

Legal 500

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Isle Of Man

Insurance & Reinsurance

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This country-specific Q&A provides an overview of insurance & reinsurance laws and regulations applicable in Isle of Man.

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Isle of Man: Insurance & Reinsurance

1. How is the writing of insurance contracts regulated in your jurisdiction?

The Isle of Man Financial Services Authority (Authority), an independent statutory body, regulates the conduct of insurance business in and from the Isle of Man. The regulatory regime is set out in the Insurance Act 2008 (the Insurance Act) and related secondary legislation, including regulations and codes of conduct. The Insurance Regulations 2021 (the Insurance Regulations) are the main regulations of application to insurers generally.

Over recent years the Authority has conducted a full review and update of its insurance regulatory framework, including new requirements for risk-based capital, corporate governance, enterprise risk management, conduct of business and group supervision. A public consultation has recently been undertaken on the Insurance Regulations 2025 (which will replace the Insurance Regulations).

2. Are types of insurers regulated differently (i.e. life companies, reinsurers?)

The Insurance Regulations set out the available classes of insurance and reinsurance business as listed below:

Long-term. This includes the following classes:

- Class 1 – linked long term; and
- Class 2 – long-term (but excluding classes 1 and 9).

General. This includes the following classes:

- Class 3 – marine, aviation and transport;
- Class 4 – property; (excluding classes 3 and 5);
- Class 5 – motor;
- Class 6 – pecuniary loss;
- Class 7 – liability; (excluding classes 3 and 5);
- Class 8 – credit and suretyship; and
- Class 9 – personnel miscellaneous, including accident, health and disability.

Reinsurance. This includes the following classes:

- Class 10 – reinsurance of contracts within

classes 1 and 2; and

- Class 11 – reinsurance of contracts within classes 3 to 9.

Restricted. Class 12 – contracts which are within classes 1 to 11 which comply with the requirements set out at Schedule 1 to the Insurance Regulations.

Whilst the core requirements apply across all classes, the Insurance Act and regulations apply differing requirements depending on the class for which an insurer is authorised, distinguishing primarily between long term and non-long term business.

The Isle of Man also has a regulatory framework for Insurance Special Purpose Vehicles (ISPVs), a specialist class of insurer, to facilitate insurance linked securities and other collateralised insurance transactions between sophisticated parties. The Insurance (Special Purpose Vehicles) Regulations 2015 create a class of insurance business applicable to ISPVs. An expedited authorisation process is in place to meet the tight timing requirements that usually apply to the types of transactions in which ISPVs are expected to be involved. The first such authorisation was obtained in February 2023.

3. Are insurance brokers and other types of market intermediary subject to regulation?

For general business, insurance intermediaries are required to be registered to conduct business in or from the Isle of Man, unless exempt.

For long term business intermediaries there is a prohibition under the Island's financial services regime prohibiting the carrying on of business in or from the Isle of Man without a licence, unless an exclusion/exemption applies.

4. Is authorisation or a licence required and if so how long does it take on average to obtain such permission? What are the key criteria for authorisation?

A person carrying on or holding itself out as carrying on an insurance business in or from the Isle of Man requires authorisation (in the case of a locally incorporated insurer) or permission (in the case of a foreign insurer)

from the Authority.

Applications for registration must be made to the Authority. The Authority's current published service standards are for processing an application, from receipt of a complete application to a decision are: 6 months for a life insurer, 3 to 6 months for a non-life insurer and 6 weeks to 3 months for a Class 12 non-life insurer. The Authority may also consider an accelerated timescale of 4 to 6 weeks where the applicant is lower risk.

The formation of an insurance company is available in the following structures:

- Private company limited by shares
- Protected Cell Company
- Incorporated Cell Company
- ISPVs
- Limited Liability Partnership

An insurer is required to have an appropriate level of management in the Island or to appoint a registered insurance manager in the Island with adequate knowledge and experience of the insurance business carried on.

The Authority's assessment process for applicants involves an evaluation to ensure that its fitness and propriety criteria are met. Individuals holding controlled functions must have their fitness and propriety assessed.

