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CAYMAN ISLANDS

Law and Practice

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1. Basis of Insurance and Reinsurance Law

1.1 Sources of Insurance and Reinsurance Law

The sources of insurance and reinsurance law in the Cayman Islands primarily comprise the Insurance Law, 2010 (the “Insurance Law”) and the regulations made thereunder. The Insurance Law came into force on 1 November 2012, enhancing the previous legislation and reflecting developments in international standards and global industry, as well as facilitating the development of insurance and reinsurance-linked securities business. The regulations made under the Insurance Law relate primarily to licensing applications and fees, capital and solvency, portfolio insurance companies and reporting. The Cayman Islands has a combined common law and statute-based legal system. While the Cayman Islands has its own body of case law, English case law is also of persuasive authority and may often be cited in court.

The Cayman Islands market includes insurers and reinsurers of domestic and non-domestic risk. The Cayman Islands is the second-largest domicile for captives and holds the No 1 position worldwide for healthcare captives. As at 30 June 2019, medical malpractice liability continues to be the largest primary line of business, with worker’s compensation the second largest.

Around 90% of the risks insured by the Cayman Islands international insurance industry are in North America. The next most important geographical source is the Caribbean and Latin America, collectively. Perhaps unsurprisingly, therefore, the Cayman Islands has not sought equivalency with the EU Solvency II framework to date, with the US National Association of Insurance Commissioners model regarded as more favourable.

2. Regulation of Insurance and Reinsurance

2.1 Regulatory Bodies and Legislative Guidance

The Insurance Law strengthened the supervisory powers of the Cayman Islands Monetary Authority (CIMA). CIMA regulates the insurance sector in accordance with the Insurance Law and regulations, together with the rules, statements of guidance, policies and procedures issued by CIMA and the Insurance Core Principles issued by the International Association of Insurance Supervisors (IAIS). The policies and procedures to be followed by CIMA itself, in performing its regulatory functions, are set out in its regulatory handbook.

Insurers, insurance managers, insurance agents and insurance brokers are subject to the Cayman Islands Anti-Money Laundering Regulations (2020 Revision). Along with all other key

financial sector jurisdictions, the Cayman Islands has implemented the US Foreign Account Tax Compliance Act (FATCA) and the OECD’s Common Reporting Standard, pursuant to which certain insurers writing cash value insurance or annuity contracts are regarded as financial institutions with resulting reporting and other obligations.

Any person carrying on insurance business, reinsurance business or business as an insurance agent, insurance broker or insurance manager (collectively, “Regulated Business”) in or from the Cayman Islands is required to hold a valid licence issued for that purpose under the Insurance Law. As set out in further detail below, domestic insurers offer insurance to Cayman Islands residents and businesses under a class A licence. The non-domestic market comprises both insurers that insure non-domestic risks under a class B licence and insurance-linked securities structures under a class C licence. Reinsurers offer reinsurance products for domestic or foreign risks under a class D licence.

There were a total of 775 insurance licensees under the supervision of CIMA as at 30 September 2019, of which 95 related to the domestic market and 680 related to the international insurance market. There were 26 insurers licensed to offer their products in the domestic market, supported by 69 insurance intermediaries.

There were a total of 655 class B, C and D insurers and reinsurers, and 25 insurance managers, at 30 September 2019. Pure captives and group captives represented the two main categories, with 289 and 121 companies respectively. Twenty per cent of the total class B, C, and D insurance companies were formed as segregated portfolio companies, with over 600 segregated portfolios.

2.2 The Writing of Insurance and Reinsurance

Any person carrying on Regulated Business in or from the Cayman Islands is required to hold a valid licence issued for that purpose under the Insurance Law. A person or entity who contravenes this requirement commits an offence and is liable on summary conviction to a fine of KYD100,000 or imprisonment for a term of five years, or to both.

A person wishing to carry on Regulated Business in or from within the Cayman Islands shall make an application in writing to CIMA for a licence under one or more of the following categories.

- A class A insurer licence for carrying on domestic insurance business by a local insurer or external insurer, or limited reinsurance business as approved by CIMA.

