect—
- (a) the individual is taken to be appointed as a key person in control functions of the insurer (being a non-HK insurer other than a designated insurer) on the date on which the withdrawal takes effect; and
 - (b) the appointment under paragraph (a) is taken to be approved under subsection (2) on the date on which the withdrawal takes effect.”.
- (6) Section 13AE(7), after “the insurer”—
- Add**
- “(given under subsection (2) or taken to be given by virtue of subsection (6A) or (6B))”.
- (7) Section 13AE(7), Chinese text—
- Repeal**
- “則可”
- Substitute**
- “可藉”.
- (8) Section 13AE(12), definition of *key person in control functions*, paragraph (a)—
- Repeal**
- “authorized insurer which is incorporated in Hong Kong”
- Substitute**
- “HK insurer or designated insurer”.

- (9) Section 13AE(12), definition of *key person in control functions*, paragraph (b)—

Repeal

“an authorized insurer which is incorporated outside Hong Kong”

Substitute

“a non-HK insurer (other than a designated insurer)”.

15. Section 13AF amended (Authority may impose conditions on granting approval under sections 13A, 13AC and 13AE)

- (1) Section 13AF, heading—

Repeal

“Authority may impose conditions on granting approval under sections 13A, 13AC and 13AE”

Substitute

“Conditions on approval given under sections 13A, 13AC, 13AE and 13B”.

- (2) Section 13AF(1)(b)—

Repeal

“or”.

- (3) Section 13AF(1)(c)—

Repeal the full stop

Substitute

“; or”.

- (4) After section 13AF(1)(c)—

Add

“(d) a person as a shareholder controller of an authorized insurer under section 13B.”.

(5) After section 13AF(1)—

Add

- “(1A) For subsection (1)(a), it does not matter whether the approval is—
- (a) given on an application made under section 13A(2)(a); or
 - (b) taken to be given by virtue of section 13A(6A) or (6B).
- (1B) For subsection (1)(b), it does not matter whether the approval is—
- (a) given on an application made under section 13AC(2)(a); or
 - (b) taken to be given by virtue of section 13AC(6A).
- (1C) For subsection (1)(c), it does not matter whether the approval is—
- (a) given on an application made under section 13AE(2)(a); or
 - (b) taken to be given by virtue of section 13AE(6A) or (6B).
- (1D) For subsection (1)(d), it does not matter whether the approval is—
- (a) given on an application made under section 13B(2B)(a); or
 - (b) taken to be given by virtue of—
 - (i) section 13B(5), 13BB(3), 95ZB(2) or 95ZC(3); or
 - (ii) Part 1 of Schedule 12.”.

- (6) Section 13AF(2), English text—

Repeal

“granting the approval”

Substitute

“the approval is given”.

- (7) Section 13AF(3)—

Repeal

everything after “after”

Substitute

“the approval is given or taken to be given.”.

16. Section 13AG amended (procedural requirements for rejecting application, or imposing or amending conditions)

After section 13AG(3)—

Add

“(3A) The Authority must not—

- (a) impose a condition under section 13AF(2) or (3) on the approval of the appointment of a person as a shareholder controller of an authorized insurer; or
- (b) amend such a condition under section 13AF(4), without giving the insurer and the person an opportunity to make representations as to why the condition should not be imposed or amended.”.

17. Section 13AH amended (offence to provide false information in connection with application for approval)

Section 13AH(1) and (2)—

Repeal

“or 13AE”

Substitute

“, 13AE or 13B”.

18. Section 13B amended (approval of persons proposing to become certain controllers of authorized insurer)

(1) Section 13B, heading—

Repeal

“certain controllers of authorized insurer”

Substitute

“shareholder controllers of certain HK insurers or designated insurers”.

(2) Section 13B—

Repeal subsection (1A).

(3) Section 13B—

Repeal subsections (1) and (2)

Substitute

“(1) This section applies to an authorized insurer that—

(a) is an HK insurer or designated insurer; and

(b) is not a special purpose insurer.

(2) A person must not become a minority shareholder controller of an authorized insurer unless—

(a) the Authority approves under subsection (2B) the person to be such a minority shareholder controller; or

(b) the person is a majority shareholder controller of the insurer immediately before becoming such a minority shareholder controller.

Note—

See also section 95ZB if the authorized insurer is also a designated insurance holding company or a member of the supervised group of such a company.

- (2A) A person must not become a majority shareholder controller of an authorized insurer unless the Authority approves under subsection (2B) the person to be such a majority shareholder controller, regardless of whether the person is a minority shareholder controller of the insurer before becoming such a majority shareholder controller.

Note—

See also section 95ZB if the authorized insurer is also a designated insurance holding company or a member of the supervised group of such a company.

- (2B) The Authority may approve a person to be a minority shareholder controller or a majority shareholder controller of an authorized insurer—
- (a) on an application made by the person or the insurer; and
 - (b) on payment of a prescribed fee.
- (2C) An application made under subsection (2B)(a) must—
- (a) be in the specified form;
 - (b) be accompanied by any information specified by the Authority; and
 - (c) be served on the Authority.

- (2D) The Authority must reject an application made under subsection (2B)(a) for the approval of a person to be a minority shareholder controller or a majority shareholder controller of an authorized insurer unless it is satisfied that the person is a fit and proper person to be such a shareholder controller.
- (2E) If the Authority intends to reject the application, the Authority must serve on the person and the authorized insurer a written notice stating—
 - (a) that the Authority is considering rejecting the application;
 - (b) the reasons why the Authority is considering doing so; and
 - (c) the effect of subsection (2F).
- (2F) The person or the authorized insurer may, within 1 month after the date of service of the notice under subsection (2E)—
 - (a) make written representations to the Authority; and
 - (b) if the person or the insurer so requests, make oral representations to a person appointed for the purpose by the Authority.
- (2G) If representations are made under subsection (2F), the Authority must take them into account before rejecting the application.
- (2H) After deciding on the application, the Authority must give the person and the authorized insurer a written notice of the result of the application.
- (2I) If the application is rejected, the notice must state the reasons for the rejection.”.

- (4) Section 13B(3)(a)—

Repeal

“controller”

Substitute

“minority shareholder controller or a majority shareholder controller”.

- (5) Section 13B(3)(a), after “(2)” —

Add

“or (2A)”.

- (6) Section 13B(3)(b)—

Repeal

“by virtue of which he became such a”

Substitute

“as a result of which the person became such a shareholder”.

- (7) Section 13B(3)(c)—

Repeal

“he has become such a”

Substitute

“the person has become such a shareholder”.

- (8) Section 13B(3)—

Repeal

“he shall serve on the Authority, not later than 14 days after becoming aware of that fact, a notice in writing stating that he has become such a controller and containing the information specified in Schedule 6”

Substitute

“the person must, within 14 days after becoming aware of that fact, take the actions specified in subsection (4)”.

(9) Section 13B—

Repeal subsection (4)**Substitute**

“(4) The actions specified for the purposes of subsection (3) are—

- (a) to serve on the Authority a written notice stating that the person has become such a shareholder controller;
- (b) to make an application under subsection (2B)(a) for an approval to be such a shareholder controller; and
- (c) to pay the prescribed fee under subsection (2B)(b).

(5) If a person is a minority shareholder controller or a majority shareholder controller of a non-HK insurer immediately before the insurer is designated as a designated insurer under section 3B(1), the person is taken to be approved under subsection (2B) as such a shareholder controller on the date of designation.”.

(10) Section 13B—

Repeal subsection (6).

(11) Section 13B(8), English text—

Repeal

“shall be”

Substitute

“is”.

- (12) Section 13B(8), after “(2)”—

Add

“or (2A)”.

- (13) Section 13B(9), after “(2)”—

Add

“or (2A)”.

- (14) Section 13B(10), English text—

Repeal

“shall be”

Substitute

“is”.

- (15) Section 13B(10)—

Repeal

“he did”

Substitute

“the person did”.

- (16) Section 13B(10)—

Repeal

“by virtue of which he became a controller”

Substitute

“as a result of which the person became a minority shareholder controller or a majority shareholder controller (as the case may be)”.

- (17) Section 13B(10), Chinese text—

Repeal

“凡任何人被控犯有第(9)款所訂的罪行，如該人”

Substitute

“被控犯第(9)款所訂罪行的人，如”。

19. Sections 13BA and 13BB added

After section 13B—

Add**“13BA. Objection to being shareholder controllers**

- (1) This section applies in relation to a person approved under section 13B to be a shareholder controller of an authorized insurer that—
 - (a) is an HK insurer or designated insurer; and
 - (b) is not a special purpose insurer.
- (2) For subsection (1), it does not matter whether the approval is—
 - (a) given on an application made under section 13B(2B)(a); or
 - (b) taken to be given by virtue of—
 - (i) section 13B(5), 13BB(3), 95ZB(2) or 95ZC(3); or
 - (ii) Part 1 of Schedule 12.
- (3) If it appears to the Authority that a person who is a minority shareholder controller of an authorized insurer is not, or is no longer, a fit and proper person to be such a minority shareholder controller, the Authority may, by a written notice served on the person, object to the person being such a minority shareholder controller.

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- (4) If it appears to the Authority that a person who is a majority shareholder controller of an authorized insurer is not, or is no longer, a fit and proper person to be such a majority shareholder controller, the Authority, by a written notice served on the person—
 - (a) may object to the person being a majority shareholder controller of the insurer; or
 - (b) (if it also appears to the Authority that the person is not, or is no longer, a fit and proper person to be a minority shareholder controller of the insurer) may object to the person being any shareholder controller of the insurer.
 - (5) A notice under subsection (3) or (4) (***notice of objection***) must state the grounds for the objection.
 - (6) Before serving a notice of objection on a person, the Authority must serve on the person a written notice stating—
 - (a) that the Authority is considering serving the notice of objection;
 - (b) the reasons why the Authority is considering doing so; and
 - (c) the effect of subsection (7).
 - (7) The person may, within the period specified in the notice under subsection (6)—
 - (a) make written representations to the Authority; and
 - (b) if the person so requests, make oral representations to a person appointed for the purpose by the Authority.

- (8) If representations are made under subsection (7), the Authority must take them into account before serving the notice of objection.
- (9) The Authority may, by a written notice served on a person, revoke a notice of objection served on the person if it appears to the Authority that the grounds for the objection no longer exist.

13BB. Majority shareholder controller becoming minority shareholder controller

- (1) If a person, on ceasing to be a majority shareholder controller of an HK insurer or designated insurer (other than a special purpose insurer), becomes a minority shareholder controller of the insurer, the person must, within 1 month after becoming such a minority shareholder controller, notify the Authority in the specified form.
- (2) If the person—
 - (a) fails to comply with subsection (1);
 - (b) did not know that the acts or circumstances as a result of which the person became a minority shareholder controller of the insurer were such as to have that effect; and
 - (c) subsequently becomes aware of the fact that the person has become a minority shareholder controller of the insurer,the person must serve on the Authority, within 1 month after becoming aware of that fact, a written notice stating that the person has become such a minority shareholder controller and containing the information specified by the Authority.

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- (3) A person who complies with subsection (1) or (2) is taken to be approved to be a minority shareholder controller of the insurer under section 13B(2B).
 - (4) A person who fails to comply with subsection (1) commits an offence and is liable on conviction—
 - (a) to a fine at level 4; and
 - (b) in the case of a continuing offence—to a further fine of \$1,000 for each day during which the offence continues.
 - (5) If a person is charged with an offence under subsection (4), it is a defence for the person to establish that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
 - (6) A person who fails to comply with subsection (2) commits an offence and is liable on conviction—
 - (a) to a fine at level 4; and
 - (b) in the case of a continuing offence—to a further fine of \$1,000 for each day during which the offence continues.
 - (7) A person is taken to have established a matter that needs to be established for a defence under subsection (5) if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

20. Section 13C amended (restrictions on and sale of shares where there has been a contravention of section 13B(2))

- (1) Section 13C, heading—

Repeal

“where there has been a contravention of section 13B(2)”.

- (2) Section 13C—

Repeal subsection (1)**Substitute**

- “(1) The Authority may exercise a power conferred by this section in relation to a person if the person—
- (a) has become a minority shareholder controller or a majority shareholder controller of an HK insurer or designated insurer (other than a special purpose insurer); and
 - (b) is not approved, or taken to be approved, under section 13B to be such a shareholder controller.
- (1A) Subject to subsection (1B), the Authority may also exercise a power conferred by this section in relation to a minority shareholder controller or a majority shareholder controller of an HK insurer or designated insurer (other than a special purpose insurer) if—
- (a) the Authority has served a notice of objection under section 13BA(3) or (4) (as the case may be) on the shareholder controller; and
 - (b) the objection has taken effect under section 116.
- (1B) Subsection (1A) does not empower the Authority to make an application referred to in subsection (5) except if the application is made in relation to a minority shareholder controller or a majority

shareholder controller of an HK insurer or designated insurer (other than a special purpose insurer) who—

- (a) is taken to be approved to be such a shareholder controller under section 13B(2B) by virtue of section 2 of Schedule 12; and
- (b) is not a person in relation to whom the conditions under section 13B(2)(a), (ab) and (b) as in force immediately before the commencement date of section 18 of the Insurance (Amendment) Ordinance 2023 (of 2023) have been satisfied.”.

(3) Section 13C—

Repeal subsection (6)

Substitute

- “(6) The Authority must, by a written notice served on a person, revoke a notice served under subsection (2) on the person if—
- (a) in the case of subsection (1)—the person is approved, or taken to be approved, under section 13B to be the minority shareholder controller or majority shareholder controller (as the case may be) of the insurer; or
 - (b) in the case of subsection (1A)—
 - (i) the notice of objection is revoked under section 13BA(9); or
 - (ii) the Tribunal has set aside under section 101 the Authority’s decision to serve the notice of objection.”.

- (4) Section 13C(7)—

Repeal

“The Authority shall”

Substitute

“Subject to subsection (7A), the Authority may”.

- (5) Section 13C(7)—

Repeal

“(1)(b)”

Substitute

“(1)”.

- (6) Section 13C(7), after “(5)”—

Add

“against a person falling within the descriptions in section 13B(3)(a), (b) and (c)”.

- (7) Section 13C(7)(b)—

Repeal

“served a notice in writing under section 13B(3) in respect of the contravention of section 13B(2) to which that first-mentioned notice relates.”

Substitute

“taken the actions specified in section 13B(4).”.

- (8) Section 13C(7)(b), Chinese text—

Repeal

“通知書的人並沒有在通知書”

Substitute

“該通知書的人，沒有在該通知書”.

- (9) Section 13C(7)—

Repeal

“Provided that this subsection shall be without prejudice to the Authority’s power, by virtue of subsection (1)(c), to subsequently make such an application in respect of those shares.”.

- (10) After section 13C(7)—

Add

“(7A) Subsection (7) does not prevent the Authority from making, by virtue of subsection (1), an application referred to in subsection (5) in respect of the shares that are the subject of a notice under subsection (2) against a person falling within the descriptions in section 13B(3)(a), (b) and (c) if—

- (a) the person has, within 14 days after the service of that notice, taken the actions specified in section 13B(4);
- (b) the Authority has rejected the person’s application for an approval to be a shareholder controller of the authorized insurer under section 13B(2H); and
- (c) the rejection has taken effect under section 116.”.

- (11) Section 13C(10)—

Repeal

everything after “applies”

Substitute

“to—

- (a) in relation to a person who has become a minority shareholder controller of an HK insurer or designated insurer (other than a special purpose insurer) in contravention of section 13B(2) or who has been served with a notice of objection under section 13BA(3) that objects to the person being such a shareholder controller—all the shares by virtue of which the person is, whether alone or with an associate (as defined by section 9(4)) or through a nominee, entitled to exercise, or control the exercise of, the voting power at a general meeting of the insurer as such a minority shareholder controller (excluding any such shares held by that person, or any such associate or nominee, before that person became such a minority shareholder controller);
- (b) in relation to a person who has become a majority shareholder controller of the insurer in contravention of section 13B(2A) or who has been served with a notice of objection under section 13BA(4)(a) that objects to the person being such a shareholder controller—all the shares by virtue of which the person is, whether alone or with an associate (as defined by section 9(4)) or through a nominee, entitled to exercise, or control the exercise of, the voting power at a general meeting of the insurer as such a majority shareholder controller (excluding any such shares held by that person, or any such associate or nominee, before that person became such a majority shareholder controller); or

- (c) in relation to a person who has been served with a notice of objection under section 13BA(4)(b) that objects to the person being any shareholder controller of the insurer—all the shares by virtue of which the person is, whether alone or with an associate (as defined by section 9(4)) or through a nominee, entitled to exercise, or control the exercise of, the voting power at a general meeting of the insurer as a shareholder controller of the insurer (excluding any such shares held by that person, or any such associate or nominee, before that person became a shareholder controller of the insurer).”.

21. Section 14 amended (notification of change in particulars, and Authority’s objection to appointment)

- (1) Section 14(1)—

Repeal

“Without prejudice to subsection (2), but subject”

Substitute

“Subject”.

- (2) Section 14(1)—

Repeal

“where”

Substitute

“if”.

- (3) Section 14(1), after “that section,”—

Add

“and the particulars fall within a type of particulars set out in the form specified by the Authority for the purposes of this subsection,”.

- (4) Section 14(1)—

Repeal

everything after “the insurer”

Substitute

“must—

- (a) within 1 month after the date on which the change takes place, notify the Authority of the change in the specified form; and
- (b) furnish the Authority with any information required by the Authority.”.

- (5) Section 14(2)—

Repeal

“subsection (2A) and”.

- (6) Section 14(2)—

Repeal

“where any change takes place in”

Substitute

“if any change takes place in the particulars in respect of”.

- (7) Section 14(2)—

Repeal

everything after “insurer,”

Substitute

“and the particulars fall within a type of particulars set out in the form specified by the Authority for the purposes of this subsection, the insurer must—

- (a) within 1 month after the date on which the change takes place, notify the Authority of the change in the specified form; and
- (b) furnish the Authority with any information required by the Authority.”.

(8) Section 14—

Repeal subsection (2A).

(9) Section 14—

Repeal subsection (3)

Substitute

“(3) Subject to sections 13BB, 38A(2) and 38B(5), if an event specified in subsection (3A) occurs in relation to an authorized insurer on a date, the insurer must—

- (a) within 1 month after that date, notify the Authority of the occurrence of the event in the specified form; and
- (b) furnish the Authority with any information required by the Authority.

(3A) For the purposes of subsection (3), the event is—

- (a) in relation to an HK insurer or designated insurer—a person becomes, or ceases to be, a director, controller (other than a shareholder controller), minority shareholder controller, majority shareholder controller or key person in control functions of the insurer; or

(b) in relation to a non-HK insurer other than a designated insurer—a person becomes, or ceases to be, a director, controller or key person in control functions of the insurer.”.

(10) Section 14(4)—

Repeal

“or 13B”

Substitute

“, 13B or 13BA”.

(11) Section 14(4), after “not”—

Add

“, or is no longer,”.

(12) Section 14(4), after “writing on”—

Add

“the person and”.

(13) Section 14(4)(b), after “not”—

Add

“, or is no longer,”.

22. Section 14A amended (determination of fit and proper)

(1) Section 14A(1)—

Repeal

“14 and 15”

Substitute

“13BA, 14, 15AAAB and 15AABA”.

(2) Section 14A(1)(f)—

Repeal

“a company”

Substitute

“a body corporate”.

- (3) Section 14A(1)(f)(i) and (ii)—

Repeal

“company”

Substitute

“body corporate”.

- (4) Section 14A(1)(g)—

Repeal the full stop

Substitute

“; and”.

- (5) After section 14A(1)(g)—

Add

“(h) if the person is a body corporate—its internal controls and corporate governance.”.

23. Section 15 amended (appointment of auditor and actuary)

- (1) Section 15, heading—

Repeal

“and actuary”.

- (2) Section 15—

Repeal subsections (1) and (2)

Substitute

-
- “(1) An authorized insurer must appoint as its auditor—
- (a) for an HK insurer—a person who is not prohibited under section 20AAZZR of the Accounting and Financial Reporting Council Ordinance (Cap. 588) from holding any appointment as an auditor of a company and is not disqualified under section 393 of the Companies Ordinance (Cap. 622); or
 - (b) for a non-HK insurer—a person—
 - (i) who may lawfully practise as an auditor in the place of its incorporation; and
 - (ii) without affecting subparagraph (i), who holds any qualification that the Authority accepts as being of a standard comparable to that of a person referred to in paragraph (a).
- (2) An authorized insurer must make a first appointment under subsection (1) within 1 month after the date on which the authorized insurer begins to carry on insurance business.
- (2A) After an appointment under subsection (1) comes to an end, the authorized insurer must, as soon as practicable, make a fresh appointment under that subsection.”.
- (3) Section 15(3)—
- Repeal**
- “shall within 1 month from”
- Substitute**
- “must within 1 month after”.

- (4) Section 15(3), after “notice”—
Add
“of the appointment”.
- (5) Section 15(3)—
Repeal
“that fact and”.
- (6) Section 15(3), Chinese text, after “姓名”—
Add
“或名稱”.
- (7) Section 15—
Repeal subsections (3A), (3B), (3C), (3D), (3E), (3F), (3G), (3H) and (3I).
- (8) Section 15(5), after “(2)” —
Add
“, (2A)”.
- (9) Section 15—
Repeal subsection (6).