The capital requirements/solvency margins applicable are dependent upon the class of insurance business for which authorisation is sought. A risk-based capital framework applies to both long term and non-long term insurers.

5. Are there restrictions or controls over who owns or controls insurers (including restrictions on foreign ownership)?

At least 28 days before a person becomes a controller (as defined in the Insurance Act 2008) of an authorised insurer, a registered insurance manager or a registered insurance intermediary, written notice in prescribed form must be served on the Authority.

Authorised insurers and registered insurance managers are also required to notify the Authority of any changes to an existing controlling interest in the regulated entity which would take that controlling interest:

- a. from 50% or less to over 50%; or
- b. from 75% or less to over 75%;

within 7 days after the regulated entity becomes aware of the change.

The Authority must be also notified within 14 days of a person ceasing to be a controller.

General insurance intermediaries are subject to the same advance notification requirements as authorised insurers. Separate notification and/or consent requirements apply to long-term business intermediaries regulated as licenceholders under the Financial Services Act.

There are no general restrictions on foreign ownership under the Insurance Act.

6. Is it possible to insure or reinsure risks in your jurisdiction without a licence or authorisation? (i.e. on a non-admitted basis)?

Insuring a policyholder located in the Isle of Man does not necessarily amount to carrying out insurance business in the Isle of Man unless activities are also carried on in the Island which amount to the effecting or carrying out of a contract of insurance. Legal advice should be taken on the specific circumstances. Exemptions from the requirement to be authorised or to hold a permit are set out in the Insurance Regulations. One such exemption applies in general terms to an insurer that is authorised to carry on an insurance business by a UK or EU insurance supervisory authority or is subject to a Solvency II equivalent regime and does not have a fixed place of business (other than an agency) in the Isle of Man.

7. Is a branch of an overseas insurer, insurance broker and/or other types of market intermediary in your jurisdiction subject to a similar regulatory framework as a locally incorporated entity?

An overseas insurer can apply to the Authority under the Insurance Act for a permit to carry on insurance business from a place of business in the Isle of Man as a 'permit holder'. Whilst much of the regulatory regime applies to permit holders there are aspects which are not applied, particularly in respect of permit holders that are authorised in the UK or an EU member state.

8. Are there any restrictions/substance limitations on branches established by overseas insurers?

There are certain restrictions on branches established by overseas insurers. Insurers incorporated outside of the

Isle of Man must either apply for a permit to carry on insurance business from a place of business in the Isle of Man or rely on an applicable exemption.

Permit holders should be aware of how the Insurance Act and any secondary legislation and guidance has effect in respect of their permission and take care to restrict its business only to those classes of business authorised by the permit. Certain requirements of the Insurance Act and related secondary legislation and guidance do not apply to permit holders. Permit holders that are authorised in the UK, the EU or by an insurance supervisory authority responsible for a solvency regime determined by the European Commission as being equivalent to the requirements of EU Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance subject to reduced requirements.

There are certain statutory roles that must be filled by Isle of Man residents.

9. What penalty is available for those who operate in your jurisdiction without appropriate permission?

A person commits an offence if that person carries on or holds itself out as carrying on insurance business in or from the Island in breach of the Insurance Act, punishable by a fine or to custody for a term not exceeding 2 years, or to both.

The Authority also has wide powers under the Insurance Act to impose civil penalties for breaches of the Insurance Act and take other action including obtaining injunctions preventing a breach of the Insurance Act. The Insurance (Civil Penalties) Regulations 2023 formalise the Authority's policy on levying discretionary penalties based on volume measures of 'relevant income', i.e. the deemed income available for a civil penalty to be levied against.

10. How rigorous is the supervisory and enforcement environment? What are the key areas of its focus?

The Authority regulates insurance business in accordance with its statutory objectives of securing an appropriate degree of protection for policyholders; the maintenance of confidence in the Island's insurance industry; and the reduction in the extent to which it is possible for any insurance business to be used in connection with the commission of financial crime. The Authority also administers and enforces the Island's anti-

money laundering, and combatting the financing of terrorism legislation.