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- A class B insurer licence, for the carrying on of insurance business other than domestic business in respect of which:
 - (a) at least 95% of the net premiums written will originate from the insurer's related business;
 - (b) over 50% of the net premiums written will originate from the insurer's related business; or
 - (c) 50% or less of the net premiums written will originate from the insurer's related business.
- A class C insurer licence, for the carrying on of insurance business involving the provision of reinsurance arrangements in respect of which the insurance obligations of the class C insurer are limited in recourse to and collateralised by the class C insurer's funding sources or the proceeds of such funding sources, which include the issuance of bonds or other instruments, contracts for differences and such other funding mechanisms approved by CIMA.
- A class D insurer licence, for the carrying on of reinsurance business and such other business as may be approved in respect of any individual licence by CIMA.
- An insurance agent licence for the soliciting of domestic business on behalf of not more than one general insurer and one long-term insurer.
- An insurance broker licence for arranging or procuring, directly or through representatives, insurance or reinsurance contracts or the continuance of such contracts on behalf of existing or prospective policyholders.
- An insurance manager licence for providing insurance expertise to, or for, class B insurers or class C insurers.

An application for a licence under the Insurance Law must contain prescribed information and be accompanied by a business plan and an application fee that depends on the licence applied for. CIMA may approve an application for a licence subject to such conditions as CIMA determines for the proper operation and supervision of the licensee. A licensee must carry on business only in accordance with the information provided in its licence application and business plan. The business plan should contain details of the reasons for the business to establish an operation in the Cayman Islands, the short and long-term objectives and how these will be achieved. The applicant must be able to demonstrate that it has adequate resources, in terms of manpower, systems and expertise, to meet its objectives. Further detailed guidance on the contents of business plans is available and depends on the type of licence required.

To satisfy CIMA's licensing requirements, an applicant is required to ensure that:

- the persons carrying on the business to which the application relates are fit and proper to be directors, managers or officers in their respective positions;

- it is able to comply with the Insurance Law and the Anti-Money Laundering Regulations (2020 Revision) as applicable;
- the grant of a licence will not be against the public interest of the Cayman Islands;
- it has personnel with the necessary skills, knowledge and experience, and such facilities and such books and records as CIMA considers appropriate, having regard to the nature and scale of the business;
- the structure of its insurance group, if any, will not hinder effective supervision; and
- its capital complies with the prescribed level.

In terms of ownership, the names, addresses, nationalities and percentages of shareholdings of all shareholders must be provided to CIMA at the time of licensing. If the shares are held by a body corporate, details of ultimate beneficial ownership and the chain of connection must be provided. CIMA will request additional information in respect of any shareholder, whether a body corporate or an individual, holding more than 10% of the company's issued capital or total voting rights. For an individual shareholder the additional information will include a completed personal questionnaire and supporting documents. CIMA will also require details of an applicant's management, including a completed personal questionnaire and supporting documents for each person who is to be or is currently performing the function of director, officer or manager. CIMA will use the evidence provided to assess whether such persons are fit and proper to perform the relevant function based on this information.

In terms of capital and solvency requirements, every applicant is required to comply with the prescribed level of capital requirements under the Insurance Law. The prescribed capital and solvency requirements for each category of licence are set out in the relevant regulations made thereunder. CIMA reserves the power to prescribe a higher level of capital based on risk factors specific to the applicant and can exclude from the calculations assets that it deems inappropriate.

Every licensee is required to comply with annual and ongoing requirements. Every licensee is required to pay the prescribed annual fee on or before 15 January every year after the first grant of its licence. The annual licence fee varies depending on the class of licence, and is currently equal to the application fee for each class of licence. A licensee who fails to pay the prescribed annual fee on time may be subject to penalty fees.

Subject to any waiver, an annual audit must be carried out in accordance with internationally recognised accounting standards by an independent auditor approved by CIMA. It is normally required that local auditors be appointed.

The annual reporting requirements of a licensee vary depending on the type of licence that it holds. Each licensee will be required to complete and submit to CIMA a prescribed form together with a number of documents, including audited financial statements.

Licenses are subject to ongoing conduct of business requirements, including in relation to outsourcing, corporate governance, internal controls, record keeping, market conduct, reinsurance arrangements and business continuity. Ongoing prudential requirements include capital adequacy, and investment and risk management. All licensees must have in place compliance and procedural manuals, and internal controls to ensure effective management and compliance. Any changes to a licensee's business plan must be notified to CIMA.