24. Sections 15AAA and 15AAAB added
After section 15—
Add

“15AAA. Appointment of actuary

- (1) Subject to section 15AAAB—
 - (a) an authorized insurer described in section 21B(1) must appoint a qualified actuary as its actuary for its long term business;
 - (b) an authorized insurer described in section 21B(4) or (7) must appoint a qualified actuary as its actuary for its long term business carried on in or from Hong Kong;
 - (c) an authorized insurer described in section 25AA(1), or an HK insurer that carries on general business only, must appoint a qualified actuary as its actuary for its general business; and
 - (d) an authorized insurer described in section 25AA(3) or (5) must appoint a qualified actuary as its actuary for its general business carried on in or from Hong Kong.
- (2) For the purposes of subsection (1), an actuary is a qualified actuary if the actuary—
 - (a) possesses the prescribed qualifications; or
 - (b) is acceptable to the Authority.
- (3) Subsection (1)(c) and (d) does not apply to an authorized insurer that is exempted under the rules made under section 129(1)(cb).
- (4) An authorized insurer must make a first appointment under subsection (1)(a) within 1 month after the date on which the authorized insurer begins to carry on long term business.

-
- (5) An authorized insurer must make a first appointment under subsection (1)(b) within 1 month after the date on which the authorized insurer begins to carry on long term business in or from Hong Kong.
 - (6) An authorized insurer must make a first appointment under subsection (1)(c)—
 - (a) if the insurer is carrying on general business on the commencement date of section 44 of the Insurance (Amendment) Ordinance 2023 (of 2023) (**commencement date**)—before the end of the insurer’s financial year in which the commencement date falls; or
 - (b) if the insurer begins to carry on general business on a day after the commencement date—within 1 month after that day.
 - (7) An authorized insurer must make a first appointment under subsection (1)(d)—
 - (a) if the insurer is carrying on general business in or from Hong Kong on the commencement date—before the end of the insurer’s financial year in which the commencement date falls; or
 - (b) if the insurer begins to carry on general business in or from Hong Kong on a day after the commencement date—within 1 month after that day.
 - (8) After an appointment under subsection (1) comes to an end, the authorized insurer must, as soon as practicable, make a fresh appointment under that subsection.

- (9) An authorized insurer that makes an appointment under subsection (1) must, within 1 month after making the appointment, serve on the Authority a written notice of the appointment.
- (10) An authorized insurer that contravenes subsection (1), (4), (5), (6), (7), (8) or (9) commits an offence and is liable on conviction—
 - (a) to a fine at level 4; and
 - (b) in the case of a continuing offence—to a further fine of \$1,000 for each day during which the offence continues.

15AAAB. Approval for appointment of actuary

- (1) An authorized insurer must not appoint a person as its actuary under section 15AAA(1) unless the Authority has approved the appointment under subsection (2).
- (2) The Authority may approve the appointment of a person as an actuary of an authorized insurer—
 - (a) on an application made by the insurer; and
 - (b) on payment of a prescribed fee.
- (3) An application made under subsection (2)(a) must—
 - (a) be in the specified form; and
 - (b) be accompanied by any information specified by the Authority.
- (4) The Authority must not approve the appointment of a person as an actuary of the authorized insurer unless it is satisfied that the person is a fit and proper person to be so appointed.

- (5) After deciding on the application, the Authority must give the person and the authorized insurer a written notice of the result of the application.
- (6) If the application is rejected, the notice must state the reasons for the rejection.
- (7) An authorized insurer that contravenes subsection (1) commits an offence and is liable on conviction—
 - (a) to a fine of \$200,000; and
 - (b) in the case of a continuing offence—to a further fine of \$2,000 for each day during which the offence continues.”.

25. Section 15AA amended (Authority may impose conditions on granting approval under section 15)

- (1) Section 15AA, heading—

Repeal

“Authority may impose conditions on granting approval under section 15”

Substitute

“Conditions on approval given under section 15AAAB(2)”.

- (2) Section 15AA(1)—

Repeal

“15”

Substitute

“15AAAB(2)”.

- (3) After section 15AA(1)—

Add

“(1A) For subsection (1), it does not matter whether the approval is—

- (a) given on an application made under section 15AAAB(2)(a); or
- (b) taken to be given by virtue of Part 2 of Schedule 12.”.

- (4) Section 15AA(2), English text—

Repeal

“granting the approval”

Substitute

“the approval is given”.

- (5) Section 15AA(3)—

Repeal

everything after “after”

Substitute

“the approval is given or taken to be given.”.

26. Section 15AAB amended (procedural requirements for rejecting application under section 15, or imposing or amending conditions under section 15AA)

- (1) Section 15AAB, heading—

Repeal

“15”

Substitute

“15AAAB(2)(a)”.

- (2) Section 15AAB(1)(a)—

Repeal

“15(3B)”

Substitute

“15AAAB(2)(a)”.

27. Section 15AABA added

After section 15AAB—

Add**“15AABA. Revocation of approval under section 15AAAB(2)**

- (1) Subject to subsection (4), the Authority may, by a written notice served on an authorized insurer and the person appointed as the insurer’s actuary under section 15AAA(1) (*relevant person*), revoke the approval under section 15AAAB(2) if it appears to the Authority that the relevant person is not, or is no longer, a fit and proper person to be so appointed.
- (2) For subsection (1), it does not matter whether the approval is—
 - (a) given on an application made under section 15AAAB(2)(a); or
 - (b) taken to be given by virtue of Part 2 of Schedule 12.
- (3) The insurer must, by the date specified in the notice under subsection (1), terminate the appointment.
- (4) Before serving the notice under subsection (1), the Authority must serve on the authorized insurer and the relevant person a written notice stating—
 - (a) that the Authority is considering the service on the insurer of a notice under that subsection because it appears to the Authority that the relevant person is not, or is no longer, a fit and proper person to be appointed as the insurer’s actuary; and
 - (b) the effect of subsection (5).

- (5) The authorized insurer or the relevant person may, within 1 month after the date of service of the notice under subsection (4)—
 - (a) make written representations to the Authority; and
 - (b) if the insurer or the person so requests, make oral representations to a person appointed for the purpose by the Authority.
- (6) If representations are made under subsection (5), the Authority must take them into consideration before serving a notice under subsection (1).
- (7) An authorized insurer that contravenes subsection (3) commits an offence and is liable on conviction—
 - (a) to a fine of \$200,000; and
 - (b) in the case of a continuing offence—to a further fine of \$2,000 for each day during which the offence continues.”.

28. Section 15AAC amended (offence to provide false information in connection with application for approval under section 15)

- (1) Section 15AAC, heading—

Repeal

“15”

Substitute

“15AAAB(2)(a)”.

- (2) Section 15AAC(1) and (2)—

Repeal

“15”

Substitute

“15AAAB(2)(a)”.

29. Sections 15AAD and 15AAE added

After section 15AAC—

Add

“15AAD. Person who is authorized insurer’s actuary under section 15AAA(1)(a) or (b) immediately before certain events continues to be so

- (1) This section applies if—
 - (a) any of the following events (*relevant event*) occurs in relation to an authorized insurer—
 - (i) a designation of the insurer under section 3B takes effect;
 - (ii) a designation of the insurer under section 3B ceases to have effect;
 - (iii) a permission given to the insurer under section 22A takes effect;
 - (iv) a permission given to the insurer under section 22A ceases to have effect; and
 - (b) immediately before the occurrence of the relevant event, a person is an actuary appointed by the insurer under section 15AAA(1)(a) or (b) in compliance with section 15AAAB(1).
- (2) On the occurrence of the relevant event, the person mentioned in subsection (1)(b)—
 - (a) continues to be the authorized insurer’s actuary without the need for—

- (i) a fresh appointment under section 15AAA(1); or
 - (ii) a fresh approval under section 15AAAB(2); and
- (b) is taken to be appointed by the insurer under the relevant provision.
- (3) In subsection (2)—
relevant provision (有關條文), in relation to an authorized insurer, means whichever of the following provisions that becomes applicable to the insurer on the occurrence of the relevant event—
 - (a) section 15AAA(1)(a);
 - (b) section 15AAA(1)(b).

15AAE. Person who is authorized insurer's actuary under section 15AAA(1)(c) or (d) immediately before certain events continues to be so

- (1) This section applies if—
 - (a) any of the following events (***relevant event***) occurs in relation to an authorized insurer—
 - (i) a designation of the insurer under section 3B takes effect;
 - (ii) a designation of the insurer under section 3B ceases to have effect;
 - (iii) a permission given to the insurer under section 25AAC takes effect;
 - (iv) a permission given to the insurer under section 25AAC ceases to have effect; and

- (b) immediately before the occurrence of the relevant event, a person is an actuary appointed by the insurer under section 15AAA(1)(c) or (d) in compliance with section 15AAAB(1).
- (2) On the occurrence of the relevant event, the person mentioned in subsection (1)(b)—
 - (a) continues to be the authorized insurer's actuary without the need for—
 - (i) a fresh appointment under section 15AAA(1); or
 - (ii) a fresh approval under section 15AAAB(2); and
 - (b) is taken to be appointed by the insurer under the relevant provision.
- (3) In subsection (2)—
relevant provision (有關條文), in relation to an authorized insurer, means whichever of the following provisions that becomes applicable to the insurer on the occurrence of the relevant event—
 - (a) section 15AAA(1)(c);
 - (b) section 15AAA(1)(d).”.

30. Section 15A amended (notification in respect of auditors appointed under section 15)

- (1) Section 15A(1), English text—

Repeal

“shall”

Substitute

“must”.

- (2) Section 15A(1)(c)—

Repeal

“an authorized insurer incorporated in Hong Kong”

Substitute

“an HK insurer”.

- (3) Section 15A(1)(c)(i)(A) and (B), English text—

Repeal

“expiration of his”

Substitute

“expiry of the auditor’s”.

- (4) Section 15A(2)—

Repeal

everything after “section” and before “by”

Substitute

“15(1)”.

- (5) Section 15A(2), English text—

Repeal

“shall”

Substitute

“must”.

- (6) Section 15A(2), English text—

Repeal

“if he”

Substitute

“if”.

- (7) Section 15A(2)(a), before “resigns”—

Add

“the auditor”.

- (8) Section 15A(2)(b)—

Repeal

“where he”

Substitute

“for an auditor who”.

- (9) Section 15A(2)(b)—

Repeal the comma

Substitute

“—the auditor”.

- (10) Section 15A(2)(c), before “decides”—

Add

“the auditor”.

- (11) Section 15A(2)(c)—

Repeal

“his”

Substitute

“the auditor’s”.

- (12) Section 15A(2)(c)—

Repeal

“Schedule 3”

Substitute

“any requirement prescribed by virtue of section 17”.

31. Section 15B amended (notification, and Authority’s objection to appointment, in respect of actuaries appointed under section 15)

- (1) Section 15B, heading—

Repeal

“, and Authority’s objection to appointment,”.

- (2) Section 15B, heading—

Repeal

“15”

Substitute

“15AAA(1)”.

- (3) Section 15B(1)—

Repeal

“which carries on long term business shall”

Substitute

“must”.

- (4) Section 15B(1)(a)—

Repeal

“15”

Substitute

“15AAA(1)”.

- (5) Section 15B(1)(b)—

Repeal

“15”

Substitute

“15AAA(1)”.

- (6) Section 15B(1)(b), English text—

Repeal

“the actuary”

Substitute

“an actuary”.

- (7) After section 15B(1)—

Add

“(1A) If, after the appointment of an actuary under section 15AAA(1), there is any change to the particulars in respect of the actuary and the particulars fall within a type of particulars set out in the form specified by the Authority for the purposes of this subsection, the authorized insurer must, within 1 month after the date on which the change takes place, notify the Authority of the change in the specified form.”.

- (8) Section 15B(2)—

Repeal

“15”

Substitute

“15AAA(1)”.

- (9) Section 15B(2), English text—

Repeal

“shall”

Substitute

“must”.

- (10) Section 15B(2), English text, after “the Authority”—

Add

“if”.

- (11) Section 15B(2)(a)—

Repeal

“if he”

Substitute

“the actuary”.

- (12) Section 15B(2)(b)—

Repeal

“where he”

Substitute

“for an actuary who”.

- (13) Section 15B(2)(b)—

Repeal the comma

Substitute

“—the actuary”.

- (14) Section 15B(2)(c)—

Repeal everything before subparagraph (ii)

Substitute

- “(c) for an actuary appointed under section 15AAA(1)(a) or (b)—

- (i) the actuary has advised the insurer that, in the actuary’s view, a course of action is being, or is proposed to be, followed by the insurer that is likely to cause the actuary to add a qualification or adverse amplification or adverse explanation to the actuary’s certificate accompanying the information required to be submitted under any requirement prescribed by virtue of section 17; and”.

(15) Section 15B—
Repeal subsections (2A), (2B) and (2C).

(16) Section 15B(3), after “(1)”—
Add
“or (1A)”.

32. Section 15C amended (standards to be complied with by an actuary)

Section 15C—
Repeal
“15(1)(b) shall”
Substitute
“15AAA(1) must”.

33. Section 17 substituted

Section 17—
Repeal the section
Substitute

“17. Submission of statements, report or other information

- (1) The Authority may, by rules made under section 129, prescribe requirements in relation to the submission by an authorized insurer to the Authority of any statements, reports or other information relating to the insurer’s business, including requirements as to the following matters—
- (a) what statements, reports or information must be submitted to the Authority;
 - (b) whether the statements, reports or information must be audited;

- (c) how and when the statements, reports or information must be submitted.
- (2) The Authority may, at the written request of an authorized insurer, vary a requirement prescribed by virtue of subsection (1) that applies to the insurer.
- (3) An authorized insurer must comply with—
 - (a) a requirement prescribed by virtue of subsection (1) that applies to the insurer; or
 - (b) if the requirement is varied under subsection (2)—the requirement so varied.
- (4) An authorized insurer that contravenes subsection (3) commits an offence and is liable on conviction—
 - (a) to a fine of \$200,000; and
 - (b) in the case of a continuing offence—to a further fine of \$1,000 for each day during which the offence continues.”.

34. Section 18 amended (periodic actuarial investigation of authorized insurer with long term business)

- (1) Section 18(1)—

Repeal

“which carries on long term business”.

- (2) Section 18(1)(a), English text—

Repeal

“shall”

Substitute

“must”.

- (3) Section 18(1)(a)—

Repeal

“that”

Substitute

“its long term”.

- (4) Section 18(1)(a)—

Repeal

“thereof, by the person who for the time being is its actuary under section 15(1)”

Substitute

“of that business, by its actuary appointed under section 15AAA(1) for that business”.

- (5) Section 18(1)(b)—

Repeal

“its long term”

Substitute

“that”.

- (6) Section 18(1)(b)—

Repeal

everything after “public,”

Substitute

“must—

- (i) cause an actuary’s report of the investigation to be made in the specified form; and
- (ii) submit the report to the Authority in accordance with the rules made under section 129.”.

- (7) Section 18(2)—

Repeal

“an abstract to be made of the report of an actuary on his”

Substitute

“an actuary’s report to be made on the actuary’s”.

- (8) Section 18(2)—

Repeal

everything after “business,”

Substitute

“the insurer must—

- (a) prepare a statement containing the information specified by the Authority in respect of that business as at the date to which the accounts of the insurer are made up for the purpose of the investigation; and
- (b) submit such statement to the Authority in accordance with the rules made under section 129.”.

- (9) Section 18—

Repeal subsection (3)

Substitute

- “(3) In this section, for an authorized insurer described in section 21B(4) or (7), a reference to the insurer’s long term business is a reference to the insurer’s long term business carried on in or from Hong Kong.”.

35. Section 18A added

After section 18—

Add**“18A. Periodic actuarial review of authorized insurer with general business**

- (1) An authorized insurer (other than an insurer that is exempted under the rules made under section 129(1)(cb)) must—
 - (a) once in every 12 months or at any shorter interval that the Authority requires, cause a review of the valuation of its insurance liabilities (as determined in accordance with the rules made under section 129) in respect of its general business to be conducted by the actuary appointed under section 15AAA(1) for that business;
 - (b) cause the actuary’s report of the review to be made in the specified form; and
 - (c) submit the report to the Authority in accordance with the rules made under section 129.
- (2) In subsection (1), for an authorized insurer described in section 25AA(3) or (5), a reference to the insurer’s general business is a reference to the insurer’s general business carried on in or from Hong Kong.”.

36. Sections 20 and 21 repealed

Sections 20 and 21—

Repeal the sections.

37. Section 21A added

At the end of Part III—

Add**“21A. Disclosure to general public**

- (1) The Authority may, by rules made under section 129, prescribe requirements in relation to the disclosure by an authorized insurer to the general public of information relating to the insurer’s state of affairs, including requirements as to the following matters—
 - (a) the information that the insurer must disclose to the general public;
 - (b) how and when the information must be disclosed.
- (2) The Authority may, at the written request of an authorized insurer, vary a requirement prescribed by virtue of subsection (1) that applies to the insurer.
- (3) An authorized insurer must comply with—
 - (a) a requirement prescribed by virtue of subsection (1) that applies to the insurer; or
 - (b) if the requirement is varied under subsection (2)—the requirement so varied.
- (4) An authorized insurer that contravenes subsection (3) commits an offence and is liable on conviction—
 - (a) to a fine of \$200,000; and
 - (b) in the case of a continuing offence—to a further fine of \$1,000 for each day during which the offence continues.”.

38. Section 21B added

Part IV, before section 22—

Add**“21B. Maintenance of separate accounts and funds in respect of long term business**

- (1) Subsections (2) and (3) apply to an authorized insurer that carries on long term business and that is—
 - (a) an HK insurer;
 - (b) a designated insurer; or
 - (c) a non-HK insurer in relation to which a permission under section 22A(1) is in effect.
- (2) The insurer must, in respect of its long term business, maintain a separate account and a separate fund for each of the following parts of that business—
 - (a) the part that is of a nature specified in class C in Part 2 of Schedule 1;
 - (b) the part that is of a nature specified in class G in Part 2 of Schedule 1;
 - (c) the part that is of a nature specified in class H in Part 2 of Schedule 1;
 - (d) the part that is specified business.
- (3) Also, the insurer must, within the fund maintained under subsection (2)(d), maintain at least 1 separate account and 1 separate sub-fund for the part of the specified business that is participating business.

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- (4) Subsections (5) and (6) apply to an authorized insurer that carries on long term business in or from Hong Kong and that satisfies all of the following conditions—
- (a) the insurer is a non-HK insurer;
 - (b) the insurer is not a designated insurer;
 - (c) there is no permission under section 22A(1) that is in effect in relation to the insurer;
 - (d) there is no election under section 22B(1) that is in effect in relation to the insurer.
- (5) The insurer must, in respect of its long term business carried on in or from Hong Kong, maintain a separate account and a separate fund for each of the following parts of that business—
- (a) the part that is of a nature specified in class C in Part 2 of Schedule 1 (other than long term reinsurance business with offshore risk);
 - (b) the part that is of a nature specified in class G in Part 2 of Schedule 1 (other than long term reinsurance business with offshore risk);
 - (c) the part that is of a nature specified in class H in Part 2 of Schedule 1 (other than long term reinsurance business with offshore risk);
 - (d) the part that is specified business (other than long term reinsurance business with offshore risk);
 - (e) the part that is long term reinsurance business with offshore risk.

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- (6) Also, the insurer must, within the fund maintained under subsection (5)(d), maintain at least 1 separate account and 1 separate sub-fund for the part of the specified business (other than long term reinsurance business with offshore risk) that is participating business.
 - (7) Subsections (8) and (9) apply to a non-HK insurer in relation to which an election under section 22B(1) is in effect.
 - (8) The insurer must, in respect of its long term business carried on in or from Hong Kong, maintain a separate account and a separate fund for each of the following parts of that business—
 - (a) the part that is of a nature specified in class C in Part 2 of Schedule 1;
 - (b) the part that is of a nature specified in class G in Part 2 of Schedule 1;
 - (c) the part that is of a nature specified in class H in Part 2 of Schedule 1;
 - (d) the part that is specified business.
 - (9) Also, the insurer must, within the fund maintained under subsection (8)(d), maintain at least 1 separate account and 1 separate sub-fund for the part of the specified business that is participating business.
 - (10) An authorized insurer that fails to comply with this section commits an offence and is liable on conviction—
 - (a) to a fine of \$1,000,000; and
 - (b) in the case of a continuing offence—to a further fine of \$20,000 for each day during which the offence continues.

(11) In this section—

long term reinsurance business with offshore risk (具離岸風險的長期再保險業務) means any long term business that—

- (a) is reinsurance business; and
- (b) is not long term reinsurance business with onshore risk;

long term reinsurance business with onshore risk (具在岸風險的長期再保險業務) means—

- (a) any facultative reinsurance business, being long term business, under which the risk ceded is underwritten in Hong Kong, that is to say—
 - (i) the policy is issued in Hong Kong;
 - (ii) the proposal form, application form or any other form of a similar nature is signed, submitted, received or accepted in Hong Kong; or
- (iii) the risk is accepted in Hong Kong; or
- (b) any treaty reinsurance business, being long term business, in relation to which the risk is underwritten in Hong Kong, that is to say—
 - (i) the treaty is signed or accepted in Hong Kong; or
 - (ii) the treaty negotiation is concluded in Hong Kong,

excluding any treaty reinsurance business under which less than 25% of the total risk ceded (determined in terms of the gross premiums) is underwritten in Hong Kong as described in paragraph (a);

participating business (分紅業務) means any long term business in relation to which a policy holder has a right to receive, at the discretion of the insurer, a financial benefit that is determined based on a profit-sharing mechanism as a share of the insurer's profits in respect of the insurer's business or a part of the insurer's business;

specified business (指明業務) means the business of a nature specified in class A, B, D, E, F or I in Part 2 of Schedule 1.”.

39. Section 22 amended (separation of assets and liabilities attributable to long term business)

(1) Section 22, heading—

Repeal

“Separation of assets and liabilities attributable to long term business”

Substitute

“Provisions supplementary to section 21B”.

(2) Section 22—

Repeal subsection (1)

Substitute

“(1) An authorized insurer must ensure that the receipts of a part of its business for which a separate account and a separate fund or sub-fund are required to be maintained under section 21B—

(a) are entered in that account; and

(b) are carried to and form that fund or sub-fund with an appropriate name.”.