The Isle of Man Information Commissioner, responsible for administering and enforcing the Data Protection Act 2018, also plays an important role of relevance to insurers (see question 28).

11. How is the solvency of insurers (and reinsurers where relevant) supervised?

The framework for the prudential regulation of insurers is set out in the Insurance Act and related solvency regulations. The Isle of Man has adopted (for both long-term and non-long-term business) a risk-based capital framework, taking into account categories of risk including underwriting risk, credit risk, market risk, operational risk and liquidity risk.

There are also provisions relating to the winding up of insurers in the Isle of Man Companies Acts.

12. What are the minimum capital requirements?

The capital requirements applicable are dependent upon the class of insurance business for which authorisation is sought. Under the risk-based framework, insurers are required to comply with two levels of solvency: a minimum capital requirement ("MCR"), below which no insurer is regarded as viable to operate effectively, and a solvency capital requirement ("SCR") above which, on a routine basis, supervisory intervention in relation to solvency requirements is not expected.

13. Is there a policyholder protection scheme in your jurisdiction?

For long-term business there is a protection scheme in the form of the Life Assurance (Compensation of Policyholders) Regulations 1991. The Regulations cover up to 90% of the liabilities to policyholders under protected contracts from a fund consisting of, among other things, money obtained by levying contributions from other authorised insurers after the default.

14. How are groups supervised if at all?

For long-term insurance, requirements on group supervision have been implemented under the Insurance (Group Supervision) Regulations 2019. The Regulations contain requirements for insurance groups where the Authority has determined that it is the Group Supervisor.

Requirements are set out in the areas of fitness and propriety, fair treatment of policyholders, corporate governance, reporting and solvency.

15. Do senior managers have to meet fit and proper requirements and/or be approved?

Holders of controlled functions must have their fitness and propriety assessed and will need to submit the appropriate F&P forms to the Authority.

16. To what extent might senior managers be held personally liable for regulatory breaches in your jurisdiction?

The Insurance Act provides that the Authority may impose a civil penalty on a controller, director, chief executive or senior manager of a person on which a civil penalty is imposed.

A "senior manager" is an employee of the person on which the penalty was imposed who, jointly with the chief executive, is responsible under the immediate authority of the directors for the conduct of the whole of the insurance business of the person on which the penalty was imposed.

17. Are there minimum presence requirements in order to undertake insurance activities in your jurisdiction (and obtain and maintain relevant licenses and authorisations)?

An authorised insurer must have an appropriate level of management in the Isle of Man with adequate knowledge and experience of the business, who exercise oversight and control from the Isle of Man. There are also certain statutory roles that must be filled by Isle of Man residents. The Island's economic substance regime applies to Isle of Man incorporated and tax resident insurance companies, requiring them to have adequate people and premises in the Isle of Man.

18. Are there restrictions on outsourcing services, third party risk management and/or operational resilience requirements relating to the business?

The relevant corporate governance codes contain restrictions and requirements on outsourced functions including a requirement that the provider has appropriate integrity, competence, experience and qualifications, that

the appointment is consistent with the insurer's risk management and controls and that there is a suitable written agreement in place. There are also requirements to have in place appropriate business continuity arrangements.

Where a significant activity or function has been outsourced, the insurer must ensure (among other things, including the above) that:

- it retains at least the same degree of oversight of, and accountability for, the outsourced activity or function as would apply had it not been outsourced;
- the outsourced provider carries all necessary regulatory consents for the outsourced activity/function; and
- the outsourced provider has capacity to carry out the outsourced activity/function.

19. Are there restrictions on the types of assets which insurers or reinsurers can invest in or capital requirements which may influence the type of investments held?

The regulations setting out the risk-based capital framework include provisions on ineligible assets.

20. Are there requirements or regulatory expectations regarding the management of an insurer's reinsurance risk, including any restrictions on the level / type of reinsurance utilised?

Under the applicable insurance codes of conduct, provisions as to risk generally are applicable to and include the insurer's reinsurance risk. The primary code (the Corporate Governance Code of Practice for Insurers 2021) (CPI) outlines various requirements in respect of underwriting risk (expressly including outward reinsurance and any other risk transfer, mitigation or diversification mechanism relevant to the insurer's underwriting strategy).