Generally, licensees are Cayman Islands incorporated companies or exempted companies as discussed further in **3. Overseas Firms Doing Business in this Jurisdiction**. However, two forms of company are particularly relevant and useful for certain types of insurance and reinsurance business. A segregated portfolio company (SPC) is a single legal entity divided into an unlimited number of portfolios, the assets and liabilities of which are legally segregated from each other. The Insurance Law permits SPCs to register subsidiary companies as portfolio insurance companies (PICs) with CIMA. A PIC of a licensed SPC may write insurance business without the need for a separate insurance licence. PICs have the express power to contract with the parent SPC, any segregated portfolio of the parent SPC and any other PIC related to the parent SPC. Each PIC is a separate legal entity from the SPC and any other PIC. This facilitates the drafting of legal documentation as each entity is a distinct legal person.

2.3 The Taxation of Premium

No income, capital gains or corporation taxes are payable in the Cayman Islands.

3. Overseas Firms Doing Business in this Jurisdiction

3.1 Overseas-Based Insurers or Reinsurers

The requirement to obtain a licence under the Insurance Law to conduct Regulated Business applies only in so far the business is being conducted in or from within the Cayman Islands.

Only a person incorporated under the Companies Law (2020 Revision) ("Companies Law") may be an insurance broker, insurance manager, a "local" class A insurer or a class D insurer. However, it is also possible to be licensed as an "external" class A insurer, meaning an insurer that is not a local class A insurer

and whose principal or registered office is in a jurisdiction outside the Cayman Islands where the legislation for the regulation and supervision of insurers is acceptable to CIMA. A licensee that is an insurance broker, an insurance manager, a class A insurer or a class D insurer must have a place of business in the Cayman Islands.

Only a person incorporated as an exempted company under the Companies Law and that has at least two directors may be licensed as a class B insurer or a class C insurer. An exempted company is one whose founding shareholder has signed a declaration that it will carry on business mainly outside the Cayman Islands. A class B or class C insurer, unless it maintains permanently a place of business in the Cayman Islands approved by CIMA, must appoint an insurance manager and maintain, at the insurance manager's place of business or at another location approved by CIMA, full and proper records of the class B or class C insurer.

3.2 Fronting

Fronting is permitted in the Cayman Islands.

4. Transaction Activity

4.1 M&A Activities Relating to Insurance Companies

Merger and acquisition activity is not high, with existing owners often being established business or families with little reason to sell.

The issue or transfer of shares of more than 10% of an insurer or reinsurer requires the prior approval of CIMA. CIMA, in assessing the application, will evaluate factors including the fitness and propriety of the proposed shareholder and relevant directors, senior officers and managers; the proposed shareholder's sources of funds; CIMA's ability to supervise the proposed group structure; and, if the acquiring entity is regulated as a financial services provider in a foreign jurisdiction, the ability of the foreign regulator to conduct consolidated supervision of the group that will include the Cayman Islands insurer or reinsurer. CIMA will also consider whether any proposed business plan changes are sound and feasible, and whether the interests of policyholders, investors, clients, creditors or the public would be negatively impacted by the proposed acquisition or merger.

5. Distribution

5.1 Distribution of Insurance and Reinsurance Products

Insurers within the domestic market offer their products directly as well as through intermediaries, namely insurance brokers and insurance agents. Intermediaries fall into two categories in the Cayman Islands. An insurance broker means a holder of a valid insurance broker licence for arranging or procuring, directly or through representatives, insurance or reinsurance contracts or the continuance of such contracts on behalf of existing or prospective policyholders. An insurance agent means a holder of a valid insurance agent licence for the soliciting of domestic business on behalf of not more than one general insurer and one long-term insurer. Intermediaries range from individuals to large international firms. Intermediaries can operate as enterprises or divisions of insurers or other financial institutions, including banks, or as part of non-financial organisations. CIMA expects all licensees to demonstrate a high level of responsibility in the marketing of all their services.

6. Making an Insurance Contract

6.1 Obligations of the Insured and Insurer

Contracts of insurance are based upon the principle of utmost good faith, and the general principles of English insurance common law regarding non-disclosure and misrepresentation have been followed in the Cayman Islands. Thus each contracting party is obliged to disclose all circumstances material to the risk to the other contracting party.

