

Client Alert

Corporate Commercial

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Insurance (Group Capital) Rules

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The Insurance Authority has recently gazetted the Insurance (Group Capital) Rules. They will come into effect on 29th March, the same day as the Insurance (Amendment) (No. 2) Ordinance which makes provision for the Insurance Authority to supervise on a consolidated basis designated insurance holding companies and members of their supervised group ([see our Client Alert dated 27th May, 2020 regarding designated insurance holding companies](#)).

The new rules provide for Group Capital Adequacy of a designated insurance company and members of its supervised group. The provisions themselves are complex and detailed.

They are calculated by reference to **Tier 1 Group Capital** and **Tier 2 Group Capital** and **Group Minimum Capital Requirements** and **Group Prescribed Capital Requirements**. These are subject to complex definition in the Rules.

The basic requirements are that:-

- (a) The **Tier 1 Group Capital** of a supervised group is not less than the **Group Minimum Capital Requirement** of the supervised group.
- (b) The sum of the **Tier 1 Group Capital** and **Tier 2 Group Capital** of a supervised group is not less than the **Group Prescribed Capital Requirement** of the supervised group.

Group Minimum Capital Requirement is the sum of the **Minimum Capital Requirements** applicable to each of the supervised group members calculated as follows:-

- (a) for a supervised group member which is regulated, the minimum capital resources which, based on the laws of the jurisdiction of regulation, are subject to the most severe sanctions if they are not maintained;
- (b) for a supervised group member which is regulated and is subject to an enhanced Minimum Capital Requirement, the enhanced Minimum Capital Requirement will apply;
- (c) for a supervised group member which is unregulated, the Minimum Capital Requirement is zero;
- (d) for a supervised group member where the holding of the designated insurance holding company is less than 100%, the Minimum Capital Requirement will be prorated; and
- (e) where the Insurance Authority has exercised powers to vary the Minimum Capital Requirement, the amounts referred to above will be varied accordingly.

Group Prescribed Capital Requirement is the sum of the **Prescribed Capital Requirements** applicable to the supervised group members calculated as follows:-

- (a) for a supervised group member which is regulated, the eligible capital resources which, based on the laws of the jurisdiction of regulation, if maintained would not give rise to any penalties, sanctions or intervention measures or withdrawal of authorisation;
- (b) for a supervised group member which is regulated and is subject to an enhanced Prescribed Capital Requirement, the enhanced Prescribed Capital Requirement will apply;

- (c) for a supervised group member which is unregulated, the Prescribed Capital Requirement is zero;
- (d) for a supervised group member where the holding of the designated insurance holding company is less than 100%, the group Prescribed Capital Requirement will be prorated; and
- (e) where the Insurance Authority has exercised powers to vary the Prescribed Capital Requirement, the amounts referred to above will be varied accordingly.

A designated insurance holding company must only include eligible group capital resources of its supervised group in its Tier 1 Group Capital or Tier 2 Group Capital. The eligible group capital resources must consist of the eligible capital resources of all supervised members of the supervised group.

Eligible group capital resources are calculated as follows:-

- (a) for a supervised group member which is regulated, the resources and financial instruments, which based on the laws of the jurisdiction of regulation, are eligible to be included in the Minimum Capital Requirement or Prescribed Capital Requirement;
- (b) for a supervised group member which is not regulated, recognised equity and financial instruments satisfying the requirements in Schedule 1 or 2;
- (c) for a supervised group member where the holding of the designated insurance holding company is less than 100%, the designated insurance holding company must only include a prorated amount of eligible capital resources of the supervised group member in its eligible group capital resources;
- (d) where the Insurance Authority has exercised a power to vary the eligible group capital resources, the amounts referred to above will be varied accordingly.

Tier 1 Group Capital is the sum of the eligible group capital resources of the supervised group calculated as follows:-

- (a) for a supervised group member which is regulated and subject to a tiering approach to regulatory capital under the laws of the jurisdiction of regulation, the eligible regulatory capital included highest tier of regulatory capital of the entity;
- (b) for a supervised group member which is regulated but not subject to a tiering approach to regulatory capital under the laws of the jurisdiction of regulation, the eligible regulatory capital resources of the entity;
- (c) the eligible capital resources of a supervised group member which is not a regulated entity is required to be calculated in accordance with Schedule 1 to the Rules with a proviso that this amount may not exceed 10% of the Group Minimum Capital Requirement.

Tier 2 Group Capital is the sum of eligible group capital resources calculated as follows:-

- (a) for a supervised group member which is regulated and subject to a tiering approach to regulatory capital under the laws of the jurisdiction of regulation, the eligible regulatory capital included in the tiers of regulatory capital other than the highest tier of regulatory capital of the entity;
- (b) for a supervised group member which is not regulated, the value of Tier 1 Group Capital that only satisfies certain conditions and exceeds 10% of the Group Minimum Capital Requirement and eligible capital resources that satisfies Schedule 2 but not Schedule 1.

Detailed provisions are included to avoid double counting as well as certain transitional provisions.

Detailed reports by a designated insurance holding company of its capital adequacy must be made to the Insurance Authority as at 31st December each year.

Reports must also be made to the Insurance Authority of certain contraventions or significant events.

Public disclosure is required on the website of a designated insurance holding company (or on request from a member of the public) of detailed information regarding its profile, governance framework, technical provisions in accounts, risk exposures, financial instruments, management of assets, adequacy of capital resources and financial performance.

Want to know more?

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