- (3) Section 22(1A)—

Repeal

“Where an authorized insurer which carries on long term business is incorporated or formed outside Hong Kong”

Substitute

“For a non-HK insurer that carries on long term business in or from Hong Kong”.

- (4) Section 22(1A)—

Repeal

“authorize”

Substitute

“permit”.

- (5) Section 22(1A), after “related to”—

Add

“the”.

- (6) Section 22(1A)—

Repeal

“thereof as part of the account maintained under subsection (1)(a)”

Substitute

“of it as part of an account maintained under section 21B”.

- (7) Section 22(1A), Chinese text—

Repeal

“在該人提出書面要求時”

Substitute

“應該保險人的書面要求”.

(8) Section 22—

Repeal subsections (2) and (3)**Substitute**

- “(2) An authorized insurer must maintain any books of account and other records that are necessary for identifying—
- (a) the assets representing each fund or sub-fund maintained by the insurer under section 21B; and
 - (b) the liabilities attributable to the part of its business for which the fund or sub-fund is maintained.
- (3) For each fund or sub-fund maintained by an authorized insurer under section 21B, the aggregate value of the assets representing the fund or sub-fund must not be less than the amount of the liabilities attributable to the part of its business for which the fund or sub-fund is maintained.
- (3A) For each fund maintained by an authorized insurer under section 21B(2)(b) or (c), (5)(b) or (c) or (8)(b) or (c), the aggregate value of the assets representing the fund must not be less than the account balance of the fund.
- (3B) The aggregate value of the assets representing all the funds maintained by an authorized insurer under section 21B(2) or (8) must not be less than the aggregate of—
- (a) the amount of the liabilities attributable to the parts of its business for which the funds are maintained; and

- (b) the amount that is required to be held in those funds in accordance with the rules made under section 129(1)(c).
- (3C) The aggregate value of the assets representing all the funds maintained by an authorized insurer under section 21B(5)(a), (b), (c) and (d) must not be less than the aggregate of—
 - (a) the amount of the liabilities attributable to the parts of its business for which the funds are maintained; and
 - (b) the amount that is required to be held in those funds in accordance with the rules made under section 129(1)(c).”.
- (9) Section 22(5)—
 - Repeal**
 - everything before “commits”
 - Substitute**
 - “(5) If subsection (1), (2), (3), (3A), (3B) or (3C) is not complied with in relation to an authorized insurer, the insurer”.
- (10) After section 22(5)—
 - Add**
 - “(6) In this section—
 - account balance*** (帳目結餘), in relation to a fund, means the accumulation of contributions paid into the fund, reduced by applicable expenses, fees, charges, or actual investment loss, and increased by actual investment income or interests credited to the fund.”.

40. Section 22A amended (foreign insurers may be authorized to maintain accounts in relation to their Hong Kong business)

- (1) Section 22A, heading—

Repeal

“Foreign insurers may be authorized to maintain accounts in relation to their Hong Kong business”

Substitute

“Non-HK insurer may maintain separate accounts and funds in accordance with section 21B(2) and (3)”.

- (2) Section 22A(1)—

Repeal

“Where an authorized insurer which”

Substitute

“For a non-HK insurer that”.

- (3) Section 22A(1)—

Repeal

“is incorporated or formed outside Hong Kong”.

- (4) Section 22A(1)—

Repeal

everything after “the insurer,”

Substitute

“permit the insurer to comply with section 21B(2) and (3), instead of section 21B(5) and (6), for the period specified in the permission.”.

- (5) Section 22A—

Repeal subsections (2), (3) and (4).

- (6) Section 22A(5)—

Repeal

“Where the Authority gives any authorization under subsection (1) the Authority shall”

Substitute

“The Authority must”.

- (7) Section 22A(5), after “practicable”—

Add

“after giving the permission”.

- (8) Section 22A(5)—

Repeal

“such authorization”

Substitute

“the permission”.

- (9) Section 22A(5), Chinese text—

Repeal

“說”

Substitute

“述”.

41. Section 22B added

After section 22A—

Add

“22B. Non-HK insurer may elect to maintain separate accounts and funds in accordance with section 21B(8) and (9)

- (1) A non-HK insurer (other than a designated insurer and an insurer in relation to which a permission under section 22A(1) is in effect) may, by a written notice, elect to comply with section 21B(8) and (9), instead of section 21B(5) and (6).
- (2) The notice under subsection (1) must—
 - (a) be in the specified form;
 - (b) be served on the Authority; and
 - (c) state the date on which the insurer intends the election to take effect (*intended effective date*).
- (3) The election under subsection (1) takes effect—
 - (a) if the notice is served on the Authority at least 14 days before the intended effective date—on the intended effective date; or
 - (b) otherwise—on the expiry of 14 days after the date on which the notice is served on the Authority.
- (4) The insurer may, by a written notice, withdraw the election under subsection (1).
- (5) The notice of withdrawal under subsection (4) must—
 - (a) be in the specified form;
 - (b) be served on the Authority; and
 - (c) state the date on which the insurer intends the withdrawal to take effect (*intended withdrawal date*).

- (6) The withdrawal under subsection (4) takes effect—
 - (a) if the notice of withdrawal is served on the Authority at least 14 days before the intended withdrawal date—on the intended withdrawal date; or
 - (b) otherwise—on the expiry of 14 days after the date on which the notice of withdrawal is served on the Authority.”.

42. Section 23 amended (application of assets of authorized insurer with long term business)

- (1) Section 23(1), after “subsections”—

Add

“(1A),”.

- (2) Section 23(1)—

Repeal

everything after “insurer”

Substitute

“under section 21B(2), (5) or (8) for a part of its business may only be applied for that part of the business.”.

- (3) After section 23(1)—

Add

“(1A) Subject to subsection (3) and section 45(2), the assets representing a sub-fund maintained by an authorized insurer under section 21B(3), (6) or (9) for a part of its participating business (as defined by section 21B(11)) may only be applied for that part of the business or in accordance with the profit-sharing mechanism to which the business relates.”.

(4) Section 23—

Repeal subsection (2)**Substitute**

“(2) Subject to subsection (1A), if an investigation mentioned in section 18, or made in accordance with a requirement under section 32, shows that the following provisions (*relevant provisions*) are complied with—

(a) for an authorized insurer described in section 21B(1) or (7)—section 22(3), (3A) and (3B); or

(b) for an authorized insurer described in section 21B(4)—section 22(3), (3A) and (3C),

subsection (1) only applies to the part of the assets necessary to secure the compliance with the relevant provisions.”.

(5) Section 23(3)—

Repeal

“Nothing in subsection (1) shall”

Substitute

“Subsections (1) and (1A) do not”.

(6) Section 23(3), after “fund”—

Add

“or sub-fund”.

(7) Section 23(3)—

Repeal

“in respect of its long term business”

Substitute

“under section 21B”.

- (8) Section 23(3), Chinese text—

Repeal

“任何”.

- (9) Section 23(3), Chinese text—

Repeal

“與他”

Substitute

“與該保險人”.

- (10) Section 23(4), English text—

Repeal

“shall be”

Substitute

“is”.

- (11) Section 23(4), after “(1)”—

Add

“or (1A)”.

- (12) Section 23(5)—

Repeal

“For the avoidance of doubt it is hereby declared that”

Substitute

“To avoid doubt,”.

- (13) Section 23(5), after “a fund”—

Add

“or sub-fund”.

- (14) Section 23(5)—

Repeal

“in respect of its long term business”

Substitute

“under section 21B”.

- (15) Section 23(5)—

Repeal

everything after “used for” and before “any arrangement”

Substitute

“any other part of the business of the insurer apart from the part of the business for which the fund or sub-fund is maintained despite”.

- (16) Section 23(5)—

Repeal

“that other business”

Substitute

“that other part of the business”.

- (17) Section 23(6)—

Repeal

“No authorized insurer, and no”

Substitute

“An authorized insurer, or a”.

(18) Section 23(6)—

Repeal

“shall”

Substitute

“must not”.

(19) Section 23(6)—

Repeal

everything after “when”

Substitute

“section 22(3), (3A), (3B) or (3C) is not complied with.”.

(20) Section 23(7), after “(1)”—

Add

“, (1A)”.

43. Part IVA heading amended (requirement for assets in Hong Kong)

Part IVA, heading—

Repeal

“Requirement for Assets in Hong Kong”

Substitute

“Maintenance of Funds, and Assets in Hong Kong, in respect of General Business”.

44. Sections 25AA to 25AAE added

Part IVA, before section 25A—

Add

“25AA. Maintenance of separate accounts and funds in respect of general business

- (1) Subsection (2) applies to an authorized insurer that carries on long term business and general business and that is—
 - (a) an HK insurer;
 - (b) a designated insurer; or
 - (c) a non-HK insurer in relation to which a permission under section 25AAC(1) is in effect.
- (2) The insurer must maintain a separate account and a separate fund for the part of its business that is general business.
- (3) Subsection (4) applies to an authorized insurer that carries on general business in or from Hong Kong and that satisfies all of the following conditions—
 - (a) the insurer is a non-HK insurer;
 - (b) the insurer is not a designated insurer;
 - (c) there is no permission under section 25AAC(1) that is in effect in relation to the insurer;
 - (d) there is no election under section 25AAD(1) that is in effect in relation to the insurer.
- (4) The insurer must, in respect of its general business carried on in or from Hong Kong, maintain a separate account and a separate fund for each of the following parts of that business—
 - (a) the part that is general reinsurance business with offshore risk;
 - (b) the part that is not general reinsurance business with offshore risk.

- (5) Subsection (6) applies to a non-HK insurer in relation to which an election under section 25AAD(1) is in effect.
- (6) The insurer must maintain a separate account and a separate fund for the part of its business that is general business carried on in or from Hong Kong.
- (7) An authorized insurer that fails to comply with subsection (2), (4) or (6) commits an offence and is liable on conviction—
 - (a) to a fine of \$1,000,000; and
 - (b) in the case of a continuing offence—to a further fine of \$20,000 for each day during which the offence continues.
- (8) In this section—

general reinsurance business with offshore risk (具離岸風險的一般再保險業務) means any general business that—

 - (a) is reinsurance business; and
 - (b) does not fall within paragraph (b) or (c) of the definition of ***general business with onshore risk*** in section 25A(12).

25AAB. Provisions supplementary to section 25AA

- (1) An authorized insurer must ensure that the receipts of a part of its business for which a separate account and a separate fund are required to be maintained under section 25AA—
 - (a) are entered in that account; and
 - (b) are carried to and form that fund with an appropriate name.

-
- (2) An authorized insurer must maintain any books of account and other records that are necessary for identifying—
 - (a) the assets representing each fund maintained by the insurer under section 25AA; and
 - (b) the liabilities attributable to the part of its business for which the fund is maintained.
 - (3) For each fund maintained by an authorized insurer under section 25AA (other than under section 25AA(4)(a)), the aggregate value of the assets representing the fund must not be less than the aggregate of—
 - (a) the amount of the liabilities attributable to the part of its business for which the fund is maintained; and
 - (b) the amount that is required to be held in the fund in accordance with the rules made under section 129(1)(c).
 - (4) For a fund maintained by an authorized insurer under section 25AA(4)(a), the aggregate value of the assets representing the fund must not be less than the amount of the liabilities attributable to the part of its business for which the fund is maintained.
 - (5) If subsection (1), (2), (3) or (4) is not complied with in relation to an authorized insurer, the insurer commits an offence and is liable on conviction—
 - (a) to a fine of \$1,000,000; and
 - (b) in the case of a continuing offence—to a further fine of \$20,000 for each day during which the offence continues.

25AAC. Non-HK insurer may maintain separate accounts and funds in accordance with section 25AA(2)

- (1) For a non-HK insurer that carries on general business, the Authority may, at the written request of the insurer, permit the insurer to comply with section 25AA(2), instead of section 25AA(4), for the period specified in the permission.
- (2) The Authority must, as soon as practicable after giving the permission, publish a notice in the Gazette stating the name of the insurer and the fact that the permission has been given.

25AAD. Non-HK insurer may elect to maintain separate accounts and funds in accordance with section 25AA(6)

- (1) A non-HK insurer (other than a designated insurer and an insurer in relation to which a permission under section 25AAC(1) is in effect) may, by a written notice, elect to comply with section 25AA(6), instead of section 25AA(4).
- (2) The notice under subsection (1) must—
 - (a) be in the specified form;
 - (b) be served on the Authority; and
 - (c) state the date on which the insurer intends the election to take effect (*intended effective date*).
- (3) The election under subsection (1) takes effect—
 - (a) if the notice is served on the Authority at least 14 days before the intended effective date—on the intended effective date; or
 - (b) otherwise—on the expiry of 14 days after the date on which the notice is served on the Authority.

- (4) The insurer may, by a written notice, withdraw the election under subsection (1).
- (5) The notice of withdrawal under subsection (4) must—
 - (a) be in the specified form;
 - (b) be served on the Authority; and
 - (c) state the date on which the insurer intends the withdrawal to take effect (*intended withdrawal date*).
- (6) The withdrawal under subsection (4) takes effect—
 - (a) if the notice of withdrawal is served on the Authority at least 14 days before the intended withdrawal date—on the intended withdrawal date; or
 - (b) otherwise—on the expiry of 14 days after the date on which the notice of withdrawal is served on the Authority.

25AAE. Application of assets of authorized insurer with general business

- (1) Subject to subsections (2) and (3), the assets representing a fund maintained by an authorized insurer under section 25AA for a part of its business may only be applied for that part of the business.
- (2) Subsection (1) only applies to the part of the assets necessary to secure compliance with section 25AAB(3) and (4).
- (3) Subsection (1) does not preclude an authorized insurer from exchanging, at fair market value, assets representing a fund maintained by the insurer under section 25AA for other assets of the insurer.

- (4) Any mortgage or charge is void to the extent to which it contravenes subsection (1).
- (5) To avoid doubt, money from a fund maintained by an authorized insurer under section 25AA may not be used for any other business of the insurer apart from the part of its business for which the fund is maintained despite any arrangement for its subsequent repayment out of the receipts of that other business.
- (6) An authorized insurer, or a body corporate of which an authorized insurer is a subsidiary, must not declare a dividend to shareholders at any time when section 25AAB(3) or (4) is not complied with.
- (7) An authorized insurer or body corporate that fails to comply with subsection (1) or (6) commits an offence and is liable on conviction—
 - (a) to a fine of \$1,000,000; and
 - (b) in the case of a continuing offence—to a further fine of \$20,000 for each day during which the offence continues.”.

45. Section 25A amended (maintenance of assets in Hong Kong-general business)

- (1) Section 25A, heading—

Repeal

“-general”

Substitute

“in respect of general”.

- (2) Section 25A—

Repeal subsection (1).

(3) Section 25A—

Repeal subsections (2) and (3)**Substitute**

“(2) This section—

- (a) (subject to paragraph (b)) applies to an authorized insurer that carries on general business in or from Hong Kong; and
- (b) does not apply to an authorized insurer that is exempted under the rules made under section 129(1)(da).

(3) Subject to subsections (6) and (8)—

- (a) an authorized insurer must maintain assets in Hong Kong in respect of its insurance liabilities (as referred to in subsection (3A)); and
- (b) the value of the assets so maintained must not be less than the amount prescribed by the rules made under section 129.

(3A) For the purposes of subsection (3), the insurance liabilities are liabilities—

- (a) arising from the authorized insurer’s general business with onshore risk carried on in or from Hong Kong (other than the part of that business that is exempted under the rules made under section 129(1)(da)); and
- (b) determined in accordance with the rules made under section 129.”.

(4) Section 25A—

Repeal subsections (4), (5), (9) and (11).

(5) At the end of section 25A—

Add

“(12) In this section—

assets in Hong Kong (在港資產)—

(a) means—

- (i) assets of the type set out in Schedule 8; or
- (ii) other assets or guarantees, or other arrangements in lieu of assets, approved by the Authority in writing in a particular case; and

(b) does not include assets the titles to which are subject to any encumbrance or charge, other than a floating charge;

direct business (直接業務) means the business of effecting and carrying out contracts of insurance, other than contracts of reinsurance;

general business with onshore risk (具在岸風險的一般業務) means—

(a) any direct business that satisfies any of the following conditions—

(i) the direct business is of a nature specified in class 1, 2, 4 or 7 in Part 3 of Schedule 1 and—

(A) the policy is issued in Hong Kong;

(B) the proposal form, application form or any other form of a similar nature is prepared, signed, submitted, received or accepted in Hong Kong; or

(C) the risk is accepted in Hong Kong;

- (ii) the direct business is of a nature specified in class 3 or 10 in Part 3 of Schedule 1 and the vehicle being insured is registered in Hong Kong;
- (iii) the direct business is of a nature specified in class 8 or 9 in Part 3 of Schedule 1 and the property being insured is located in Hong Kong;
- (iv) the direct business is of a nature specified in class 5, 6, 11, 12, 13, 14, 15, 16 or 17 in Part 3 of Schedule 1 and the policy holder—
 - (A) is resident in Hong Kong; or
 - (B) is a company;
- (b) any facultative reinsurance business under which the risk ceded arises from any direct business mentioned in paragraph (a); or
- (c) any treaty reinsurance business, being general business, in relation to which the risk is underwritten in Hong Kong, that is to say—
 - (i) the treaty is signed or accepted in Hong Kong; or
 - (ii) the treaty negotiation is concluded in Hong Kong,excluding any treaty reinsurance business under which less than 25% of the total risk ceded (determined in terms of the gross premiums) arises from any direct business mentioned in paragraph (a).”.

46. Section 25B amended (direction by Authority to re-determine liabilities)

(1) Section 25B(1)—

Repeal

“insurer’s liabilities”

Substitute

“insurer’s insurance liabilities mentioned in section 25A(3A)”.

(2) Section 25B(1)—

Repeal

“the end of its last preceding financial year”

Substitute

“the date as of which the liabilities are required to be determined in accordance with the rules made under section 129”.

(3) Section 25B(1)—

Repeal

“its liabilities as of a”

Substitute

“the liabilities as of a”.

(4) Section 25B(1)—

Repeal

everything after “case” and before “, the insurer”.

(5) Section 25B(1)—

Repeal

“shall re-determine its”

Substitute

“must re-determine the”.

- (6) Section 25B(1)—

Repeal

“as if such date were the end of its financial year”.

- (7) Section 25B(2), English text—

Repeal

“shall forthwith”

Substitute

“must forthwith”.

- (8) Section 25B(2)—

Repeal

“its liabilities as”

Substitute

“the liabilities as”.

- (9) Section 25B(2), English text—

Repeal

“shall,”

Substitute

“must,”.

- (10) Section 25B(2), English text—

Repeal

“shall continue”

Substitute

“must continue”.

- (11) Section 25B(2)—

Repeal

“its liabilities under”

Substitute

“the liabilities under”.

- (12) Section 25B(2), Chinese text—

Repeal

“維持在香港的”

Substitute

“維持在港”.

- (13) Section 25B(2), Chinese text—

Repeal

“其在香港的”

Substitute

“在港”.

- (14) Section 25B(3), English text—

Repeal

“shall”

Substitute

“must”.

- (15) Section 25B(3)(b)—

Repeal

“form in Part 9 of Schedule 3”

Substitute

“specified form”.

- (16) Section 25B(3)(b), English text—

Repeal

“its”

Substitute

“the”.

- (17) Section 25B(4)(b), Chinese text—

Repeal

“香港的”

Substitute

“港”.

- (18) Section 25B(4)(ii)(B), Chinese text—

Repeal

“在香港的”.

- (19) After section 25B(5)—

Add

“(6) In this section—

assets in Hong Kong (在港資產) has the meaning given by section 25A(12).”.

47. Section 25C amended (letter of credit or other commitment from a bank)

- (1) Section 25C(1)—

Repeal

“this Part”

Substitute

“section 25A or 25B”.

- (2) Section 25C(1), Chinese text—

Repeal

“香港的”

Substitute

“港”.

- (3) After section 25C(4)—

Add

“(5) In subsection (1)—

assets in Hong Kong (在港資產) has the meaning given by section 25A(12).”.

48. Section 26 amended (grounds on which powers are exercisable)

- (1) Section 26(1)—

Repeal

“sections 27 to 35 shall be”

Substitute

“section 27, 28, 29, 30, 31, 32, 32A, 33, 34 or 35 is”.

- (2) Section 26(1)(b)(i) and (c), English text—

Repeal

“thereby”

Substitute

“by this Ordinance”.

- (3) Section 26(1)(e)—

Repeal

“(3)(b)”

Substitute

“(3)(a) or (b)”.

- (4) Section 26(1)(f)—

Repeal

“35AA(1) or (2)”

Substitute

“35AA(1) or (3)”.

- (5) Section 26(2), Chinese text—

Repeal

“177及”

Substitute

“177或”.

- (6) Section 26(3)—

Repeal

“sections 32, 33, 34 and 35(1) shall also be”

Substitute

“section 32, 32A, 33, 34 or 35(1) is also”.

- (7) After section 26(3)—

Add

- “(3AA) Subject to subsection (3A), any power conferred on the Authority by section 32, 32A, 33 or 34 is also exercisable in relation to an authorized insurer on the ground that the Authority is of the opinion that the exercise of the power is desirable for mitigating or controlling the risks posed to or by the business of the insurer.”.

(8) Section 26(3A)—

Repeal

“shall be”

Substitute

“or (3AA) is”.

(9) Section 26(4)—

Repeal

“sections 27 to 32, 34(1) or 35(1) shall also be”

Substitute

“section 27, 28, 29, 30, 31, 32, 32A, 34(1) or 35(1) is also”.

(10) Section 26(4)—

Repeal

“and (3)”

Substitute

“, (3) and (3AA)”.

(11) Section 26(4)—

Repeal

“shall continue”

Substitute

“may continue”.