An insured will therefore generally be under a positive duty to disclose to the insurer all circumstances material to the risk to be insured regardless of whether the insurer has specifically asked about those matters. Circumstances are material for these purposes if they would influence the judgment of a prudent insurer in determining the premium or whether to insure the risk at all. Any failure to make such disclosure could provide grounds for the insurer to void the contract.

6.2 Failure to Comply With Obligations

When an insurer has entered into a contract of insurance in reliance of a misrepresentation by the insured, or where the insured has failed to disclose a material fact that, if disclosed, would have led the insurer to enter into the contract upon different terms, or not to enter into the contract at all, the insurer may have the right to rescind the contract. The insurer may also have a claim for damages against the insured where it has suffered loss due to misrepresentation or non-disclosure by the insured.

6.3 Intermediary Involvement

Intermediaries fall into two categories in the Cayman Islands. An insurance broker means a holder of a valid insurance broker licence for arranging or procuring, directly or through representatives, insurance or reinsurance contracts or the continuance of such contracts on behalf of existing or prospective policyholders. An insurance agent means a holder of a valid insurance agent licence for the soliciting of domestic business on behalf of not more than one general insurer and one long-term insurer.

6.4 Legal Requirements and Distinguishing Features of an Insurance Contract

Consistent with English common law, contracts under Cayman Islands law do not need to be in writing. In practice, policies are issued in writing and, for the purposes of regulatory policy, documentation must be available for inspection by CIMA and meet certain requirements. There is no statutory requirement for insurable interest in Cayman Islands law, although English common law may be taken to imply a requirement for insurance interest in all types of indemnity insurance. Before or at the time of concluding the contract, the customer must be provided with a range of prescribed written information, including in relation to the insurer, any intermediaries, the product, and claim and complaints procedures. In addition, certain commissions and any conflicts of interest must be disclosed.

6.5 Multiple Insured or Potential Beneficiaries

The position is no different where there are multiple insureds.

6.6 Consumer Contracts or Reinsurance Contracts

The position is no different with regard to consumer contracts or reinsurance contracts.

7. Alternative Risk Transfer

7.1 ART Transactions

There has been an increase in alternative risk transfer products such as insurance-linked securities. The class C licence was introduced for the carrying on of insurance business involving the provision of reinsurance arrangements in respect of which the insurance obligations of the class C insurer are limited in recourse to and collateralised by the class C insurer's funding sources or the proceeds of such funding sources, which include the issuance of bonds or other instruments, contracts for differences and such other funding mechanisms approved by CIMA, facilitating alternative risk transfer. In recognition of their particular model, Class C insurers are subject to a different level of regulatory oversight and may in certain circumstances be able to obtain audit waivers.

7.2 Foreign ART Transactions

See 7.1 ART Transactions.

8. Interpreting an Insurance Contract

8.1 Contractual Interpretation and Use of Extraneous Evidence

Insurance contracts are subject to the same approach to construction and interpretation as other contracts, save for where a term already has a settled judicially accepted meaning. Additionally, the Insurance Law outlines certain requirements and considerations that need to be observed when approaching the entry into, enforcement and interpretation of insurance contracts, including (i) the invalidity of terms within insurance contracts relating to domestic insurance business that attempt to oust the jurisdiction of the courts of the Cayman Islands, (ii) the validity of contracts involving parties that fail to operate with the requisite insurance licences, (iii) the requirement to arbitrate differences or disputes relating to an insurance contract that relates to domestic insurance business, and (iv) the regulation of agreements between insurance brokers and insurers.

The courts of the Cayman Islands have also given specific guidance on the following matters relating to insurance contracts: (i) factors to be considered in ascertaining the jurisdiction with which a contract of insurance has closest connection; (ii) the law with which a contract of insurance has closest connection; (iii) the degree of probability required for insurers to prove claims are fraudulent; (iv) how ambiguities in insurance policies are to be construed; (v) the duty of parties to an insurance contract to disclose any material information voluntarily before entry into an insurance contract, the standard of the duty and how the materiality of the information is assessed; and (vi) the importance of complying with widely recognised insurance industry standards and the consequences of non-compliance.