The CPI provides, among other things, that an insurer must establish approved and monitored policies to manage risks, continually evaluate risks and maintain a clear mitigation strategy.

Insurers are also required to ensure that their outward reinsurance arrangements are adequate, that claims held by the insurer against its reinsurer are recoverable and that its reinsurance programme is appropriate to its risk

profile.

21. How are sales of insurance supervised or controlled?

In line with its statutory objective of protecting policyholders, the Authority has set out rules in the relevant codes on fair treatment of policyholders.

Insurers carrying on long term business are required to put in place measures to ensure the fair treatment of their customers before, during and after the point of sale, including: consideration of the customers' interests when developing, marketing and promoting insurance products; information to be provided to customers; ensuring that intermediary firms used are suitable distribution channels for the insurer's products; creating cancellation rights for long term insurance products; prompt and fair treatment during the claims process. For general insurers there are also requirements to put in place measures to ensure the fair treatment of policyholders before, during and after the point of sale.

22. To what extent is it possible to actively market the sale of insurance into your jurisdiction on a cross border basis and are there specific or additional rules pertaining to distance selling or online sales of insurance?

Insurance services and contracts can be marketed or sold in the Isle of Man by insurers or intermediaries who are appropriately regulated in the Isle of Man or who avail themselves of an appropriate exclusion or exemption from the requirement to be regulated in the Isle of Man. Legal advice should be taken on the specific circumstances.

Marketing or selling contracts of insurance that are investments for the purpose of the Financial Services Act in the Isle of Man from outside the Isle of Man may give rise to a requirement to be regulated in the Isle of Man as a licenceholder under the Financial Services Act.

Under the Consumer Protection Act 1991 (as amended) cold calling is illegal in the Isle of Man.

23. Are insurers in your jurisdiction subject to additional requirements or duties in respect of consumers? Are consumer policies subject to restrictions, including any pricing restrictions? If

so briefly describe the range of protections offered to consumer policyholders

There are a number of protections in Isle of Man law generally, including:

- The Consumer Protection Act 1991 contains (among other things) provisions to protect consumers from misleading price indications, misleading advertisements and unfair contract terms in consumer contracts.
- The Supply of Goods and Services Act 1996 implies certain terms into contracts for goods and services.
- The Misrepresentation and Unfair Contract Terms Act 1980 includes provisions relating to misrepresentation, and applies to contract terms or notices that seek to limit or exclude liability for misrepresentation.

There are also various conduct obligations under the relevant insurance codes of practice including requirements on insurers to act honestly and in a straightforward manner, and conduct their business with due care, skill and diligence (see question 21).

24. Is there a legal or regulatory resolution regime applicable to insurers in your jurisdiction?

There is no legal or regulatory resolution regime applicable to insurers in the Isle of Man (the only regime in place is in relation to banking activities). However, there are bespoke provisions relating to the winding up of certain insurers in the Isle of Man Companies Acts and there is a compensation scheme for policyholders of life assurance issued by authorised insurers (see question 13).

25. Are the courts adept at handling complex commercial claims?

The Isle of Man courts have substantial experience handling insurance related claims.

26. Is alternative dispute resolution well established in your jurisdictions?

The Isle of Man Financial Services Ombudsman Scheme offers a free, independent dispute resolution service for customers with a complaint against an Isle of Man financial firm including an insurance company or financial adviser which the firm has been unable to

resolve. The Scheme can award up to £150,000 for defined financial loss.

27. Is there a statutory transfer mechanism available for sales or transfers of books of (re)insurance? If so briefly describe the process

Court sanctioned schemes are available to affect the transfer of long-term insurance business carried on by Isle of Man authorised insurers or permitholders under the Insurance Act. At present there is no equivalent for the transfer of general insurance business.

Portfolio transfers of long-term business involving an Isle of Man authorised insurer will require an Isle of Man scheme and the Insurance Act only permits transfers of long-term business from one Isle of Man authorised insurer to another.