(12) Section 26(5), English text—

Repeal

“shall”

Substitute

“must”.

(13) Section 26(5)—

Repeal

“to”

Substitute

“, 28, 29, 30, 31, 32, 32A, 33 and”.

(14) Section 26(6), English text—

Repeal

“The Authority shall”

Substitute

“The Authority must”.

(15) Section 26(6)—

Repeal

“sections 27 to”

Substitute

“section 27, 28, 29, 30, 31, 32, 32A, 33, 34 or”.

(16) Section 26(6), English text—

Repeal

“shall not”

Substitute

“does not”.

(17) Section 26(7)—

Repeal

“to (e), (2) and (3)”

Substitute

“, (c), (d) and (e), (2), (3) and (3AA)”.

49. Section 28 amended (requirements about investments)

- (1) Section 28(2), after “fund”—

Add

“or sub-fund”.

- (2) Section 28(2)—

Repeal

“in respect of its long term business”

Substitute

“under section 21B or 25AA”.

- (3) Section 28(2), Chinese text—

Repeal

“屬於有關保險人就其長期業務所維持”

Substitute

“符合以下說明的投資，或擬成只適用於其他投資：”.

- (4) Section 28(2), Chinese text—

Repeal

“，或擬成只適用於其他投資”.

50. Section 29 amended (maintenance of assets in Hong Kong)

- (1) Section 29, heading—

Repeal

“Maintenance of”

Substitute

“Requirement to maintain”.

- (2) Section 29—

Repeal subsections (6) and (7).

51. Section 32 amended (actuarial investigations)

- (1) Section 32, heading—

Repeal

“Actuarial investigations”

Substitute

“Requirement to make actuarial investigations or reviews”.

- (2) Section 32(1)—

Repeal

“which carries on long term business”.

- (3) Section 32(1)(a)—

Repeal

“the person who for the time being is its actuary under section 15”

Substitute

“its actuary appointed under section 15AAA(1) for its long term business”.

- (4) Section 32(1)(b)—

Repeal

“an abstract of that person’s report of the investigation to be made”

Substitute

“the actuary’s report of the investigation to be made in the specified form”.

- (5) Section 32(1)(c)—

Repeal

“its long term business or of that part thereof as at that date”

Substitute

“that business or of that part of that business as at that date in the specified form”.

- (6) After section 32(1)—

Add

“(1A) The Authority may require an authorized insurer (other than an insurer that is exempted under the rules made under section 129(1)(cb))—

- (a) to cause its actuary appointed under section 15AAA(1) for its general business to conduct a review of the valuation of its insurance liabilities (as determined in accordance with the rules made under section 129) in respect of that business, or any specified part of that business, as at a specified date; and
- (b) to cause the actuary’s report of the review to be made in the specified form.”.

- (7) Section 32—

Repeal subsections (2) and (3).

- (8) Section 32—

Repeal subsection (4)**Substitute**

“(4) Any report or statement required to be made or prepared under subsection (1) or (1A) must be—

- (a) submitted by the insurer to the Authority on or before the date specified by the Authority; and
- (b) signed by the actuary who makes the investigation or conducts the review.

- (5) In this section—
 - (a) for an authorized insurer described in section 21B(4) or (7)—a reference to the insurer’s long term business is a reference to the insurer’s long term business carried on in or from Hong Kong; and
 - (b) for an authorized insurer described in section 25AA(3) or (5)—a reference to the insurer’s general business is a reference to the insurer’s general business carried on in or from Hong Kong.”.

52. Section 32A added

After section 32—

Add

“32A. Requirement to provide reports

- (1) The Authority may—
 - (a) by a written notice served on an authorized insurer, require the insurer to, within the time specified in the notice, provide the Authority with a report in respect of any matter that relates to the insurer; or
 - (b) appoint a person to provide the Authority with a report in respect of any matter that relates to an authorized insurer.
- (2) The Authority may, in a notice under subsection (1)(a), specify—
 - (a) the form in which the report is to be prepared (including any verification or certification that may be required);

- (b) the way by which the report is to be provided; and
 - (c) the skills that are to be possessed by the person who prepares the report.
- (3) The Authority may appoint under subsection (1)(b) any person who appears to the Authority to possess the skills necessary for providing a report in respect of the matter concerned.
- (4) If a person is appointed under subsection (1)(b), the Authority—
 - (a) must, by a written notice served on the authorized insurer, notify the insurer of the appointment; and
 - (b) may, in the notice, require the insurer to provide the person with any assistance as reasonably required by the person.
- (5) An authorized insurer must—
 - (a) pay to a person appointed under subsection (1)(b) any fees reasonably charged by the person for providing the report; and
 - (b) reimburse the Authority for—
 - (i) any such fees paid by the Authority; and
 - (ii) any incidental expenses incurred by the Authority in procuring the provision of the report.
- (6) Any fees and expenses required to be paid or reimbursed under subsection (5) are recoverable as a civil debt.”.

53. Section 33 amended (acceleration of information required by accounting provisions)

- (1) Section 33, heading—

Repeal

“information required by accounting provisions”

Substitute

“submission of information”.

- (2) Section 33—

Repeal subsection (1)**Substitute**

- “(1) Subject to subsection (1A), if an authorized insurer is required to submit to the Authority any statement, report or information on or before a date (*original date*) under a requirement prescribed by virtue of section 17, the Authority may require the statement, report or information to be submitted on or before a specified date before the original date.

- (1A) The specified date under subsection (1)—

- (a) must be within 3 months before the original date; and
- (b) must not be earlier than 1 month after the date on which the Authority imposes the requirement under subsection (1).”.

- (3) Section 33(2), Chinese text—

Repeal

“一個”.

54. Section 35 amended (residual power to impose requirements, etc.)

(1) Section 35(7)—

Repeal

“For the avoidance of doubt, it is hereby declared that”

Substitute

“To avoid doubt,”.

(2) Section 35(7), English text—

Repeal

“shall be”

Substitute

“is”.

(3) Section 35(7)—

Repeal

“27 to”

Substitute

“27, 28, 29, 30, 31, 32, 32A, 33 and”.

55. Section 35AA substituted

Section 35AA—

Repeal the section

Substitute

“35AA. Restoration plan or financial scheme

(1) Subsection (2) applies if the Authority is of the opinion that the amount of capital of an authorized insurer, as determined in accordance with the rules made under section 129—

- (a) is less than the prescribed capital amount for the insurer; or
 - (b) is at risk of becoming less than the prescribed capital amount for the insurer.
- (2) The Authority may, by a written notice served on the insurer, require the insurer—
 - (a) to submit, by a date specified by the Authority, to the Authority a plan for restoring the insurer to a sound financial position and—
 - (i) for subsection (1)(a)—enabling the amount of capital of the insurer to be not less than the prescribed capital amount for the insurer; or
 - (ii) for subsection (1)(b)—preventing the amount of capital of the insurer from becoming less than the prescribed capital amount for the insurer;
 - (b) if the insurer has submitted a plan under paragraph (a), to propose modifications to the plan to the satisfaction of the Authority if the Authority considers it inadequate; and
 - (c) to give effect to any such plan accepted by the Authority as adequate.
- (3) Subsection (4) applies if the Authority is of the opinion that the amount of capital of an authorized insurer, as determined in accordance with the rules made under section 129—
 - (a) is less than the minimum capital amount for the insurer; or
 - (b) is at risk of becoming less than the minimum capital amount for the insurer.

- (4) The Authority may, by a written notice served on the insurer, require the insurer—
 - (a) to submit, by a date specified by the Authority, to the Authority a short term financial scheme that—
 - (i) for subsection (3)(a)—enables the amount of capital of the insurer to be not less than the minimum capital amount for the insurer; or
 - (ii) for subsection (3)(b)—prevents the amount of capital of the insurer from becoming less than the minimum capital amount for the insurer;
 - (b) if the insurer has submitted a scheme under paragraph (a), to propose modifications to the scheme to the satisfaction of the Authority if the Authority considers it inadequate; and
 - (c) to give effect to any such scheme accepted by the Authority as adequate.”.

56. Section 37 amended (notice of proposed exercise of powers on ground of unfitness)

- (1) Section 37(1)—

Repeal

“to 35”

Substitute

“, 28, 29, 30, 31, 32, 32A, 33, 34 and 35”.

- (2) Section 37(1), English text—

Repeal

“him”

Substitute

“the person”.

- (3) Section 37(1), English text—

Repeal

“shall”

Substitute

“must”.

- (4) Section 37(1)(a), Chinese text—

Repeal

“第 27 至 35 條”

Substitute

“該等條文”.

- (5) Section 37(6)—

Repeal

“shall”

Substitute

“does”.

- (6) Section 37(6)—

Repeal

“sections 27 to”

Substitute

“section 27, 28, 29, 30, 31, 32, 32A, 33, 34 or”.

57. Section 38 amended (rescission, variation and publication of requirements)

Section 38(1)—

Repeal

“sections 27 to”

Substitute

“section 27, 28, 29, 30, 31, 32, 32A, 33, 34 or”.

58. Section 38A amended (effect of direction given under section 35(2)(b))

- (1) Section 38A(1)(a)—

Repeal

“an authorized insurer incorporated in Hong Kong”

Substitute

“an HK insurer”.

- (2) Section 38A(1)(b)—

Repeal

“an authorized insurer incorporated outside Hong Kong”

Substitute

“a non-HK insurer”.

- (3) Section 38A(1), English text—

Repeal

“shall be”

Substitute

“is”.

- (4) Section 38A(1), English text—

Repeal

“shall not”

Substitute

“must not”.

59. Section 38B amended (powers of Manager)

- (1) Section 38B(3)(a)(i)—

Repeal

“incorporated in Hong Kong,”

Substitute

“an HK insurer—”.

- (2) Section 38B(3)(a)(ii)—

Repeal

“incorporated outside Hong Kong,”

Substitute

“a non-HK insurer—”.

60. Section 41 amended (offences under Part V)

- (1) Section 41(1)(a), after “32,”—

Add

“32A,”.

- (2) Section 41—

Repeal subsection (1A)

Substitute

“(1A) A person commits an offence if the person, in purported compliance with a requirement imposed under section 34—

- (a) furnishes any information, or produces any document, that the person knows to be false or misleading in a material particular; or
- (b) recklessly furnishes any information, or produces any document, that is false or misleading in a material particular.

- (1B) A person who commits an offence under subsection (1A) is liable—
 - (a) on conviction on indictment—to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.”.

61. Section 42 amended (circumstances in which authorized insurer deemed to be insolvent)

- (1) Section 42(1)—

Repeal

“Subject to subsection (1A), an”

Substitute

“An”.

- (2) Section 42(1), English text—

Repeal

“shall be”

Substitute

“is”.

- (3) Section 42(1)—

Repeal

everything after “time”

Substitute

“the amount of capital of the insurer, as determined in accordance with the rules made under section 129, is less than the minimum capital amount for the insurer.”.

- (4) Section 42—

Repeal subsection (1A).

- (5) Section 42(2)—

Repeal

“Nothing in this section shall be taken as affecting”

Substitute

“This section does not affect”.

62. Section 44 amended (winding up on petition of Authority)

- (1) Section 44(2)(a)—

Repeal

“deposited under section 20”

Substitute

“submitted under a requirement prescribed by virtue of section 17”.

- (2) Section 44(2), English text—

Repeal

“shall be”

Substitute

“is”.

63. Section 45 amended (winding up of authorized insurer)

- (1) Section 45(2)—

Repeal

“23(1) shall”

Substitute

“23(1) and (1A) does”.

- (2) Section 45(2)—

Repeal

“to which section 22(1) applies”.

- (3) Section 45(2)(a)—

Repeal

everything after “a” and before “available”

Substitute

“separate fund of the insurer are”.

- (4) Section 45(2)(a)—

Repeal

everything after “attributable to”

Substitute

“the part of its business for which the separate fund is maintained;”.

- (5) Section 45(2)(b), English text—

Repeal

“shall be”

Substitute

“are”.

- (6) Section 45(4A)—

Repeal

everything after “a” and before “, then”

Substitute

“separate fund of an authorized insurer, the value of the assets representing the separate fund exceeds the amount of the liabilities attributable to the part of its business for which the separate fund is maintained”.

- (7) Section 45(4A), English text—

Repeal

“shall be”

Substitute

“are to be”.

- (8) Section 45(4A)(a)—

Repeal

“fund maintained by the insurer in respect of its long term business the amount of the liabilities mentioned in that paragraph exceeds the value of the assets mentioned in that paragraph”

Substitute

“separate fund of the insurer, the amount of the liabilities attributable to the part of its business for which that other separate fund is maintained exceeds the value of the assets of that other separate fund”.

- (9) Section 45(4A)(a)(i)—

Repeal

“fund,”

Substitute

“separate fund—”.

- (10) Section 45(4A)(a)(i)—

Repeal

“fund to”

Substitute

“separate fund to”.

-
- (11) Section 45(4A)(a)(i)—
Repeal
“fund;”
Substitute
“separate fund;”.
- (12) Section 45(4A)(a)(ii)—
Repeal
“funds,”
Substitute
“separate funds—”.
- (13) Section 45(4A)(a)(ii), English text—
Repeal
“those other funds” (wherever appearing)
Substitute
“those other separate funds”.
- (14) Section 45(4A)(a)(ii), Chinese text—
Repeal
“上述資產值超出負債額的資產，須按比例”
Substitute
“須按比例用以”.
- (15) Section 45(4A)(b), English text—
Repeal the comma
Substitute a dash.
- (16) Section 45(4A)(b), English text—
Repeal
“its other”

Substitute

“other parts of its”.

- (17) Section 45(4A)(b), Chinese text—

Repeal

everything after “該段後，” and before “的負債”

Substitute

“仍有剩餘的超逾資產——剩餘部分須用以償付可歸入該保險人的其他部分業務”.

- (18) Section 45(4B)—

Repeal

“For the avoidance of doubt, it is hereby declared that”

Substitute

“To avoid doubt”.

- (19) Section 45(4B)—

Repeal

“paragraph (a) of subsection (2)”

Substitute

“subsection (2)(a)”.

- (20) Section 45(4B)—

Repeal

everything after “no” and before “be”

Substitute

“separate fund of an authorized insurer may”.

- (21) Section 45(4B)—

Repeal

“fund maintained by the insurer in respect of that business”

Substitute

“separate fund of the insurer”.

- (22) Section 45(5)—

Repeal

“fund or funds maintained by the insurer in respect of its long term business”

Substitute

“separate fund or separate funds of the insurer”.

- (23) Section 45(5), English text—

Repeal

“shall include”

Substitute

“must include”.

- (24) Section 45(5), English text—

Repeal

“shall be”

Substitute

“is”.

- (25) Section 45(5)—

Repeal

“fund or those funds”

Substitute

“separate fund or those separate funds”.

(26) Section 45(5)—

Repeal

“shall have”

Substitute

“has”.

(27) After section 45(5)—

Add

“(6) In this section—

separate fund (獨立基金), in relation to an authorized insurer, means a fund maintained separately by the insurer under—

- (a) if the insurer is one described in section 21B(1)—section 21B(2);
- (b) if the insurer is one described in section 21B(4)—section 21B(5); or
- (c) if the insurer is one described in section 21B(7)—section 21B(8).”.

64. Section 50A substituted

Section 50A—

Repeal the section

Substitute

“50A. Capital requirements

Sections 10 and 13AA apply to Lloyd’s as if a reference to an applicable company or authorized insurer in those sections were a reference to Lloyd’s.”.

65. Section 50BA added

After section 50B—

Add

“50BA. Appointment of actuary

- (1) If Lloyd’s carries on long term business in or from Hong Kong, sections 15AAA, 15AAAB, 15AA, 15AAB, 15AABA, 15AAC, 15B, 15C and 18 apply to Lloyd’s as if Lloyd’s were a non-HK insurer described in section 21B(7).
- (2) If Lloyd’s carries on general business in or from Hong Kong, sections 15AAA, 15AAAB, 15AA, 15AAB, 15AABA, 15AAC, 15B, 15C and 18A apply to Lloyd’s as if Lloyd’s were a non-HK insurer described in section 25AA(5).”.

66. Section 50C amended (reporting requirements)

- (1) Section 50C, heading—

Repeal

“Reporting requirements”

Substitute

“Submission requirements”.

- (2) Section 50C—

Repeal subsection (1)

Substitute

- “(1) Section 17 applies to Lloyd’s as if a reference to an authorized insurer in that section were a reference to Lloyd’s.”.
- (3) Section 50C—
Repeal subsections (2), (3), (4), (5), (6), (7) and (8).

- (4) Section 50C(9)—

Repeal

“the documents required under subsection (1)(a) and (b), Lloyd’s shall”

Substitute

“to the Authority an annual report published by Lloyd’s on its global results under a requirement prescribed by virtue of section 17, Lloyd’s must”.

- (5) Section 50C—

Repeal subsection (10)

Substitute

“(10) If it appears to the Authority that Lloyd’s does not intend to effect any contract of insurance in or from Hong Kong after the date on which Lloyd’s submits the annual report mentioned in subsection (9), the Authority may waive the payment of the fee payable in respect of the financial year to which the report relates and any subsequent financial year.

(11) The Authority may revoke the waiver under subsection (10) by a written notice to Lloyd’s, and the revocation takes effect from the date of the notice.”.

67. Section 50CA added

After section 50C—

Add

“50CA. Disclosure requirements

Section 21A applies to Lloyd’s as if a reference to an authorized insurer in that section were a reference to Lloyd’s.”.

68. Section 50D amended (local assets)

(1) Section 50D—

Repeal

“Part IVA and section 129(1)(a)”

Substitute

“Sections 25A, 25B and 25C”.

(2) Section 50D—

Repeal

everything after “apply to Lloyd’s”

Substitute

“as if a reference to an authorized insurer in those sections were a reference to Lloyd’s.”.

69. Section 50F amended (powers of intervention)

(1) Section 50F(1)—

Repeal

“shall be deemed for this purpose to be”

Substitute

“is”.

(2) Section 50F—

Repeal subsection (2).

70. Section 51 amended (exempted persons)

(1) Section 51(a)(i), English text, proviso—

Repeal

“shall”

Substitute

“is”.

- (2) Section 51(a)(i), English text, proviso—

Repeal

“be deemed”

Substitute

“deemed”.

- (3) Section 51(a)(i), proviso—

Repeal

“(within the meaning of section 10(4)(c))”.

71. Section 53A amended (secrecy)

- (1) Section 53A(1AA)(e), Chinese text—

Repeal

“屬或曾經”

Substitute

“正在或曾經”.

- (2) Section 53A(2)—

Repeal

“17, 18, 19, 20, 32”

Substitute

“15AAA, 15AAAB, 18, 18A, 19, 32, 32A”.

- (3) Section 53A(2), after “53E,”—

Add

“53F”.

- (4) Section 53A(2)—

Repeal

“shall”

Substitute

“or a requirement prescribed by virtue of section 17 may”.

- (5) Section 53A(2)—

Repeal

“his notice in the performance of his functions”

Substitute

“the person’s notice in the performance of the person’s functions”.

- (6) Section 53A(2)(c), after “VI”—

Add

“, X”.

- (7) Section 53A(3), English text—

Repeal

“shall”

Substitute

“does”.

- (8) Section 53A(3)(f), English text—

Repeal

“his duties”

Substitute

“the duties of the auditor or actuary”.

- (9) Section 53A(3)(h)—

Repeal

“; or”

Substitute a semicolon.

- (10) Section 53A(3)—

Repeal paragraph (i)

Substitute

- “(i) by the Authority if—

- (i) the information is in the statements and reports submitted by a designated insurance holding company to the Authority under section 95ZH(1); and

- (ii) in the opinion of the Authority, it is desirable that the information should be so disclosed in the interests of existing or potential policy holders or in the public interest; or

- (j) by the Authority if—

- (i) the information is submitted to the Authority under a requirement prescribed by virtue of section 17; and

- (ii) the disclosure is made for statistical purpose for the general understanding of the performance of insurance industry.”.

72. Section 53E amended (prescribed person to send report directly to Authority in certain cases relating to authorized insurers)

- (1) Section 53E(2)—

Repeal

“his duties”

Substitute

“the person’s duties”.

- (2) Section 53E(2)—

Repeal

“he became aware when he”

Substitute

“the person became aware when the person”.

- (3) Section 53E(2)—

Repeal

“his opinion”

Substitute

“the person’s opinion”.

- (4) Section 53E(2)(a)—

Repeal

“fund maintained by the insurer in respect of its long term business”

Substitute

“fund or sub-fund maintained by the insurer under section 21B”.

- (5) Section 53E(2)(a)—

Repeal

“that fund”

Substitute

“that fund or sub-fund”.

- (6) Section 53E(2)—

Repeal

“prescribed person shall”

Substitute

“person must”.

- (7) Section 53E(2)—

Repeal

“thereafter”

Substitute

“after becoming so aware”.

- (8) Section 53E(3)—

Repeal

“his”

Substitute

“the person’s”.

- (9) Section 53E(3)—

Repeal

“he became aware when he”

Substitute

“the person became aware when the person”.

- (10) Section 53E(3)(c)—

Repeal

“any of the provisions of section 22, 22A or 23”

Substitute

“section 21B, 22, 23, 25AA, 25AAB or 25AAE”.

- (11) Section 53E(3)(d), after “32,”—

Add

“32A,”.

- (12) Section 53E(3)—
Repeal
“prescribed person shall”
Substitute
“person must”.

- (13) Section 53E(3)—
Repeal
“thereafter”
Substitute
“after becoming so aware”.

