

# **Criteria of Sound and Prudent Management**

## **Chapter 5**

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## CONTENTS

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<b>5.1 Introduction.....</b>	<b>4</b>
<b>5.2 Criteria of a Sound and Prudent Management .....</b>	<b>4</b>
Application.....	4
<b>5.3 Requirement of Sound and Prudent Management .....</b>	<b>4</b>
Sound and prudent management: criteria which must be fulfilled.....	4
Integrity and skill.....	4
Direction and management of the enrolled person .....	5
Insurance distribution activities and reinsurance distribution activities to be carried out in a sound and prudent manner .....	5
<b>5.4 Guidance on Technology Arrangements, ICT and Security Risk Management, and Outsourcing Arrangements .....</b>	<b>7</b>

## REVISIONS LOG

VERSION	DATE ISSUED	DETAILS
1.00	12 July 2018	Issued
2.00	11 December 2020	<a href="#">Circular on Guidance on Technology Arrangements, ICT and Security Risk Management, and Outsourcing Arrangements</a>

## 5.1 Introduction

- 5.1.1 This Chapter on the criteria of sound and prudent management which must be fulfilled with respect to persons desirous of applying for enrolment, or enrolled, in the Agents List, Managers List or Brokers List and carrying out insurance intermediaries activities or reinsurance distribution activities is made by the competent authority pursuant to, and for the purposes of, article 4 of the Act.

## 5.2 Criteria of a Sound and Prudent Management

### Application

- 5.2.1 This Chapter applies to a person desirous of applying for enrolment and, on continuing basis, a person enrolled, in the Agents List, Managers List or Brokers List and carrying out insurance distribution activities or reinsurance distribution activities (the “enrolled person”).

## 5.3 Requirement of Sound and Prudent Management

### Sound and prudent management: criteria which must be fulfilled

- 5.3.1 The competent authority shall not grant enrolment under article 13 of the Act to a person applying for enrolment in the Agents List, Managers List, or Brokers List and carrying out insurance distribution activities or reinsurance distribution activities, nor shall the competent authority permit such person to retain enrolment granted thereunder, if it appears to it that the criteria of sound and prudent management are not or will not be fulfilled with respect to the person.
- 5.3.2 In this Chapter “criteria of sound and prudent management” means the criteria set out in paragraphs 5.3.3 to 5.3.13 of this Chapter.

### Integrity and skill

- 5.3.3 The business of the enrolled person is carried on with integrity, due care, diligence and the professional skills appropriate to the nature and scale of its activities.
- 5.3.4 Where applicable, each director, controller or officer of the enrolled person is a fit and proper person to hold that position in accordance with Chapter 3 in Part A of the Insurance Distribution Rules.
- 5.3.5 The business of the enrolled person is carried on with integrity, due care, diligence and the professional skills appropriate to the nature and scale of its activities.

5.3.6 Where applicable, each director, controller or officer of the enrolled person is a fit and proper person to hold that position in accordance with Chapter 3 in Part A of the Insurance Distribution Rules.

5.3.7 In the case of a foreign company:

- (a) the representative referred to in article 12(1)(b)(ii) of the Act; or
- (b) where that representative is not an individual, the individual representative referred to in article 12(1)(d) of the Insurance Business Act (Cap. 403),

is a fit and proper person to hold that position.

#### **Direction and management of the enrolled person**

5.3.8 The enrolled person:

- (a) is directed and managed by a sufficient number of registered persons and persons who are fit and proper persons to hold the positions which they hold, where applicable;
- (b) implements the required governance, managerial and staff arrangements within timelines agreed to by the competent authority at enrolment; any circumstances which necessitate deviation therefrom are subject to the prior approval of the competent authority.

#### **Insurance distribution activities and reinsurance distribution activities to be carried out in a sound and prudent manner**

5.3.9 The enrolled person carries out insurance distribution activities or reinsurance distribution activities in a sound and prudent manner.

5.3.10 The enrolled person shall not be regarded as carrying out insurance distribution activities or reinsurance distribution activities in a sound and prudent manner unless such person maintains:

- (a) adequate accounting and orderly records of its business and internal organisation;
- (b) adequate systems of control of its business; and
- (c) records relating to the insurance distribution activities and reinsurance distribution activities it has carried out, for at least five (5) years.

5.3.11 Accounting and other records and systems of control shall not be regarded as adequate and orderly unless they are such as:

- (a) to enable the business of the enrolled person to be prudently managed; and
- (b) to enable the enrolled person to comply with the obligations imposed on the person by or under any provision of the Act, the Insurance Business Act, any Insurance Rules, Insurance Distribution Rules or Conduct of Business Rules which apply to insurance distribution activities or reinsurance distribution activities, as applicable.

5.3.12 In determining whether any systems of control are adequate, the competent authority shall have regard to the functions and responsibilities for those systems which are held by the persons who are responsible for the direction and management of the business and to whom paragraph 5.3.9 of this Chapter applies.

5.3.13 For the purposes of paragraphs 5.3.8 to 5.3.10 of this Chapter, the term “adequate” implies the taking into account of the necessary margins for unexpected contingencies.

5.3.14 The enrolled person shall not be regarded as carrying out insurance distribution activities or reinsurance distribution activities in a sound and prudent manner if:

- (a) it fails to carry out insurance distribution activities or reinsurance distribution activities with due regard to the interests of clients and potential clients;
- (b) it fails to satisfy an obligation to which it is subject by or under any provision of the Act or the Insurance Business Act, or any other Insurance Distribution Rules, Insurance Rules or Conduct of Business Rules, or under any conditions of enrolment, which applies to its activities;
- (c) it fails to carry out its activities in accordance with the scheme of operations and information submitted to the competent authority as part of the application for enrolment;

For the avoidance of doubt any changes in operations which deflect from the information submitted in the application for enrolment are subject to the prior approval of the competent authority;

- (d) where applicable, it fails to supervise the activities of a subsidiary undertaking or branch:
  - (i) with due care and diligence; and
  - (ii) without detriment to the enrolled person’s activities;
- (e) in the case of persons enrolled in the Agents List, it fails to supervise the activities of any of its tied insurance intermediaries and ancillary insurance intermediaries;

- (f) in the case of persons enrolled in the Brokers List, it fails to supervise the activities of any of its ancillary insurance intermediaries;
- (g) it fails to set controls and monitor on an ongoing basis all outsourced services;
- (h) it fails to operate compliance arrangements that are robust and reliable, including safeguards against participating in or being used by others as a vehicle for financial crimes such as money-laundering.

5.3.15 For the purposes of paragraph 5.3.12, “subsidiary undertaking” shall be construed in accordance with article 2 of the Companies Act (Cap. 386).

## **5.4 Guidance on Technology Arrangements, ICT and Security Risk Management, and Outsourcing Arrangements**

5.4.1 An enrolled person shall, taking into account the size, nature, scale and complexity of the said enrolled person and on a best effort basis, refer to the [Guidance on Technology Arrangements, ICT and Security Risk Management, and Outsourcing Arrangements](#).

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