In the case of a portfolio transfer of long-term business to or from an Isle of Man permitholder a scheme is available but not mandatory, unless directed by the Authority.

The transfer requires an application to the Isle of Man High Court and compliance with various safeguards designed to protect policyholders including notification requirements, the ability of the Authority to participate in proceedings and the production of a report by an independent actuary.

The process for an Isle of Man insurance business transfer scheme generally takes between 9 and 12 months.

28. What are the primary challenges to new market entrants? Are regulators supportive (or not) of new market entrants?

To apply for authorisation, a prescribed application form and supporting documents must be submitted to the Authority. Application guidance is included within the form and the form also lists all of the supplementary information required including:

- Legal structure and regulatory permissions;
- Objectives and proposed operations;
- Governance functions (if the insurer has appointed an insurance manager, the board of the insurer will be required to include at least one independent non-executive director and one director who is resident in the IOM (who may be the same individual));

- Risk management and other operational arrangements;
- Key control functions;
- Key operational functions; and
- Business plan.

29. To what extent is the market being challenged by digital innovation?

Insurers are making increasing use of technology, including in onboarding and claims handling processes. There is collaboration between the Isle of Man's government, regulator, insurance professionals and support services in the form of the Insurtech Isle of Man initiative, intended to underpin the development of a technology-led insurance innovation hub, supporting entrepreneurs and founders.

30. How is the digitization of insurance sales and/or claims handling treated in your jurisdiction, for example is the regulator in support (are there concessions to rules being made) or are there additional requirements that need to be met?

The regulator has stated that it is supportive of innovation, while ensuring an appropriate level of compliance and consumer protection. The Authority is a member of the Global Financial Innovation Network, an organisation that enables the Authority to connect with like-minded regulators and industry bodies across the globe to monitor and collaborate on Fintech developments. The Authority has stated that it will continue to work with industry to capture opportunities for more data-driven and digital ways of doing business and that it recognises the impact of innovation on regulated entities in respect of internal control frameworks, customer interaction and management of existing and emerging risks.

31. To what extent is insurers' use of customer data subject to rules or regulation?

The principles under GDPR as applied to the Isle of Man apply.

32. To what extent are there additional restrictions or requirements on sharing customer data overseas/on a cross-border basis?

The principles under GDPR as applied to the Isle of Man apply to the sharing of data on a cross border basis.

33. To what extent are insurers subject to ESG regulation or oversight? Are there regulations/requirements, including in connection with managing climate change and climate change related financial risks specific to insurers? If so, briefly describe the range of measures imposed.

In common with regulators around the world, the Isle of Man regulator is responding to growth in sustainability-linked investments. Financial services businesses including insurers are all reviewing their own governance and profiles in this area – investment activity is demanding a need for businesses to rethink their priorities, reconsider stakeholder relationships and assess their impact in the context of ESG issues.

The Authority is a member of the Network for Greening the Financial System, a network for Central Banks and Supervisors who, on a voluntary basis, exchange experiences, share best practices, contribute to the development of environment and climate risk management in the financial sector. The Authority is increasingly looking to firms to understand their strategies around the management and disclosure of climate related and environmental risks.

34. Is there a legal or regulatory framework in respect of diversity and inclusion to which (re)insurers in your jurisdiction are subject?

While there is currently no legal framework specifically for the insurance sector, insurers have adopted and are developing diversity and inclusion strategies. The Equality Act 2017 also applies to prohibit various activities constituting discriminatory behaviour and provides several avenues for recourse for, among others, consumers which have been subject to discriminatory behaviour (which would include those of insurance products). An insurer should be mindful of the Equality Act 2017 in its application to its capacities as both a regulated service-provider and an employer.

35. Over the next five years what type of business do you see taking a market lead?

The Isle of Man is a leading international centre for life insurance and wealth management and we expect this sector to continue to play a key part in the Isle of Man insurance and the financial services sector generally. We also expect to see continued interest in captive insurance companies from international groups, with the Island being recognised as being one of the leading centres for captive insurance, attracting high quality international business.

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