73. Section 64F amended (interpretation of Part X)

- (1) Section 64F, Chinese text, definition of **控權人**, paragraph (b)(ii)—
Repeal
“在該合夥的投票權的不少於15%，或支配該比重的投票權的行使”
Substitute
“該合夥的投票權中的不少於15%，或對該比例的投票權的行使有控制權”.
- (2) Section 64F, Chinese text, definition of **控權人**, paragraph (c)(ii)—
Repeal
“在該公司的成員大會上的投票權的不少於15%，或支配該比重的投票權的行使”
Substitute
“該公司的成員大會上的投票權中的不少於15%，或對該比例的投票權的行使有控制權”.

74. Section 95A amended (interpretation of Part XIA)**(1) Section 95A(1)—****Repeal the definition of *shareholder controller*****Substitute**

“*shareholder controller* (股東控權人) means a majority shareholder controller or a minority shareholder controller;”.

(2) Section 95A(1)—**Add in alphabetical order**

“*majority shareholder controller* (大股東控權人), in relation to a designated insurance holding company—

- (a) means a person who, alone or with an associate or through a nominee, is entitled to exercise, or control the exercise of, 50% or more of the voting power at a general meeting of the company; but**
- (b) does not include a supervisory manager of the company;**

***minority shareholder controller* (小股東控權人), in relation to a designated insurance holding company—**

- (a) means a person who, alone or with an associate or through a nominee, is entitled to exercise, or control the exercise of, 15% or more but less than 50%, of the voting power at a general meeting of the company; but**
- (b) does not include a supervisory manager of the company;”.**

75. Section 95I amended (prohibition against becoming shareholder controller without approval)

(1) Section 95I(1)—

Repeal

everything after “become”

Substitute

“a minority shareholder controller of a designated insurance holding company unless—

(a) the Authority approves under section 95M the person to be such a minority shareholder controller; or

(b) the person is a majority shareholder controller of the company immediately before becoming such a minority shareholder controller.”.

(2) After section 95I(1)—

Add

“(1A) A person must not become a majority shareholder controller of a designated insurance holding company unless the Authority approves under section 95M the person to be such a majority shareholder controller, regardless of whether the person is a minority shareholder controller of the company before becoming such a majority shareholder controller.”.

(3) Section 95I(2)—

Repeal

“become a shareholder controller”

Substitute

“become a minority shareholder controller or a majority shareholder controller”.

- (4) Section 95I(2)—

Repeal

“be a shareholder controller of the company”

Substitute

“be such a shareholder controller”.

- (5) Section 95I(3)(d)(ii)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller (as the case may be)”.

- (6) Section 95I(6)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller (as the case may be)”.

76. Section 95J amended (person becoming shareholder controller with approval)

- (1) Section 95J(1)—

Repeal

“This”

Substitute

“Subject to section 95OA, this”.

- (2) Section 95J(1)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller”.

- (3) Section 95J(1), after “95M”—

Add

“to be such a shareholder controller”.

- (4) Section 95J(2)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller”.

- (5) Section 95J(3)(d)(ii)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller (as the case may be)”.

77. Section 95K amended (person becoming unapproved shareholder controller without notice)

- (1) Section 95K(1)(a)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller”.

- (2) Section 95K(1)(a), after “95I(1)” —

Add

“or (1A)”.

- (3) Section 95K(2) —

Repeal

“become a shareholder controller”

Substitute

“become a minority shareholder controller or a majority shareholder controller (as the case may be)”.

- (4) Section 95K(2) —

Repeal

“be a shareholder controller of the company”

Substitute

“be such a shareholder controller”.

- (5) Section 95K(3)(d)(ii) —

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller (as the case may be)”.

78. Section 95L amended (pre-existing shareholder controller)

- (1) Section 95L(2) —

Repeal

everything after “designation to”

Substitute

“be—

- (a) if it is a minority shareholder controller of the designated insurance holding company as at the beginning of the date of designation—a minority shareholder controller of the company; or
- (b) if it is a majority shareholder controller of the designated insurance holding company as at the beginning of the date of designation—a majority shareholder controller of the company.”.

(2) Section 95L(3)—

Repeal paragraph (a)**Substitute**

- “(a) given a notice under section 13B(2H) rejecting the application of the pre-existing shareholder controller for an approval to be a shareholder controller of an authorized insurer;
- (ab) served a notice of objection under section 13BA(3) objecting to the pre-existing shareholder controller being a minority shareholder controller of an authorized insurer;
- (ac) served a notice of objection under section 13BA(4) objecting to the pre-existing shareholder controller—
- (i) being a majority shareholder controller of an authorized insurer; or
 - (ii) being any shareholder controller of the insurer; or”.

- (3) Section 95L(5)—

Repeal

“designation of the”

Substitute

“designation in respect of the designated insurance holding”.

- (4) Section 95L(5)—

Repeal

“a shareholder controller”

Substitute

“a minority shareholder controller or a majority shareholder controller (as the case may be)”.

- (5) Section 95L(6)(d)(ii)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller (as the case may be)”.

79. Section 95M amended (approval of shareholder controller)

- (1) Section 95M(1)—

Repeal

“applicant to be a shareholder controller”

Substitute

“applicant to be a minority shareholder controller or a majority shareholder controller”.

- (2) Section 95M(1)(b)—

Repeal

“a shareholder controller of the company”

Substitute

“such a shareholder controller”.

80. Section 95N amended (objection to being shareholder controller)

(1) Section 95N, Chinese text, heading—

Repeal

“身”

Substitute

“作”.

(2) Section 95N(1), Chinese text—

Repeal

“身”

Substitute

“作”.

(3) Section 95N(2)(b), after “95L(2)”—

Add

“or 95OA(3), or Part 3 of Schedule 12”.

(4) Section 95N(3), after “a person”—

Add

“who is a minority shareholder controller of a designated insurance holding company”.

- (5) Section 95N(3)—

Repeal

“a shareholder controller of a designated insurance holding company”

Substitute

“such a minority shareholder controller”.

- (6) Section 95N(3)(a)—

Repeal

“a shareholder controller of the company”

Substitute

“such a minority shareholder controller”.

- (7) Section 95N(3)(b), Chinese text—

Repeal

“某人”.

- (8) After section 95N(3)—

Add

“(3A) Subsection (3B) applies if it appears to the Authority that—

- (a) a person who is a majority shareholder controller of a designated insurance holding company is not, or is no longer, a fit and proper person to be such a majority shareholder controller; or
- (b) the person has contravened a condition imposed under section 95Z on the approval.

- (3B) The Authority, by a written notice served on the person—
- (a) may object to the person being a majority shareholder controller of the company; or
 - (b) (if it also appears to the Authority that the person is not, or is no longer, a fit and proper person to be a minority shareholder controller of the company) may object to the person being any shareholder controller of the company.”.

- (9) Section 95N(4), after “(3)”—

Add

“or (3B)”.

81. Section 95O amended (person ceasing to be shareholder controller)

- (1) Section 95O, Chinese text, heading—

Repeal

“身為”

Substitute

“是”.

- (2) Section 95O(1)—

Repeal

“to be a shareholder controller”

Substitute

“to be a minority shareholder controller or a majority shareholder controller”.

- (3) Section 95O(1)(a), Chinese text—

Repeal

“身”.

- (4) Section 95O(1)(b), Chinese text—

Repeal

“身為”

Substitute

“是”.

- (5) Section 95O(2)(d)(ii)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller (as the case may be)”.

- (6) Section 95O(4)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller (as the case may be)”.

- (7) After section 95O(4)—

Add

“(5) This section does not apply to a person who, on ceasing to be a majority shareholder controller of a designated insurance holding company, becomes a minority shareholder controller of the company.”.

82. Section 95OA added

After section 95O—

Add

“95OA. Majority shareholder controller becoming minority shareholder controller

- (1) If a person, on ceasing to be a majority shareholder controller of a designated insurance holding company, becomes a minority shareholder controller of the company, the person must, within 14 days after becoming such a minority shareholder controller, notify the Authority in the specified form.
- (2) If the person—
 - (a) fails to comply with subsection (1);
 - (b) did not know that the acts or circumstances as a result of which the person became a minority shareholder controller of the designated insurance holding company were such as to have that effect; and
 - (c) subsequently becomes aware of the fact that the person has become a minority shareholder controller of the company,the person must serve on the Authority, within 14 days after becoming aware of that fact, a written notice stating that the person has become such a minority shareholder controller and containing the information specified by the Authority.
- (3) A person who complies with subsection (1) or (2) is taken to be approved to be a minority shareholder controller of the company under section 95M.
- (4) A person who fails to comply with subsection (1) commits an offence and is liable on conviction—
 - (a) to a fine at level 4; and

- (b) in the case of a continuing offence—to a further fine of \$1,000 for each day during which the offence continues.
- (5) If a person is charged with an offence under subsection (4), it is a defence for the person to establish that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (6) A person who fails to comply with subsection (2) commits an offence and is liable on conviction—
 - (a) to a fine at level 4; and
 - (b) in the case of a continuing offence—to a further fine of \$1,000 for each day during which the offence continues.
- (7) A person is taken to have established a matter that needs to be established for a defence under subsection (5) if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

83. Section 95P amended (restrictions on shares if shareholder controller unapproved or objected to)

- (1) Section 95P(2)(a)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller”.

- (2) Section 95P(2)(b)—

Repeal

everything after “approved”

Substitute

“, or taken to be approved, under section 95M to be such a shareholder controller.”.

- (3) Section 95P(3)(b), after “95N(3)” —

Add

“or (3B)”.

- (4) Section 95P(7)(a)—

Repeal

“under section 95M to be a shareholder controller”

Substitute

“, or taken to be approved, under section 95M to be a minority shareholder controller or a majority shareholder controller (as the case may be)”.

- (5) Section 95P(9), definition of *specified shares*, paragraph (b)—

Repeal

everything after “not”

Substitute

“include—

- (i) if the person is an unapproved shareholder controller—any such shares held by the person, or any such associate or nominee, before the person became an unapproved shareholder controller of the company;

- (ii) if the person is a shareholder controller objected to and the notice of objection is served under section 95N(3)—any such shares held by the person, or any such associate or nominee, before the person became a minority shareholder controller of the company;
- (iii) if the person is a shareholder controller objected to and the notice of objection is served under section 95N(3B)(a)—any such shares held by the person, or any such associate or nominee, before the person became a majority shareholder controller of the company; or
- (iv) if the person is a shareholder controller objected to and the notice of objection is served under section 95N(3B)(b)—any such shares held by the person, or any such associate or nominee, before the person became any shareholder controller of the company.”.

84. Section 95Q amended (sale of shares if shareholder controller unapproved)

Section 95Q(2)(a)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller or a majority shareholder controller (as the case may be)”.

85. Section 95Y amended (determination of fit and proper)

- (1) Section 95Y(1)(f)—

Repeal

“is a company”

Substitute

“is a body corporate”.

- (2) Section 95Y(1)(f)(i)—

Repeal

“company”

Substitute

“body corporate”.

- (3) Section 95Y(1)(f)(ii)—

Repeal

“company”

Substitute

“body corporate”.

- (4) Section 95Y(1)(f)(ii)—

Repeal

“and”.

- (5) Section 95Y(1)(g)—

Repeal the full stop

Substitute

“; and”.

- (6) After section 95Y(1)(g)—

Add

“(h) if the person is a body corporate—its internal controls and corporate governance.”.

86. Section 95Z amended (conditions on approval)

- (1) Section 95Z, heading, after “**approval**”—

Add

“**given under sections 95M and 95U**”.

- (2) Section 95Z(1)(a), Chinese text—

Repeal

“身”.

- (3) Section 95Z(2)(b), after “95L(2)”—

Add

“or 95OA(3), or Part 3 of Schedule 12”.

- (4) Section 95Z(4)(b), English text, after “after”—

Add

“the”.

87. Section 95ZB amended (effect of application under section 95I in relation to section 13B)

- (1) Section 95ZB(1)—

Repeal

“This section applies”

Substitute

“Subsections (1B), (2) and (3) apply”.

- (2) Section 95ZB(1)(a)(i)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller”.

- (3) Section 95ZB(1)(a)(ii), Chinese text—

Repeal

“身”.

- (4) Section 95ZB(1)(b)(i)—

Repeal

“controller (as defined by section 13B(1))”

Substitute

“minority shareholder controller”.

- (5) Section 95ZB(1)(b)(ii)—

Repeal

everything after “13B(2)”

Substitute

“from becoming such a shareholder controller unless the person is approved under section 13B(2B) to be such a shareholder controller.”.

- (6) After section 95ZB(1)—

Add

“(1A) Subsections (1B), (2) and (3) apply if—

(a) on the one hand—

- (i) a person will, as a result of certain acts or circumstances, become a majority shareholder controller of a designated insurance holding company; and

- (ii) the person has made an application under section 95I(2) for an approval under section 95M for the person to be such a shareholder controller; and
 - (b) on the other hand—
 - (i) the person will also, as a result of the same acts or circumstances, become a majority shareholder controller of an authorized insurer that is either the company itself or another member of its supervised group; and
 - (ii) the person is prohibited under section 13B(2A) from becoming such a shareholder controller unless the person is approved under section 13B(2B) to be such a shareholder controller.
- (1B) When the person makes the application mentioned in subsection (1)(a)(ii) or (1A)(a)(ii), the person is taken to have made an application under section 13B(2B)(a) for an approval for the person to be—
 - (a) in the case of subsection (1)—a minority shareholder controller of the authorized insurer; or
 - (b) in the case of subsection (1A)—a majority shareholder controller of the authorized insurer.”.
- (7) Section 95ZB(2)—
Repeal
everything after “95I(2)”

Substitute

“for an approval under section 95M for the person to be a minority shareholder controller (in the case of subsection (1)) or a majority shareholder controller (in the case of subsection (1A)) of the designated insurance holding company is approved, the person is taken to be approved under section 13B(2B) to be—

- (a) in the case of subsection (1)—a minority shareholder controller of the authorized insurer; or
- (b) in the case of subsection (1A)—a majority shareholder controller of the authorized insurer.”.

- (8) Section 95ZB(3)—

Repeal

everything after “95I(2)”

Substitute

“for an approval under section 95M for the person to be a minority shareholder controller (in the case of subsection (1)) or a majority shareholder controller (in the case of subsection (1A)) of the designated insurance holding company is rejected (*rejection*), the application under section 13B(2B)(a) for an approval for the person to be—

- (a) in the case of subsection (1)—a minority shareholder controller of the authorized insurer; or

(b) in the case of subsection (1A)—a majority shareholder controller of the authorized insurer, is taken to be rejected under section 13B(2H) when the notice of the rejection is given to the person under section 95M(4).”.

88. Section 95ZC amended (effect of application under section 95K in relation to section 13B)

(1) Section 95ZC(1)—

Repeal

“This section applies”

Substitute

“Subsections (2), (3) and (4) apply”.

(2) Section 95ZC(1)(a)(i)—

Repeal

“shareholder controller”

Substitute

“minority shareholder controller”.

(3) Section 95ZC(1)(b)(i)—

Repeal

“controller (as defined by section 13B(1))”

Substitute

“minority shareholder controller”.

(4) Section 95ZC(1)(b)(ii), English text, after “so that”—

Add

“the”.

(5) After section 95ZC(1)—

Add

“(1A) Subsections (2), (3) and (4) apply if—

(a) on the one hand—

(i) a person has, as a result of certain acts or circumstances, become a majority shareholder controller of a designated insurance holding company in contravention of section 95I(1A); and

(ii) the person falls within section 95K(1) so that the person is required to comply with section 95K(2); and

(b) on the other hand—

(i) the person has also, as a result of the same acts or circumstances, become a majority shareholder controller of an authorized insurer that is either the company itself or another member of its supervised group in contravention of section 13B(2A); and

(ii) the person falls within section 13B(3) so that the person is required to comply with that section.”.

(6) Section 95ZC(3)—

Repeal

everything after “95K(2)”

Substitute

“for an approval under section 95M for the person to be a minority shareholder controller (in the case of subsection (1)) or a majority shareholder controller (in the case of subsection (1A)) of the designated insurance holding company is approved, the person is taken to be approved under section 13B(2B) to be—

- (a) in the case of subsection (1)—a minority shareholder controller of the authorized insurer; or
- (b) in the case of subsection (1A)—a majority shareholder controller of the authorized insurer.”.

(7) Section 95ZC(4)—

Repeal

everything after “95K(2)”

Substitute

“for an approval under section 95M for the person to be a minority shareholder controller (in the case of subsection (1)) or a majority shareholder controller (in the case of subsection (1A)) of the designated insurance holding company is rejected (*rejection*), the application under section 13B(2B)(a) for an approval for the person to be—

- (a) in the case of subsection (1)—a minority shareholder controller of the authorized insurer; or

(b) in the case of subsection (1A)—a majority shareholder controller of the authorized insurer, is taken to be rejected under section 13B(2H) when the notice of the rejection is given to the person under section 95M(4).”.

89. Section 95ZP amended (power to require report)

Section 95ZP(5)(a), Chinese text, before “委任”—

Add

“獲”.

90. Section 95ZZ amended (defences in relation to offences under section 95ZY)

Section 95ZZ(2)(b)(i), Chinese text—

Repeal

“供”

Substitute

“交”.

91. Section 95ZZE amended (power to conduct inspection)

Section 95ZZE(1)(b), Chinese text—

Repeal

“或施加”

Substitute

“，或根據本部施加”.

92. Section 122 amended (notification of cessation of place of business in Hong Kong)

Section 122(1)—

Repeal

“an authorized insurer incorporated or formed outside Hong Kong”

Substitute

“a non-HK insurer”.

93. Section 129 amended (Authority may make rules—general provisions)

(1) Section 129(1)(c)—

Repeal

everything after “in any”

Substitute

“fund or sub-fund maintained by an authorized insurer under this Ordinance;”.

(2) After section 129(1)(c)—

Add

“(ca) provide for the manner in which the assets of any fund or sub-fund maintained by an authorized insurer under this Ordinance are to be held;

(cb) provide for the exemption of authorized insurers from the application of section 15AAA(1)(c) or (d);”.

(3) Section 129(1)(d)—

Repeal

“15(1)”

Substitute

“15AAA(1)”.

- (4) After section 129(1)(d)—

Add

“(da) provide for the exemption of authorized insurers or insurance business from the application of section 25A;”.

94. Section 130 amended (relaxation of rules under section 129(1)(a))

- (1) Section 130, heading—

Repeal

“rules under section 129(1)(a)”

Substitute

“certain rules”.

- (2) Section 130(1), after “129(1)(a)” —

Add

“, (b), (c) or (ca), or any of the requirements prescribed by virtue of section 10(2),”.

- (3) Section 130(2)—

Repeal

“the reference in section 8(4) to rules made for this purpose”

Substitute

“a reference in this Ordinance to rules made under this Ordinance”.

- (4) Section 130(3)—

Repeal

“made under section 129(1)(a)”

Substitute

“or requirements”.

- (5) Section 130(3)(b)—

Repeal

“the rule has”

Substitute

“they have”.

95. Section 138 amended (amendment of Schedules)

Section 138(2)—

Repeal paragraphs (b), (c), (d), (e) and (f).

96. Section 140 added

After section 139—

Add

“140. Savings and transitional arrangements for Insurance (Amendment) Ordinance 2023

Schedule 12 provides for the savings and transitional arrangements that relate to the Insurance (Amendment) Ordinance 2023 (of 2023).”.

97. Schedule 1 amended (classes of insurance business)

- (1) Schedule 1—

Repeal

“[ss. 2, 3, 8, 10, 22, 23, 50A”

Substitute

“[ss. 2, 3, 8, 21B, 22, 25A”.

- (2) Schedule 1—

Repeal

“138 & Sch. 3]”

Substitute

“138]”.

98. Schedules 2 to 6 repealed

Schedules 2, 3, 4, 5 and 6—

Repeal the Schedules.

99. Schedule 8 amended (assets which qualify as assets in Hong Kong)

- (1) Schedule 8, Chinese text, heading—

Repeal

“香港的”

Substitute

“港”.

- (2) Schedule 8, Chinese text, paragraph 1—

Repeal

“在香港的資產”

Substitute

“在港資產”.

100. Schedule 9 amended (specified decisions)

- (1) Schedule 9, Part 1, after item 3—

Add

“3A.	Variation of a requirement prescribed by virtue of section 10(2)	Section 10(3)
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”.

- (2) Schedule 9, Part 1, items 6 and 7—

Repeal

“authorized insurer”

Substitute

“HK insurer or designated insurer”.

- (3) Schedule 9, Part 1, item 10—

Repeal

“or key”

Substitute

“, key”.

- (4) Schedule 9, Part 1, item 10, after “functions”—

Add

“or shareholder controller”.

- (5) Schedule 9, Part 1, item 11—

Repeal

“Objection to a person being proposed to become a”

Substitute

“Refusal to approve a person to be a minority shareholder controller or a majority shareholder”.

- (6) Schedule 9, Part 1, item 11—

Repeal

“13B(4)”

Substitute

“13B(2H)”.

(7) Schedule 9, Part 1, after item 11—

Add

11A.	Objection to a person being a minority shareholder controller of an authorized insurer	Section 13BA(3)
11B.	Objection to a person being a majority shareholder controller of an authorized insurer	Section 13BA(4)(a)
11C.	Objection to a person being any shareholder controller of an authorized insurer	Section 13BA(4)(b)

(8) Schedule 9, Part 1, item 13—

Repeal

“15(3D)”

Substitute

“15AAAB(4)”.

(9) Schedule 9, Part 1, item 14—

Repeal

“15(3F)”

Substitute

“15AABA(1)”.

- (10) Schedule 9, Part 1—

Repeal item 16.

- (11) Schedule 9, Part 1, item 24—

Repeal

“sections 27 to”

Substitute

“section 27, 28, 29, 30, 31, 32, 32A, 33, 34 or”.

- (12) Schedule 9, Chinese text, Part 3, item 2—

Repeal

“身”.

- (13) Schedule 9, Part 3, item 3, after “being a”—

Add

“minority”.

- (14) Schedule 9, Part 3, after item 3—

Add

“3A. Objection to a person Section 95N(3B)(a)
 being a majority
 shareholder controller
 of a designated
 insurance holding
 company

3B. Objection to a person Section 95N(3B)(b)”.
 being any shareholder
 controller of a
 designated insurance
 holding company

(15) Schedule 9, Chinese text, Part 3, item 6—

Repeal

“身”.

101. Schedule 12 added

After Schedule 11—

Add

“Schedule 12

[ss. 13AF, 13BA, 13C,
15AA, 15AABA, 95N,
95Z & 140]

**Savings and Transitional Arrangements for
Insurance (Amendment) Ordinance 2023**

Part 1

Shareholder Controllers of Authorized Insurers

1. Interpretation (Part 1 of Schedule 12)

In this Part—

Amendment Ordinance (《修訂條例》) means the Insurance (Amendment) Ordinance 2023 (of 2023);

commencement date (實施日期) means the date on which section 18 of the Amendment Ordinance comes into operation;

former (原有), when it appears in conjunction with a reference to a section, means that section of the pre-amended Ordinance;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement date.

2. Pre-existing shareholder controller of HK insurer

- (1) Subsection (2) applies to a person if, immediately before the commencement date—
 - (a) the person has, alone or with an associate (as defined by section 9(4)) or through a nominee, been entitled to exercise, or control the exercise of, 15% or more but less than 50%, of the voting power at a general meeting of an HK insurer (other than a special purpose insurer); and
 - (b) the conditions specified in subsection (5) have been satisfied in relation to the person.
- (2) On the commencement date, the person is taken to be approved under section 13B(2B) to be a minority shareholder controller of the insurer.
- (3) Subsection (4) applies to a person if, immediately before the commencement date—
 - (a) the person has, alone or with an associate (as defined by section 9(4)) or through a nominee, been entitled to exercise, or control the exercise of, 50% or more of the voting power at a general meeting of an HK insurer (other than a special purpose insurer); and
 - (b) the conditions specified in subsection (5) have been satisfied in relation to the person.
- (4) On the commencement date, the person is taken to be approved under section 13B(2B) to be a majority shareholder controller of the insurer.

- (5) For the purposes of subsections (1) and (3), the conditions are that—
 - (a) a written notice under the former section 14(2) has been delivered to the Authority in relation to the person becoming a controller (as defined by the former section 13B(1)) of the HK insurer;
 - (b) there is no objection under the former section 13B(4) to the person being such a controller in effect under section 116; and
 - (c) the shares by virtue of which the person has become such a controller are not subject to any restrictions under section 13C(2).

3. Potential shareholder controller of HK insurer

- (1) This section applies to a person if, immediately before the commencement date—
 - (a) the person is not a controller (as defined by the former section 13B(1)) of an HK insurer (other than a special purpose insurer); but
 - (b) the conditions under the former section 13B(2)(a), (ab) and (b) have been satisfied in relation to the person.
- (2) On the first occasion, on or after the commencement date, on which the person becomes any shareholder controller of the HK insurer, the person is taken to be approved under section 13B(2B) to be—
 - (a) if the person becomes a minority shareholder controller of the insurer on that occasion—a minority shareholder controller of the insurer; or

- (b) if the person becomes a majority shareholder controller of the insurer on that occasion—a majority shareholder controller of the insurer.

4. Pre-existing notice under former section 13B(2)(a)

- (1) This section applies if, immediately before the commencement date—
 - (a) a person has served a notice on the Authority under the former section 13B(2)(a) in respect of an HK insurer (other than a special purpose insurer);
 - (b) a prescribed fee has been paid under the former section 13B(2)(ab); and
 - (c) the condition under the former section 13B(2)(b) has not been satisfied in relation to the person.
- (2) Subject to subsection (3), if the Authority has served a preliminary notice of objection under the former section 13B(4) on the person immediately before the commencement date, the Authority is to continue to deal with the objection in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (3) If, on or after the commencement date, the objection mentioned in subsection (2) takes effect under section 116, the objection is taken to be a refusal under section 13B(2H) to approve the person to be—
 - (a) if the person intends to become a controller (as defined by the former section 13B(1)) that is equivalent to a minority shareholder controller of the HK insurer—a minority shareholder controller of the insurer; or

- (b) if the person intends to become a controller (as defined by the former section 13B(1)) that is equivalent to a majority shareholder controller of the HK insurer—a majority shareholder controller of the insurer.
- (4) Subject to subsections (5), (6) and (7), if the Authority has not served a notice of objection under the former section 13B(4) on the person (*relevant person*) immediately before the commencement date, the Authority is to continue to deal with the notice mentioned in subsection (1)(a) in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (5) Subsection (6) applies if the condition under the former section 13B(2)(b) becomes satisfied in relation to the relevant person at any time on or after the commencement date.
- (6) On the first occasion, after the time mentioned in subsection (5), on which the relevant person becomes any shareholder controller of the HK insurer, the person is taken to be approved under section 13B(2B) to be—
 - (a) if the person becomes a minority shareholder controller of the insurer on that occasion—a minority shareholder controller of the insurer; or
 - (b) if the person becomes a majority shareholder controller of the insurer on that occasion—a majority shareholder controller of the insurer.

- (7) If the condition under the former section 13B(2)(b) cannot be satisfied in relation to the relevant person because of a notice of objection served on the relevant person under the former section 13B(4) on or after the commencement date by virtue of subsection (4), the notice of objection is taken to be a notice under section 13B(2H) to refuse to approve the person to be—
 - (a) if the person intends to become a controller that is equivalent to a minority shareholder controller of the HK insurer—a minority shareholder controller of the insurer; or
 - (b) if the person intends to become a controller that is equivalent to a majority shareholder controller of the HK insurer—a majority shareholder controller of the insurer.

5. Pre-existing objection to shareholder controller of HK insurer

- (1) This section applies if—
 - (a) immediately before the commencement date—
 - (i) the Authority has served on a person a preliminary notice of objection under the former section 13B(4) to object to the person being a controller (as defined by the former section 13B(1)) of an HK insurer; and
 - (ii) the objection under the former section 13B(4) has not taken effect under section 116; and

- (b) the preliminary notice of objection is not a notice in relation to which section 4(2) of this Schedule applies.
- (2) Subject to subsection (3), on and after the commencement date, the Authority is to continue to deal with the objection in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (3) If the objection takes effect under section 116 on or after the commencement date, the objection is taken to be—
 - (a) if the person is a minority shareholder controller of an HK insurer—a refusal to approve the person to be a minority shareholder controller of the insurer under section 13B(2H); or
 - (b) if the person is a majority shareholder controller of an HK insurer—a refusal to approve the person to be a majority shareholder controller of the insurer under section 13B(2H).

6. Pre-existing restrictions and outstanding applications under former section 13C

- (1) If, immediately before the commencement date, the Authority has served a notice under section 13C(2) on a person to direct any shares to be subject to any restrictions mentioned in that section, the former section 13C continues to apply in relation to the restrictions as if the Amendment Ordinance had not been enacted.

- (2) If, immediately before the commencement date, the Authority has applied for an order under section 13C(5) or (8) in relation to any shares, the former section 13C continues to apply in relation to the application and any order made under section 13C(5) or (8) as if the Amendment Ordinance had not been enacted.

Part 2

Actuaries of Authorized Insurers

7. Interpretation (Part 2 of Schedule 12)

In this Part—

Amendment Ordinance (《修訂條例》) means the Insurance (Amendment) Ordinance 2023 (of 2023);

commencement date (實施日期) means the date on which section 24 of the Amendment Ordinance comes into operation;

former (原有), when it appears in conjunction with a reference to a section, means that section of the pre-amended Ordinance;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement date.

8. Pre-existing actuary of authorized insurer carrying on long term business

- (1) This section applies if, immediately before the commencement date, a person is an actuary appointed by an authorized insurer under the former section 15(1)(b) in compliance with the former section 15(3A).
- (2) On and after the commencement date, the person mentioned in subsection (1)—
 - (a) continues to be the authorized insurer's actuary without the need for—
 - (i) a fresh appointment under section 15AAA(1); or
 - (ii) a fresh approval under section 15AAAB(2); and
 - (b) is taken to be appointed by the insurer under the relevant provision.
- (3) In subsection (2)—
relevant provision (有關條文), in relation to an authorized insurer, means—
 - (a) if the insurer is one described in section 21B(1)—section 15AAA(1)(a); or
 - (b) if the insurer is one described in section 21B(4) or (7)—section 15AAA(1)(b).

9. Approval of appointment of person as actuary of authorized insurer

- (1) This section applies in relation to a person if, immediately before the commencement date—
 - (a) an approval of the person's appointment as an actuary of an authorized insurer under the former section 15(3B) is in effect; but
 - (b) the person is not appointed as an actuary by the insurer under the former section 15(1)(b).
- (2) On the commencement date, the approval under the former section 15(3B) is taken to be an approval under section 15AAAB(2).

10. Outstanding application for approval of appointment of actuary of authorized insurer

- (1) If, immediately before the commencement date—
 - (a) an authorized insurer has made an application under the former section 15(3B)(a) for an approval of a person's appointment as an actuary of the authorized insurer; and
 - (b) the application has not been determined,subject to subsections (2) and (3), on and after that date, the Authority is to determine the application in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (2) If the Authority approves the application in accordance with the pre-amended Ordinance under subsection (1), the appointment is taken to be approved under section 15AAAB(2).

- (3) If the Authority rejects the application in accordance with the pre-amended Ordinance under subsection (1), the rejection is taken to be a refusal to approve the person's appointment as an actuary of the authorized insurer under section 15AAAB(4).

11. Pre-existing refusal of approval of actuary of authorized insurer

- (1) This section applies if, immediately before the commencement date—
 - (a) the Authority has given a notice of refusal to approve a person's appointment as an actuary of an authorized insurer under the former section 15(3D); and
 - (b) the refusal under that section has not taken effect under section 116.
- (2) Subject to subsection (3), on and after the commencement date, the Authority is to continue to deal with the refusal in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (3) If the refusal takes effect under section 116 on or after the commencement date, the refusal is taken to be a refusal to approve the person's appointment as an actuary of the authorized insurer under section 15AAAB(4).

12. Pre-existing revocation of approval of appointment of actuary of authorized insurer

- (1) This section applies if, immediately before the commencement date—
 - (a) the Authority has served a notice of revocation of the approval of a person's appointment as an actuary of an authorized insurer on the insurer and the person under the former section 15(3F); and
 - (b) the revocation under that section has not taken effect under section 116.
- (2) Subject to subsection (3), on and after the commencement date, the Authority is to continue to deal with the revocation in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (3) If the revocation takes effect under section 116 on or after the commencement date, the revocation is taken to be a revocation of the approval of the person's appointment as an actuary of the authorized insurer under section 15AABA(1).

13. Pre-existing objection to appointment of actuary of authorized insurer

- (1) This section applies if, immediately before the commencement date—
 - (a) the Authority has served a notice of objection to a person's appointment as an actuary of an authorized insurer on the insurer and the person under the former section 15B(2A); and
 - (b) the objection under that section has not taken effect under section 116.

- (2) Subject to subsection (3), on and after the commencement date, the Authority is to continue to deal with the objection in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (3) If the objection takes effect under section 116 on or after the commencement date, the objection is taken to be a revocation of the approval of the person's appointment as an actuary of the authorized insurer under section 15AABA(1).

Part 3

Shareholder Controllers of Designated Insurance Holding Company

14. Interpretation (Part 3 of Schedule 12)

In this Part—

Amendment Ordinance (《修訂條例》) means the Insurance (Amendment) Ordinance 2023 (of 2023);

commencement date (實施日期) means the date on which section 79 of the Amendment Ordinance comes into operation;

former (原有), when it appears in conjunction with a reference to a section, means that section of the pre-amended Ordinance;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement date.

15. Approval for shareholder controller of designated insurance holding company

- (1) Subsection (2) applies to a person who, immediately before the commencement date—
 - (a) alone or with an associate (as defined by the former section 95A(1)) or through a nominee, has been entitled to exercise, or control the exercise of, 15% or more but less than 50%, of the voting power at a general meeting of a designated insurance holding company; and
 - (b) has been approved, or taken to be approved, under the former section 95M to be a shareholder controller (as defined by the former section 95A(1)) of the company.
- (2) On the commencement date, the person is taken to be approved under section 95M to be a minority shareholder controller of the company.
- (3) Subsection (4) applies to a person who, immediately before the commencement date—
 - (a) alone or with an associate (as defined by the former section 95A(1)) or through a nominee, has been entitled to exercise, or control the exercise of, 50% or more of the voting power at a general meeting of a designated insurance holding company; and
 - (b) has been approved, or taken to be approved, under the former section 95M to be a shareholder controller (as defined by the former section 95A(1)) of the company.
- (4) On the commencement date, the person is taken to be approved under section 95M to be a majority shareholder controller of the company.

- (5) However, subsection (2) or (4) does not apply to a person if, immediately before the commencement date—
 - (a) the Authority has served a notice under the former section 95N(3) on the person objecting to the person being a shareholder controller (as defined by the former section 95A(1)) of the designated insurance holding company concerned; and
 - (b) the objection has taken effect under section 116.

16. Potential shareholder controller of designated insurance holding company

- (1) This section applies to a person if, immediately before the commencement date, the person—
 - (a) is not a shareholder controller (as defined by the former section 95A(1)) of a designated insurance holding company; but
 - (b) has been approved, or taken to be approved, under the former section 95M to be a shareholder controller (as defined by the former section 95A(1)) of the company.
- (2) On the first occasion, on or after the commencement date, on which the person becomes any shareholder controller of the designated insurance holding company, the person is taken to be approved under section 95M to be—
 - (a) if the person becomes a minority shareholder controller of the company on that occasion—a minority shareholder controller of the company; or

- (b) if the person becomes a majority shareholder controller of the company on that occasion—a majority shareholder controller of the company.

17. Outstanding application for approval of shareholder controller of designated insurance holding company

- (1) If, immediately before the commencement date—
 - (a) a person has made an application under the former section 95I(2), 95K(2) or 95L(5) for an approval under the former section 95M to be a shareholder controller (as defined by the former section 95A(1)) of a designated insurance holding company; and
 - (b) the application has not been determined, subject to subsections (2) and (3), on and after that date, the Authority is to determine the application in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (2) If the Authority approves the application in accordance with the pre-amended Ordinance under subsection (1), the approval is taken to be an approval under section 95M(1) for the person to be—
 - (a) if the person is or intends to become a shareholder controller (as defined by the former section 95A(1)) that is equivalent to a minority shareholder controller of the designated insurance holding company—a minority shareholder controller of the company; or

- (b) if the person is or intends to become a shareholder controller (as defined by the former section 95A(1)) that is equivalent to a majority shareholder controller of the designated insurance holding company—a majority shareholder controller of the company.
- (3) If the Authority rejects the application in accordance with the pre-amended Ordinance under subsection (1), the rejection is taken to be a refusal under section 95M(4) to approve the person to be—
 - (a) if the person is or intends to become a shareholder controller (as defined by the former section 95A(1)) that is equivalent to a minority shareholder controller of the designated insurance holding company—a minority shareholder controller of the company; or
 - (b) if the person is or intends to become a shareholder controller (as defined by the former section 95A(1)) that is equivalent to a majority shareholder controller of the designated insurance holding company—a majority shareholder controller of the company.

18. Pre-existing objection to shareholder controller of designated insurance holding company

- (1) This section applies if, immediately before the commencement date—
 - (a) the Authority has served a notice of objection to a person being a shareholder controller (as defined by the former section 95A(1)) of a designated insurance holding company on the person under the former section 95N(3); and

- (b) the objection under that section has not taken effect under section 116.
- (2) Subject to subsection (3), on and after the commencement date, the Authority is to continue to deal with the objection in accordance with the pre-amended Ordinance as if the Amendment Ordinance had not been enacted.
- (3) If the objection takes effect under section 116 on or after the commencement date, the objection is taken to be—
 - (a) if the person is a minority shareholder controller of the company—an objection to the person being a minority shareholder controller of the company under section 95N(3); or
 - (b) if the person is a majority shareholder controller of the company—an objection to the person being any shareholder controller of the company under section 95N(3B)(b).

Part 4

Review of Pre-existing Decisions

19. Interpretation (Part 4 of Schedule 12)

In this Part—

Amendment Ordinance (《修訂條例》) means the Insurance (Amendment) Ordinance 2023 (of 2023);

commencement date (實施日期)—

- (a) in relation to a matter falling within paragraph (a) of the definition of ***pre-existing***

decision—means the date on which section 18 of the Amendment Ordinance comes into operation;

- (b) in relation to a matter falling within paragraph (b), (c) or (d) of the definition of ***pre-existing decision***—means the date on which section 24 of the Amendment Ordinance comes into operation; or
- (c) in relation to a matter falling within paragraph (e) or (f) of the definition of ***pre-existing decision***—means the date on which section 79 of the Amendment Ordinance comes into operation;

former (原有), when it appears in conjunction with a reference to a section, means that section of the pre-amended Ordinance;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement date;

pre-existing decision (原有決定) means any of the following specified decisions taking place before the commencement date—

- (a) an objection to a person becoming or being a controller (as defined by the former section 13B(1)) of an authorized insurer under the former section 13B(4);
- (b) a refusal to approve the appointment of a person as an actuary of an authorized insurer under the former section 15(3D);
- (c) a revocation of the approval of the appointment of a person as an actuary of an authorized insurer under the former section 15(3F);

- (d) an objection to the appointment of a person as an actuary of an authorized insurer under the former section 15B(2A);
- (e) a refusal to approve a person to be a shareholder controller of a designated insurance holding company under the former section 95M(4);
- (f) an objection to a person being a shareholder controller of a designated insurance holding company under the former section 95N(3).

20. Application for review not made before commencement date

- (1) If, immediately before the commencement date—
 - (a) a person has not exercised the right to apply to the Tribunal for a review of a pre-existing decision under section 100; and
 - (b) the period for exercising the right has not ended,on and after the commencement date, the person may continue to exercise the right as if the Amendment Ordinance had not been enacted.
- (2) If the person exercises the right to apply to the Tribunal for a review under subsection (1), the Tribunal is to deal with the review as if the Amendment Ordinance had not been enacted.

21. Review not yet determined before commencement date

- (1) This section applies if, immediately before the commencement date—
 - (a) an application for review of a pre-existing decision has been made to the Tribunal under section 100; but
 - (b) the review has not yet been determined under section 101.
- (2) On and after the commencement date, the Tribunal is to continue to deal with the review as if the Amendment Ordinance had not been enacted.

22. Determination of review on or after commencement date

- (1) This section applies in relation to a review of a pre-existing decision determined by the Tribunal on or after the commencement date under section 101 by virtue of section 20 or 21 of this Schedule.
- (2) If the Tribunal varies, or substitutes another decision for, the pre-existing decision, section 101(3)(a), (b) and (c) applies to the decision as varied or substituted as if—
 - (a) the review in question mentioned in section 101(3)(a) had been a review of the equivalent decision of the pre-existing decision; and
 - (b) the decision mentioned in section 101(3)(b) and (c) had been the equivalent decision of the pre-existing decision.

(3) In subsection (2)—

equivalent decision (相等決定)—

- (a) in relation to a matter falling within paragraph (a) of the definition of *pre-existing decision* in section 19 of this Schedule—
 - (i) if the person is or intends to become a controller (as defined by the former section 13B(1)) that is equivalent to a minority shareholder controller of the authorized insurer—means a refusal to approve the person to be a minority shareholder controller of the insurer under section 13B(2H); or
 - (ii) if the person is or intends to become a controller (as defined by the former section 13B(1)) that is equivalent to a majority shareholder controller of the authorized insurer—means a refusal to approve the person to be a majority shareholder controller of the insurer under section 13B(2H);
- (b) in relation to a matter falling within paragraph (b) of the definition of *pre-existing decision* in section 19 of this Schedule—means a refusal to approve the person's appointment as an actuary of the authorized insurer under section 15AAAB(4);

- (c) in relation to a matter falling within paragraph (c) of the definition of *pre-existing decision* in section 19 of this Schedule—means a revocation of the approval of the person's appointment as an actuary of the authorized insurer under section 15AABA(1);
- (d) in relation to a matter falling within paragraph (d) of the definition of *pre-existing decision* in section 19 of this Schedule—means a revocation of the approval of the person's appointment as an actuary of the authorized insurer under section 15AABA(1);
- (e) in relation to a matter falling within paragraph (e) of the definition of *pre-existing decision* in section 19 of this Schedule—
 - (i) if the person is or intends to become a shareholder controller (as defined by the former section 95A(1)) that is equivalent to a minority shareholder controller of the designated insurance holding company—means a refusal to approve the person to be a minority shareholder controller of the company under section 95M(4); or
 - (ii) if the person is or intends to become a shareholder controller (as defined by the former section 95A(1)) that is equivalent to a majority shareholder controller of the designated insurance holding company—means a refusal to approve the person to be a majority shareholder controller of the company under section 95M(4); or

-
- (f) in relation to a matter falling within paragraph (f) of the definition of *pre-existing decision* in section 19 of this Schedule—
- (i) if the person is a minority shareholder controller of the designated insurance holding company—means an objection to the person being a minority shareholder controller of the company under section 95N(3); or
 - (ii) if the person is a majority shareholder controller of the designated insurance holding company—means an objection to the person being any shareholder controller of the company under section 95N(3B)(b).”.
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Part 3

Related Amendments to Inland Revenue Ordinance (Cap. 112)

102. Section 22D added

Part 4, Division 11, Subdivision 1, before section 23—

Add

“22D. Interpretation of Subdivision 1 of Division 11 of Part 4

In this Subdivision—

Cap. 41 (《第 41 章》) means the Insurance Ordinance (Cap. 41);

Cap. 41 amendment date (《第 41 章》修訂日期) means the commencement date of section 11 of the Insurance (Amendment) Ordinance 2023 (of 2023);

life insurance business (人壽保險業務) means the business of any of the following classes specified in Part 2 of Schedule 1 to Cap. 41—

- (a) class A (life and annuity);
- (b) class B (marriage and birth);
- (c) class C (linked long term);
- (d) class E (tontines);

life insurance fund (人壽保險基金) means—

- (a) if the corporation maintains only 1 separate fund relating to its life insurance business—that fund; or

- (b) if the corporation maintains 2 or more separate funds relating to its life insurance business—the aggregate of the funds;

non-life long term insurance business (非人壽長期保險業務) means the business of any of the following classes specified in Part 2 of Schedule 1 to Cap. 41—

- (a) class D (permanent health);
- (b) class F (capital redemption);
- (c) class I (retirement scheme management category III);

non-life long term insurance fund (非人壽長期保險基金) means—

- (a) if the corporation maintains only 1 separate fund relating to its non-life long term insurance business—that fund; or
- (b) if the corporation maintains 2 or more separate funds relating to its non-life long term insurance business—the aggregate of the funds;

report (報告) means—

- (a) an abstract of the latest report of the actuary submitted to the Insurance Authority under section 18 of Cap. 41 (as in force before the Cap. 41 amendment date); or
- (b) all of the latest statements, reports and information that—
 - (i) relate to all the funds maintained under Part IV of Cap. 41 (as in force on and after the Cap. 41 amendment date); and

- (ii) are submitted to the Insurance Authority annually under a requirement prescribed by rules made under section 129 of Cap. 41 by virtue of section 17 of Cap. 41 (as in force on and after the Cap. 41 amendment date);

separate fund (獨立基金) means a fund maintained separately under Part IV of Cap. 41.”.

103. Section 23 amended (ascertainment of assessable profits of life insurance corporations)

- (1) Section 23, heading—

Repeal

“of life insurance corporations”

Substitute

“: life insurance business”.

- (2) Section 23(1)—

Repeal

“the business of life insurance, shall”

Substitute

“its life insurance business”.

- (3) Section 23(1)(a)—

Repeal

“be deemed”

Substitute

“are deemed”.

- (4) Section 23(1)(b)—

Repeal

“be that”

Substitute

“are that”.

- (5) Section 23(1)(b)—

Repeal

“ascertained in accordance with the provisions of subsections (2) to (7) deemed to arise in the basis period for that year less any dividend received which is required to be excluded by virtue of section 26(a):”

Substitute

“deemed to arise in the basis period for that year, as ascertained in accordance with subsections (4), (4A), (4B), (5) and (7), less any receipt or income received by or accrued to the corporation that is not chargeable to tax or is required to be excluded under this Part:”.

- (6) Section 23(1)(b), proviso (i)—

Repeal

“shall be irrevocable and in addition shall be deemed to apply”

Substitute

“is irrevocable and applies”.

- (7) Section 23(1)(b), English text, proviso (ii)—

Repeal

“shall”

Substitute

“are to”.

- (8) Section 23(2), English text—

Repeal

“shall”

Substitute

“must”.

- (9) Section 23(2)—

Repeal

everything after “latest”

Substitute

“report.”.

- (10) Section 23(3)—

Repeal

“shall be effective only if the actuarial”

Substitute

“is effective only if the”.

- (11) Section 23(3), English text—

Repeal

“shall be lawful”

Substitute

“is lawful”.

(12) Section 23—

Repeal subsection (4)

Substitute

“(4) If any separate fund constituting, or forming part of, the life insurance fund is maintained for life insurance business only, the surplus in respect of that separate fund is ascertained in accordance with the following formula—

$$A - B + C - D$$

where: A means the value of the separate fund at the end of the period in respect of which the report is made (*reporting period*);

B means the estimated liability of the corporation on the separate fund at the end of the reporting period;

C any loss or expenditure that is debited to the separate fund during the reporting period and is incurred by a subsidiary of the corporation;

D any receipt or income that is credited to the separate fund during the reporting period and is received by or accrued to a subsidiary of the corporation.

- (4A) If any separate fund constituting, or forming part of, the life insurance fund is maintained for both life insurance business and non-life long term insurance business, the surplus in respect of that separate fund that is deemed to be arising in or derived from the life insurance business is the amount that bears the following ratio to the amount calculated in accordance with the formula specified in subsection (4)—

$$\frac{A}{B}$$

where: A means the total amount of the premiums from life insurance business to which the separate fund relates accrued to the separate fund during the basis period for the year of assessment;

B means the total amount of the premiums from any life insurance business and non-life long term insurance business to which the separate fund relates accrued to the separate fund during the basis period for the year of assessment.

- (4B) The adjusted surplus is to be ascertained by—

- (a) adding to the surplus of the separate fund constituting, or the total amount of surplus of all separate funds each of which forms part of, the life insurance fund ascertained in accordance with subsections (4) and (4A) (*relevant surplus*)—

- (i) any deficit in respect of a period, that is prior to the period in respect of which the report is made (*reporting period*), where the deficit is included in the report to the extent to which the deficit has been sustained in the life insurance business carried on by the corporation;
- (ii) any outgoing or expense charged against the life insurance fund in the report which is not such that it would be allowed as a deduction in ascertaining assessable profits under section 16 to the extent to which the outgoing or expense is incurred in the production of the relevant surplus;
- (iii) any expense disbursement or loss charged against the life insurance fund in the report which is such that it would not be allowed as a deduction in ascertaining assessable profits under section 17 to the extent to which the disbursement or loss is incurred in the production of the relevant surplus;
- (iv) any income or profits of the corporation that arise from the life insurance business in the reporting period and are not credited to the life insurance fund in the report;
- (v) any appropriations of profits or transfers to reserve charged against the life insurance fund during the reporting period (other than appropriations or transfers to policy holders in their capacity as such) to the extent to which the appropriations or transfers relate to the life insurance business; and

- (vi) the amount of a balancing charge directed to be made under Part 6 to the extent to which the relevant assets are used in the production of the relevant surplus; and
- (b) deducting from the relevant surplus—
 - (i) any surplus in respect of a period prior to the reporting period where the surplus has been retained in the life insurance fund in the report to the extent to which the surplus has arisen from the life insurance business carried on by the corporation;
 - (ii) any appropriations or transfers to policy holders in their capacity as such, effected during the reporting period where the appropriations or transfers have not been charged against the life insurance fund in the report to the extent to which the appropriations or transfers relate to the life insurance business;
 - (iii) any outgoing or expense not charged against the life insurance fund during the reporting period which is such that it would be allowed as a deduction in ascertaining assessable profits under section 16 to the extent to which the outgoing or expense is incurred in the production of the relevant surplus;
 - (iv) any receipt of a capital nature, or transfer from reserve, credited to the life insurance fund during the reporting period to the extent to which the receipt or transfer relates to the life insurance business; and

- (v) the allowances provided by Part 6 to the extent to which the relevant assets are used in the production of the relevant surplus.”.

(13) Section 23—

Repeal subsection (5)

Substitute

- “(5) The part of adjusted surplus that is deemed to be the profits arising in or derived from Hong Kong from the life insurance business is the amount that bears the following ratio to the adjusted surplus ascertained in accordance with subsection (4B)—

$$\frac{A}{B}$$

where: A means the total amount of the premiums from life insurance business in Hong Kong to which the life insurance fund relates accrued to the corporation during the basis period for the year of assessment;

B means the total amount of the premiums from life insurance business to which the life insurance fund relates accrued to the corporation during the basis period for the year of assessment.”.

(14) Section 23—

Repeal subsection (6).

(15) Section 23(7)—

Repeal

“the foregoing provisions shall be”

Substitute

“subsections (4), (4A), (4B) and (5) is”.

- (16) Section 23(7)—

Repeal

“actuarial” (wherever appearing).

- (17) Section 23(8)(a)—

Repeal

“subsection (4)”

Substitute

“subsections (4), (4A) and (4B)”.

- (18) Section 23(8)(a)—

Repeal

“shall be”

Substitute

“is”.

- (19) Section 23(8)(a), after “loss”—

Add

“attributable to activities in Hong Kong”.

- (20) Section 23(8)(a)—

Repeal

“actuarial”.

- (21) Section 23(8)(b)—

Repeal

“the provisions of subsections (5) and (6) shall apply”

Substitute

“subsection (5) applies”.

- (22) Section 23(8)(c)—

Repeal

“shall be”

Substitute

“is”.

- (23) Section 23(8)(c)—

Repeal

“actuarial” (wherever appearing).

- (24) Section 23(9), definition of *premiums from life insurance business in Hong Kong*, paragraph (a), after “premiums”—

Add

“from life insurance business”.

- (25) Section 23(9), definition of *premiums from life insurance business in Hong Kong*, paragraph (b), after “all premiums”—

Add

“from life insurance business”.

- (26) Section 23(9), definition of *premiums from life insurance business in Hong Kong*, proviso—

Repeal the full stop

Substitute a semicolon.

- (27) Section 23(9)—

(a) definition of *actuarial report*;

(b) definition of *life insurance business*—

Repeal the definitions.

(28) Section 23(9)—

Add in alphabetical order

“*subsidiary* (附屬公司) has the meaning given by section 15 of the Companies Ordinance (Cap. 622) for the purposes of that Ordinance.”.

104. Sections 23AAA to 23AAAE added

After section 23—

Add

“23AAA. Ascertainment of assessable profits: non-life long term insurance business

- (1) The assessable profits for any year of assessment of a corporation, whether mutual or proprietary, from its non-life long term insurance business, are that part of the adjusted surplus deemed to arise in the basis period for that year, as ascertained in accordance with section 23(4), (4A), (4B), (5) and (7) (as applied and modified under subsection (2)).
- (2) Section 23(4), (4A), (4B), (5), (7), (8) and (9) applies in relation to the non-life long term insurance business as if—
 - (a) a reference in that section to life insurance business were a reference to non-life long term insurance business;
 - (b) a reference in that section to non-life long term insurance business were a reference to life insurance business; and
 - (c) a reference in that section to life insurance fund were a reference to non-life long term insurance fund.

- (3) A corporation that carries on any non-life long term insurance business in or from Hong Kong must submit to the Commissioner a certified true copy of the latest report.

23AAAB. Adjustment to assessable profits due to change in insurance capital requirements: interpretation

- (1) In this section and sections 23AAAD and 23AAAE—

Cap. 41E (《第41E章》) means the Insurance (Determination of Long Term Liabilities) Rules (Cap. 41 sub. leg. E);

material date (關鍵日期), in relation to a corporation, means—

- (a) if the application of Cap. 41E to the corporation is relaxed under section 130 of Cap. 41 before the Cap. 41 amendment date so as to allow the corporation to maintain its capital levels in accordance with a risk-based capital framework—the date on which the relaxation takes effect; or
- (b) otherwise—the Cap. 41 amendment date;

net asset value (淨資產值), in relation to a fund, means the value of the fund less the estimated liability of the corporation on the fund;

new separate fund (新獨立基金) means a separate fund maintained on the material date relating to any life insurance business or non-life long term insurance business;

pre-existing fund (先前基金)—

- (a) in relation to any new separate fund constituting, or forming part of, the life insurance fund, means—
 - (i) if, immediately before the material date, the corporation has maintained only 1 separate fund for the life insurance business to which the new separate fund relates—that 1 separate fund; or
 - (ii) if, immediately before the material date, the corporation has maintained 2 or more separate funds for the life insurance business to which the new separate fund relates—the aggregate of those 2 or more separate funds; or
- (b) in relation to any new separate fund constituting, or forming part of, the non-life long term insurance fund, means—
 - (i) if, immediately before the material date, the corporation has maintained only 1 separate fund for the non-life long term insurance business to which the new separate fund relates—that 1 separate fund; or
 - (ii) if, immediately before the material date, the corporation has maintained 2 or more separate funds for the non-life long term insurance business to which the new separate fund relates—the aggregate of those 2 or more separate funds;

premiums from non-life long term insurance business in Hong Kong (從在香港經營非人壽長期保險業務所得的保費)—

- (a) includes—
 - (i) all premiums from non-life long term insurance business received or receivable in Hong Kong from both residents and non-residents; and
 - (ii) all premiums from non-life long term insurance business receivable outside Hong Kong from residents of Hong Kong where such premiums are in respect of policies the proposals for which were received by the corporation in Hong Kong; but
 - (b) does not include any premiums returned to the insured and any corresponding premiums paid on reinsurance.
- (2) For the purposes of sections 23AAAC, 23AAAD and 23AAAE, if the material date for a corporation falls within the basis period of the corporation for a year of assessment, that year of assessment is the corporation's material year of assessment.

23AAAC. Adjustment to assessable profits due to change in insurance capital requirements: election

- (1) Subject to subsections (3) and (4) and despite sections 23(1) and 23AAA(1)—
 - (a) if, for the material year of assessment of a corporation, an election under section 23(1)(b) is effective in relation to the corporation—

- (i) if the corporation carries on life insurance business (but not non-life long term insurance business) in Hong Kong in the basis period for its material year of assessment—the corporation may elect in writing that section 23AAAD applies to the corporation; or
 - (ii) if the corporation carries on both life insurance business and non-life long term insurance business in Hong Kong in the basis period for its material year of assessment—the corporation may elect in writing that sections 23AAAD and 23AAAE apply to the corporation; or
 - (b) if, for the material year of assessment of a corporation, no election under section 23(1)(b) is effective in relation to the corporation, and the corporation carries on non-life long term insurance business in Hong Kong in the basis period for its material year of assessment—the corporation may elect in writing that section 23AAAE applies to the corporation.
- (2) An election made under subsection (1)(a)(i) or (ii) or (b) is irrevocable.
 - (3) If a corporation that makes an election under subsection (1)(a)(i) or (ii) no longer carries on life insurance business in Hong Kong as at the end of the basis period for its material year of assessment—
 - (a) for an election under subsection (1)(a)(i)—the election has no effect; or

- (b) for an election under subsection (1)(a)(ii)—the election has no effect to the extent that it relates to the application of section 23AAAD.
- (4) If a corporation that makes an election under subsection (1)(a)(ii) or (b) no longer carries on non-life long term insurance business in Hong Kong as at the end of the basis period for its material year of assessment—
 - (a) for an election under subsection (1)(a)(ii)—the election has no effect to the extent that it relates to the application of section 23AAAE; or
 - (b) for an election under subsection (1)(b)—the election has no effect.

23AAAD. Adjustment to assessable profits due to change in insurance capital requirements: life insurance business

- (1) The assessable profits of a corporation from its life insurance business for its material year of assessment are ascertained by deducting four-fifths of the specified amount from the assessable profits as ascertained in accordance with section 23(4), (4A), (4B), (5) and (7) for that year of assessment.
- (2) Subject to subsection (3), the assessable profits of the corporation from its life insurance business for each of the 4 consecutive years of assessment next following its material year of assessment are ascertained by adding one-fifth of the specified amount to the assessable profits as ascertained in accordance with section 23(4), (4A), (4B), (5) and (7) for the year of assessment concerned.

- (3) If the corporation ceases to carry on life insurance business in Hong Kong at any time in the basis period for any year of assessment (*cessation year*) among the 3 consecutive years of assessment next following its material year of assessment, the portion of the specified amount that is required to be added to the assessable profits of the corporation for a year of assessment after the cessation year (*subsequent year*) under subsection (2) is to be added to the assessable profits of the corporation for the cessation year (instead of the subsequent year).
- (4) For subsections (1) and (2), if, on the material date, any new separate fund constituting, or forming part of, the life insurance fund is maintained for life insurance business only, the specified amount in relation to the assessable profits from the life insurance business to which that new separate fund relates is the amount calculated in accordance with the following formula—

$$(\text{NAV}_1 - \text{NAV}_2) \times \frac{A}{B}$$

where: NAV_1 means the net asset value of the new separate fund as at the material date;

NAV_2 means the net asset value of the pre-existing fund in relation to the new separate fund immediately before the material date;

- A means the total amount of the premiums from life insurance business in Hong Kong (as defined by section 23(9)) to which the new separate fund relates accrued to the corporation during the period specified in subsection (6);
- B means the total amount of the premiums from life insurance business to which the new separate fund relates accrued to the corporation during the period specified in subsection (6).
- (5) For subsections (1) and (2), if, on the material date, any new separate fund constituting, or forming part of, the life insurance fund is maintained for both life insurance business and non-life long term insurance business, the specified amount in relation to the assessable profits from the life insurance business to which that new separate fund relates is the amount calculated in accordance with the following formula—

$$NAV_1 \times \frac{A}{B} - NAV_2 \times \frac{A}{C}$$

where: NAV_1 means the net asset value of the new separate fund as at the material date;

- A means the total amount of the premiums from life insurance business in Hong Kong (as defined by section 23(9)) to which the new separate fund relates accrued to the corporation during the period specified in subsection (6);
- B means the total amount of the premiums from any life insurance business and non-life long term insurance business to which the new separate fund relates accrued to the corporation during the period specified in subsection (6);
- NAV₂ means the net asset value of the pre-existing fund in relation to the new separate fund immediately before the material date;
- C means the total amount of the premiums from life insurance business to which that new separate fund relates accrued to the corporation during the period specified in subsection (6).
- (6) For subsections (4) and (5), the specified period is—
- (a) if the corporation has carried on life insurance business in or from Hong Kong for not less than 1 year of assessment but less than 2 consecutive years of assessment immediately before the corporation's material year of assessment—the basis period for the year of assessment immediately before the material year of assessment;

- (b) if the corporation has carried on life insurance business in or from Hong Kong for not less than 2 consecutive years of assessment but less than 3 consecutive years of assessment immediately before the corporation's material year of assessment—the basis periods for the 2 years of assessment immediately before the material year of assessment;
- (c) if the corporation has carried on life insurance business in or from Hong Kong for not less than 3 consecutive years of assessment immediately before the corporation's material year of assessment—the basis periods for the 3 years of assessment immediately before the material year of assessment; or
- (d) in any other case—the period beginning with the commencement of the basis period for the material year of assessment and ending immediately before the material date.

23AAAE. Adjustment to assessable profits due to change in insurance capital requirements: non-life long term insurance business

- (1) The assessable profits of a corporation from its non-life long term insurance business for its material year of assessment are ascertained by deducting four-fifths of the specified amount from the assessable profits as ascertained in accordance with section 23AAA for that year of assessment.

- (2) Subject to subsection (3), the assessable profits of the corporation from its non-life long term insurance business for each of the 4 consecutive years of assessment next following its material year of assessment are ascertained by adding one-fifth of the specified amount to the assessable profits as ascertained in accordance with section 23AAA for the year of assessment concerned.
- (3) If the corporation ceases to carry on non-life long term insurance business in Hong Kong at any time in the basis period for any year of assessment (*cessation year*) among the 3 consecutive years of assessment next following its material year of assessment, the portion of the specified amount that is required to be added to the assessable profits of the corporation for a year of assessment after the cessation year (*subsequent year*) under subsection (2) is to be added to the assessable profits of the corporation for the cessation year (instead of the subsequent year).
- (4) For subsections (1) and (2), if, on the material date, any new separate fund constituting, or forming part of, the non-life long term insurance fund is maintained for non-life long term insurance business only, the specified amount in relation to the assessable profits from the non-life long term insurance business to which that new separate fund relates is the amount calculated in accordance with the following formula—

$$(\text{NAV}_1 - \text{NAV}_2) \times \frac{\text{A}}{\text{B}}$$

where: NAV_1 means the net asset value of the new separate fund as at the material date;

NAV₂ means the net asset value of the pre-existing fund in relation to the new separate fund immediately before the material date;

A means the total amount of the premiums from non-life long term insurance business in Hong Kong to which the new separate fund relates accrued to the corporation during the period specified in subsection (6);

B means the total amount of the premiums from non-life long term insurance business to which the new separate fund relates accrued to the corporation during the period specified in subsection (6).

- (5) For subsections (1) and (2), if, on the material date, any new separate fund constituting, or forming part of, the non-life long term insurance fund is maintained for both life insurance business and non-life long term insurance business, the specified amount in relation to the assessable profits from the non-life long term insurance business to which that new separate fund relates is the amount calculated in accordance with the following formula—

$$NAV_1 \times \frac{A}{B} - NAV_2 \times \frac{A}{C}$$

where: NAV₁ means the net asset value of the new separate fund as at the material date;

- A means the total amount of the premiums from non-life long term insurance business in Hong Kong to which the new separate fund relates accrued to the corporation during the period specified in subsection (6);
- B means the total amount of the premiums from any life insurance business and non-life long term insurance business to which the new separate fund relates accrued to the corporation during the period specified in subsection (6);
- NAV₂ means the net asset value of the pre-existing fund in relation to the new separate fund immediately before the material date;
- C means the total amount of the premiums from non-life long term insurance business to which that new separate fund relates accrued to the corporation during the period specified in subsection (6).
- (6) For subsections (4) and (5), the specified period is—
- (a) if the corporation has carried on non-life long term insurance business in or from Hong Kong for not less than 1 year of assessment but less than 2 consecutive years of assessment immediately before the corporation's material year of assessment—the basis period for the year of assessment immediately before the material year of assessment;

- (b) if the corporation has carried on non-life long term insurance business in or from Hong Kong for not less than 2 consecutive years of assessment but less than 3 consecutive years of assessment immediately before the corporation's material year of assessment—the basis periods for the 2 years of assessment immediately before the material year of assessment;
- (c) if the corporation has carried on non-life long term insurance business in or from Hong Kong for not less than 3 consecutive years of assessment immediately before the corporation's material year of assessment—the basis periods for the 3 years of assessment immediately before the material year of assessment; or
- (d) in any other case—the period beginning with the commencement of the basis period for the material year of assessment and ending immediately before the material date.”.

105. Section 23A amended (ascertainment of assessable profits: non-life insurance business)

- (1) Section 23A, heading—

Repeal

“non-life”

Substitute

“general”.

- (2) Section 23A(1)—

Repeal

“a business of insurance other than life insurance (*non-life insurance business*)”

Substitute

“its general insurance business”.

- (3) Section 23A(1), Table—

Repeal

“non-life” (wherever appearing)

Substitute

“general”.

- (4) Section 23A(1), Table, after “from Hong Kong”—

Add

“attributable to general insurance business in Hong Kong”.

- (5) Section 23A(1), Table, after “be made under Part 6”—

Add

“, to the extent to which the relevant assets are used in the production of the assessable profits”.

- (6) Section 23A(1), Table—

Repeal

“reserve for unexpired risks at the commencement of the basis period”

Substitute

“premium liabilities attributable to general insurance business in Hong Kong at the end of the basis period for the year preceding the year of assessment”.

- (7) Section 23A(1), Table—

Repeal

“reserve for unexpired risks at the end of the basis period”

Substitute

“premium liabilities attributable to general insurance business in Hong Kong at the end of the basis period for the year of assessment”.

- (8) Section 23A(1), Table, after “actual losses”—

Add

“incurred for general insurance business in Hong Kong”.

- (9) Section 23A(1), Table, after “expenses in Hong Kong”—

Add

“attributable to general insurance business in Hong Kong”.

- (10) Section 23A(1), Table, after “corporation”—

Add

“attributable to general insurance business in Hong Kong”.

- (11) Section 23A(2) and (3)—

Repeal

“non-life” (wherever appearing)

Substitute

“general”.

- (12) Section 23A(4), Chinese text, definition of 保險合約—

Repeal

“義；”

Substitute

“義。”.

(13) Section 23A(4)—

- (a) definition of *premiums from non-life insurance business in Hong Kong*;
- (b) definition of *reserve for unexpired risks at the commencement of the basis period*;
- (c) definition of *reserve for unexpired risks at the end of the basis period*—

Repeal the definitions.

(14) Section 23A(4)—

Add in alphabetical order

“*general insurance business* (一般保險業務) has the meaning given by section 14AB(1);

***premium liabilities* (保費負債)—**

- (a) in relation to a basis period at the end of which section 11 of the Insurance (Amendment) Ordinance 2023 (of 2023) has not come into operation—means reserve for unexpired risks; or
- (b) otherwise—means the premium liabilities of an insurer, as determined in accordance with the rules made under section 129 of Cap. 41 with respect to the determination of the amount of any liabilities, on or after the Cap. 41 amendment date;

***reserve for unexpired risks* (未過期風險儲備金) means any reserve that—**

- (a) is set aside for the unexpired risks of the general insurance business in Hong Kong; and

- (b) is calculated at the percentage adopted by the corporation in relation to its operations as a whole for those unexpired risks.”.

(15) After section 23A(4)—

Add

“(5) For the purposes of this section, any general insurance business is general insurance business in Hong Kong if, in relation to the general insurance business—

- (a) the contracts of insurance of the business are made in Hong Kong; or
- (b) the proposals for the contracts of insurance of the business are made to the corporation in Hong Kong.”.

106. Section 23AA amended (mutual insurance corporations)

(1) Section 23AA(2)—

Repeal

“surplus”

Substitute

“assessable profits”.

(2) Section 23AA(2)(a), after “23,”—

Add

“23AAA, 23AAAB, 23AAAC, 23AAAD, 23AAAE,”.

(3) Section 23AA(2)(a)—

Repeal

“and 23AC”

Substitute

“, 23AC, 23AD and 23AE”.

107. Section 23AB amended (ascertainment of assessable profits: general reinsurance business or specified general insurance business of specified insurer)

(1) Section 23AB(1), Table—

Repeal

“reserve for unexpired risks at the commencement of the basis period”

Substitute

“premium liabilities attributable to the qualifying insurance business at the end of the basis period for the year preceding the year of assessment”.

(2) Section 23AB(1), Table—

Repeal

“reserve for unexpired risks at the end of the basis period”

Substitute

“premium liabilities attributable to the qualifying insurance business at the end of the basis period for the year of assessment”.

(3) Section 23AB(4), Chinese text, definition of 從有關合資格保險業務所得的保費, paragraph (b)—

Repeal

“約；”

Substitute

“約。”.

(4) Section 23AB(4)—

- (a) definition of *reserve for unexpired risks at the commencement of the basis period*;
- (b) definition of *reserve for unexpired risks at the end of the basis period*—

Repeal the definitions.

(5) Section 23AB(4)—

Add in alphabetical order

“premium liabilities (保費負債)—

- (a) in relation to a basis period at the end of which section 11 of the Insurance (Amendment) Ordinance 2023 (of 2023) has not come into operation—means reserve for unexpired risks; or
- (b) otherwise—means the premium liabilities of an insurer, as determined in accordance with the rules made under section 129 of Cap. 41 with respect to the determination of the amount of any liabilities, on or after the Cap. 41 amendment date;

reserve for unexpired risks (未過期風險儲備金) means any reserve that—

- (a) is set aside for the unexpired risks of the qualifying insurance business; and
- (b) is calculated at the percentage adopted by the specified insurer in relation to its operations as a whole for those unexpired risks;”.

108. Sections 23AD and 23AE added

Part 4, Division 11, Subdivision 1, after section 23AC—

Add

“23AD. Adjustment to assessable profits due to change in insurance capital requirements: general insurance business

- (1) Subject to subsections (3) and (4) and despite sections 23A and 23AB—
 - (a) subject to paragraph (b), if a corporation carries on general insurance business in Hong Kong in the basis period for its material year of assessment—the corporation may elect in writing that subsections (5), (6) and (7) apply to the corporation; or
 - (b) if a corporation has made an election under section 14B(2)(b) such that section 14B(1) applies to the corporation for its material year of assessment—the corporation may elect in writing that subsections (5), (6), (7), (8), (9) and (10) apply to the corporation.
- (2) An election made under subsection (1)(a) or (b) is irrevocable.
- (3) An election made under subsection (1)(a) or (b) has no effect if the corporation that makes the election no longer carries on general insurance business in Hong Kong as at the end of the basis period for its material year of assessment.

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- (4) An election made under subsection (1)(b) has no effect to the extent that it relates to the application of subsections (8), (9) and (10) if the corporation that makes the election no longer carries on qualifying insurance business in Hong Kong as at the end of the basis period for its material year of assessment.
 - (5) The assessable profits of the corporation from its general insurance business for its material year of assessment are ascertained by deducting four-fifths of the specified amount from the assessable profits as ascertained in accordance with section 23A for that year of assessment.
 - (6) Subject to subsection (7), the assessable profits of the corporation from its general insurance business for each of the 4 consecutive years of assessment next following its material year of assessment are ascertained by adding one-fifth of the specified amount to the assessable profits as ascertained in accordance with section 23A for the year of assessment concerned.
 - (7) If the corporation ceases to carry on general insurance business in Hong Kong at any time in the basis period for any year of assessment (***cessation year***) among the 3 consecutive years of assessment next following its material year of assessment, the portion of the specified amount that is required to be added to the assessable profits of the corporation for a year of assessment after the cessation year (***subsequent year***) under subsection (6) is to be added to the assessable profits of the corporation for the cessation year (instead of the subsequent year).

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- (8) The assessable profits of the corporation from its qualifying insurance business for its material year of assessment are ascertained by deducting four-fifths of the specified amount from the assessable profits as ascertained in accordance with sections 23AB and 23AC for that year of assessment.
- (9) Subject to subsection (10), the assessable profits of the corporation from its qualifying insurance business for each of the 4 consecutive years of assessment next following its material year of assessment are ascertained by adding one-fifth of the specified amount to the assessable profits as ascertained in accordance with sections 23AB and 23AC for the year of assessment concerned.
- (10) If the corporation ceases to carry on qualifying insurance business in Hong Kong at any time in the basis period for any year of assessment (***cessation year***) among the 3 consecutive years of assessment next following its material year of assessment, the portion of the specified amount that is required to be added to the assessable profits of the corporation for a year of assessment after the cessation year (***subsequent year***) under subsection (9) is to be added to the assessable profits of the corporation for the cessation year (instead of the subsequent year).
- (11) For the purposes of this section, if the Cap. 41 amendment date falls within the basis period of a corporation for a year of assessment, that year of assessment is the corporation's material year of assessment.

(12) In this section—

general insurance business (一般保險業務) has the meaning given by section 14AB(1);

general insurance business in Hong Kong (香港一般保險業務) has the meaning given by section 23A(5);

premium liabilities (保費負債) means the premium liabilities of an insurer, as determined in accordance with the rules made under section 129 of Cap. 41 with respect to the determination of the amount of any liabilities, on or after the Cap. 41 amendment date;

qualifying insurance business (合資格保險業務) has the meaning given by section 23AB(4);

specified amount (指明款額)—

- (a) in relation to general insurance business—means the amount arrived at by deducting the premium liabilities attributable to general insurance business in Hong Kong as at the Cap. 41 amendment date from the reserve for unexpired risks (as defined by section 23A(4)) immediately before that date; or
- (b) in relation to qualifying insurance business—means the amount arrived at by deducting the premium liabilities attributable to qualifying insurance business as at the Cap. 41 amendment date from the reserve for unexpired risks (as defined by section 23AB(4)) immediately before that date.

23AE. Transitional provisions for ascertainment of assessable profits from life insurance business, non-life long term insurance business and general insurance business

- (1) In relation to a corporation in any year of assessment before the corporation's material year of assessment (within the meaning of section 23AAAB(2)), the pre-amended Subdivision, to the extent that it relates to the ascertainment of assessable profits from life insurance business or non-life long term insurance business, continues to apply as if the Insurance (Amendment) Ordinance 2023 (of 2023) had not been enacted.
- (2) In relation to a corporation in any year of assessment before the corporation's material year of assessment (within the meaning of section 23AD(11)), the pre-amended Subdivision, to the extent that it relates to the ascertainment of assessable profits from general insurance business, continues to apply as if the Insurance (Amendment) Ordinance 2023 (of 2023) had not been enacted.
- (3) In this section—

pre-amended Subdivision (原有次分部) means this Subdivision as in force immediately before the commencement date of Part 3 of the Insurance (Amendment) Ordinance 2023 (of 2023).”

Part 4

Related Amendments to Other Enactments

Division 1—Amendment to Rehabilitation of Offenders Ordinance (Cap. 297)

109. Section 4 amended (further exceptions)

Section 4(1)(e)(ii), after “32,”—

Add

“32A,”.

Division 2—Amendment to Companies Ordinance (Cap. 622)

110. Section 293 repealed (certain amount relating to insurance company with long term business to be regarded as realized profit or loss)

Section 293—

Repeal the section.

Division 3—Amendments to Financial Institutions (Resolution) Ordinance (Cap. 628)

111. Section 2 amended (interpretation)

(1) Section 2(1)—

Repeal the definition of *claims outstanding*

Substitute

“*claims outstanding* (未決申索) means the amount set aside by an authorized insurer as at the beginning or end of its financial year as being an amount likely to be sufficient to meet—

- (a) claims in respect of incidents occurring—
 - (i) in the case of an amount set aside as at the beginning of the financial year—before the beginning of that year; and
 - (ii) in the case of an amount set aside as at the end of the financial year—before the end of that year,

being claims which have not been treated as claims paid and including claims relating to business accounted for over a longer period than a financial year, claims the amounts of which have not been determined and claims arising out of incidents that have not been notified to the insurer; and

- (b) expenses (such as, for example, legal, medical, surveying or engineering costs) that have been incurred but not yet recorded as paid or that are likely to be incurred by the insurer, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims that relate to incidents occurring before the beginning or the end of the financial year (as the case may be), whether or not the individual claims in question are those mentioned in paragraph (a);”.

(2) After section 2(5)—

Add

“(5A) For the purposes of this subsection and the definition of *claims outstanding* in subsection (1)—

claims (申索) means a claim against an authorized insurer under a contract of insurance;

claims paid (已償付申索) means the amount that is paid by an authorized insurer in full or partial settlement of—

(a) claims, including claims relating to business accounted for over a longer period than a financial year; and

(b) expenses (such as, for example, legal, medical, surveying or engineering costs) that are incurred by the insurer, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in paragraph (a);

contract of insurance (保險合約) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41);

financial year (財政年度) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41).”.

Explanatory Memorandum

The main purposes of this Bill are to—

- (a) amend the Insurance Ordinance (Cap. 41) (*IO*) to—
 - (i) enable the implementation of a risk-based capital regime (*RBC regime*) for authorized insurers;
 - (ii) adjust the requirements and restrictions in relation to managing directors, chief executives, directors, key persons in control functions, shareholder controllers and actuaries of authorized insurers;
 - (iii) adjust the requirements and restrictions in relation to shareholder controllers of designated insurance holding companies; and
- (b) make related amendments to the Inland Revenue Ordinance (Cap. 112) (*IRO*) to provide for the spreading over of tax implications and the tax arrangements arising from the implementation of the RBC regime.

Part 1—Preliminary

- 2. Clause 1 sets out the short title and provides for commencement.
- 3. Clause 2 introduces the enactments that are amended by the Bill.

Part 2—Amendments to IO

4. Part 2 (clauses 3 to 101) sets out the amendments made to the IO.
5. Clause 3 amends section 2 of the IO to include defined expressions (e.g. *capital requirement*, *gross premiums* and *majority shareholder controller*) that are necessary for the interpretation of the IO.
6. Clause 4 adds new sections 3B and 3C to the IO. The new section 3B provides for the designation of an authorized insurer incorporated outside Hong Kong (*non-HK insurer*) so that certain requirements imposed on the insurer would be aligned with those on an authorized insurer incorporated in Hong Kong. The new section 3C provides for the determination of the value of assets and the amount of liabilities.
7. Clause 5 amends section 5H of the IO to provide that the register kept under that section must contain certain financial information.
8. Clause 7 amends section 8 of the IO to provide that the Insurance Authority (*Authority*) must not authorize a company under that section to carry on insurance business unless the company complies with the capital requirements and has adequate capital for continued compliance with the requirements.
9. Clause 9 amends section 9 of the IO to clarify that the controller of a special purpose insurer is the administrator of the insurer.

10. The main framework of the RBC regime in relation to the capital requirements is provided for in the substituted section 10, amended sections 22, 22A, 23, 25A and 25B and new sections 13AA, 21B, 22B and 25AA to 25AAE of the IO (clauses 10, 11, 38 to 46) (*relevant sections*). After the enactment of the relevant sections, rules made under section 129 of the IO may prescribe the requirements for the capital amounts and the maintenance of the funds and sub-funds. Under the RBC regime, in relation to the capital requirements—
 - (a) an authorized insurer must ensure that the capital requirements for the insurer are at all times complied with;
 - (b) an authorized insurer must maintain separate accounts and funds for certain classes of the insurance business; and
 - (c) the net asset value of each fund so maintained must meet a certain level.
11. Clauses 12, 13 and 14 amend sections 13A, 13AC and 13AE to provide for, among other things, the effect of the designation or withdrawal of the designation on the pre-existing managing directors, chief executives, directors and key persons in control functions of a non-HK insurers.
12. In order to adjust the requirements and restrictions in relation to shareholder controllers of authorized insurers, clauses 15, 16, 18, 19, 20 and 21 amend sections 13AF, 13AG, 13B, 13C and 14 of the IO and add new sections 13BA and 13BB to the IO. In particular—

- (a) shareholder controllers of an authorized insurer are divided into 2 categories, namely minority shareholder controllers and majority shareholder controllers, according to the percentage of voting power of the relevant person at a general meeting of the insurer;
 - (b) a person is prohibited from becoming a minority shareholder controller or a majority shareholder controller of an authorized insurer without the Authority's approval; and
 - (c) the Authority may object to a person being a minority shareholder controller or a majority shareholder controller of an authorized insurer if it considers that the person is not, or is no longer, a fit and proper person to be such a shareholder controller.
- 13. Clauses 22 and 85 amend sections 14A and 95Y of the IO to provide, among other things, that in determining whether a body corporate is a fit and proper person for the purposes of certain sections in the IO, the Authority must have regard to its internal controls and corporate governance.
- 14. In order to adjust the requirements and restrictions in relation to actuaries of authorized insurers, clauses 23 to 32, 34 and 35 amend sections 15, 15AA, 15AAB, 15AAC, 15A, 15B, 15C and 18 of the IO and add new sections 15AAA, 15AAAB, 15AABA, 15AAD, 15AAE and 18A to the IO. To tie in with the implementation of the RBC regime, an authorized insurer that carries on general business must appoint an actuary and obtain the Authority's approval for the appointment.

15. Clause 33 substitutes section 17 of the IO to empower the Authority to prescribe requirements for the submission by an authorized insurer of any statements, reports or other information relating to the insurer's business to the Authority.
16. Clause 36 repeals sections 20 and 21 of the IO, and clause 37 adds a new section 21A to the IO, to empower the Authority to prescribe requirements of disclosing certain information by rules made under section 129 of the IO for implementing the RBC regime.
17. Clause 51 amends section 32 of the IO to extend the existing power of the Authority to require authorized insurers to submit actuarial investigation reports to cover authorized insurers carrying on general business. Previously the requirement applied only to authorized insurers carrying on long term business.
18. Clause 52 adds a new section 32A to the IO to empower the Authority to—
 - (a) require an authorized insurer to provide a report on matters that relate to the insurer; or
 - (b) appoint a person to provide the Authority with such a report.
19. Clause 55 substitutes section 35AA of the IO to empower the Authority to require an authorized insurer that fails to comply with the capital requirements to take certain remedial measures.
20. Clause 60 amends section 41 of the IO to, among other things, bring the offence under section 41(1A) in line with a similar offence in the IO.

21. Clauses 61 and 63 amend sections 42 and 45 of the IO respectively to provide for—
 - (a) the deemed insolvency of an authorized insurer when the amount of capital of the insurer is less than the minimum capital amount under the RBC regime; and
 - (b) the handling of the separate funds of an authorized insurer maintained under the RBC regime if the insurer is being wound up.
22. The requirements under the RBC regime are applicable to Lloyd's (clauses 64 to 68).
23. Clause 71 amends section 53A of the IO to provide, among other things, that the secrecy of information does not apply to certain types of disclosure of information by the Authority.
24. In order to adjust the requirements and restrictions in relation to shareholder controllers of designated insurance holding company (**DIHC**), clauses 74 to 84, 87 and 88 amend sections 95A, 95I, 95J, 95K, 95L, 95M, 95N, 95O, 95P, 95Q, 95ZB and 95ZC of the IO and add a new section 95OA to the IO. In particular—
 - (a) shareholder controllers of a DIHC are divided into 2 categories, namely minority shareholder controllers and majority shareholder controllers, according to the percentage of voting power of the shareholder controller at a general meeting of the DIHC;
 - (b) a person is prohibited from becoming a minority shareholder controller or a majority shareholder controller of a DIHC without the Authority's approval; and

- (c) the Authority may object to a person being a minority shareholder controller or a majority shareholder controller of a DIHC if it considers that the person is not, or is no longer, a fit and proper person to be such a shareholder controller.
- 25. Clause 93 amends section 129 of the IO to empower the Authority to make rules for the implementation of the RBC regime.
- 26. Clause 94 amends section 130 of the IO to provide for the relaxation of rules under section 129 of the IO in relation to the RBC regime.
- 27. Clauses 96 and 101 add a new section 140 and a new Schedule 12 to the IO respectively to provide for savings and the transitional provisions.
- 28. Clause 98 repeals Schedules 2, 3, 4, 5 and 6 to the IO. The Schedules contain certain forms that will become obsolete.
- 29. Clause 100 amends Schedule 9 to the IO to provide for certain specified decisions consequential on the adjustment to the requirements and restrictions in relation to shareholder controllers of authorized insurers, actuaries of authorized insurers and shareholder controllers of DIHCs.
- 30. Clauses 6, 8, 17, 47, 48, 49, 50, 53, 54, 56, 57, 58, 59, 62, 69, 70, 72, 73, 86, 89, 90, 91, 92, 95, 97 and 99 make other miscellaneous and minor amendments to the IO.

Part 3—Related Amendments to IRO

31. Part 3 (clauses 102 to 108) sets out the related amendments to the IRO.
32. Clause 102 adds a new section 22D to the IRO to provide for definitions to be used in Subdivision 1 of Division 11 of Part 4 of the IRO.
33. Clause 103 amends section 23 of the IRO to provide for the ascertainment of adjusted surplus of assessable profits from life insurance business under the RBC regime.
34. Clause 104 adds new sections 23AAA to 23AAAE to the IRO to provide for—
 - (a) the ascertainment of assessable profits from non-life long term insurance business (new section 23AAA); and
 - (b) the spreading over of tax implications on assessable profits from life insurance business and non-life long term insurance business due to the implementation of the RBC regime (new sections 23AAAB to 23AAAE).
35. Clause 105 amends section 23A of the IRO to adjust the ascertainment of assessable profits from general insurance business due to the implementation of the RBC regime. Similarly, clause 107 amends section 23AB of the IRO to adjust the ascertainment of assessable profits from general reinsurance business or specified general insurance business of specified insurer due to the implementation of the RBC regime.

36. Clause 106 amends section 23AA of the IRO to include the references to new sections 23AAA to 23AAAE, 23AD and 23AE.
37. Clause 108 adds new sections 23AD and 23AE to the IRO to provide for—
 - (a) the spreading over of tax implications on assessable profits from general insurance business due to the implementation of the RBC regime (new section 23AD); and
 - (b) the transitional arrangement in relation to Subdivision 1 of Division 11 of Part 4 of the IRO for the ascertainment of assessable profits from life insurance business, non-life long term insurance business and general insurance business (new section 23AE).

Part 4—Related Amendments to Other Enactments

38. Part 4 (clauses 109 to 111) makes related amendments to other enactments.