When interpreting the terms of an insurance contract, or determining evidential matters in relation to bona fide legal relations between the parties – such as the parties' subjective intentions, explanations and subsequent conduct – the Grand Court of the Cayman Islands ("Grand Court"), which is a superior court of record, is entitled to analyse the transaction and is not restricted to merely considering the transaction itself. This may include the examination of external evidence, including the parties' explanations and circumstantial evidence, such as evidence of the subsequent conduct of the parties. Whilst there is no dedicated consumer protection regime in the Cayman Islands, the Grand Court has held that ambiguities arising from the interpretation of insurance policies are to be construed in favour of the policyholder.

8.2 Warranties

Insurance contracts are contracts based on utmost good faith. Warranties in an insurance contract may be expressly made or implied, but are materially of greater importance than in other forms of contract. Warranties in insurance contracts must be complied with. If not observed, a breach of warranty in an insurance contract, regardless of triviality or absence of any loss suffered, may discharge an insurer from all liability under the policy or may entitle the policyholder to avoid the contract.

8.3 Conditions Precedent

A conditions precedent in an insurance contract need not be titled as such, but will be so construed if expressly made (unless the term is used indiscriminately). Breach of a conditions precedent, depending on the seriousness of the breach, may, for example, entitle an insurer to refuse payment under the policy without treating the policy as discharged.

9. Disputes

9.1 Disputes Over Coverage

The mechanism for dispute resolution will be determined by the applicable terms of the insurance contract and whether the insurance contract relates to foreign or domestic insurance business.

However, where a dispute arises in connection with a contract of domestic insurance business, and there is no valid arbitration agreement in place between the parties, they are required to agree to the appointment of one arbitrator for the adjudication of the dispute. Where the parties are unable to agree on a choice of arbitrator, CIMA will appoint an arbitrator on the parties' behalf who will conduct the arbitration pursuant to the Arbitration Law, 2012 (the "Arbitration Law"). The position is no different in relation to consumer contracts or reinsurance contracts.

Limitation periods in the Cayman Islands are imposed by statute, particularly the Limitation Law (1996 Revision) (the "Limitation Law"). The Limitation Law generally prescribes the relevant time limits within which a claimant may bring proceedings for various types of claims. In an insurance context, if the claimant wishes to bring a claim against the other party on the basis that they breached a term of the insurance policy or on the basis that the insurer unreasonably denied an insurance claim brought under the insurance policy, these claims would be subject to a limitation period of six years from the date on which the claim accrued if the insurance contract was executed as a simple contract and twelve years if the contract was executed under seal or as a deed. Separately, if there are findings that a party has paid premiums to an insurer with the intent to defraud a creditor, said creditor may commence proceedings subject to

the six-year limitation period provided for in the Fraudulent Dispositions Law (1996 Revision); however, the enforcement of any judgment resulting from that claim shall be permitted against the proceeds outside of any limitation period.

9.2 Disputes Over Jurisdiction and Choice of Law

The Insurance Law provides that every contract of domestic business shall be subject to the jurisdiction of the courts of the Cayman Islands, notwithstanding any provision to the contrary contained in the contract or in any agreement related to the contract.

Disputes as to choice of law and those relating to insurance business conducted outside the Cayman Islands are addressed pursuant to Cayman Islands jurisprudence and English conflicts of law principles that have been adopted in the Cayman Islands. There are no applicable international conventions in this regard.

9.3 Litigation Process

Civil proceedings in the Cayman Islands, whether arising in contract, tort or both where the debt or damages claimed exceed KYD20,000, are commenced before the Grand Court. The Grand Court possesses and exercises a similar jurisdiction as that capable of being exercised in England by Her Majesty's High Court of Justice and the Divisional Courts of that Court. Additionally, the Grand Court has the power to make binding declarations of right in any matter, whether or not any consequential relief is or could be claimed.

Civil Procedure in the Grand Court is governed by the Grand Court Rules 1995 (as amended) (GCR), which closely follow the former Rules of the Supreme Court of England and Wales as they were prior to the introduction of the Civil Procedure Rules in 1999. The GCR lays down procedural requirements that have to be complied with at each stage of civil litigation, including (i) the method of commencing civil proceedings ("originating process"); (ii) the issuance, service and acknowledgment of service of the originating process; (iii) formal requirements of pleadings; (iv) applications for interlocutory relief in advance of the determination of substantive issues; (v) disclosure obligations; (vi) trial; and (vii) costs of the parties.

Any proceeding commenced in relation to an exempted insurer, including an action by or against its directors, insurance manager or auditor, or any action for breach of a contract of insurance (including an application for a declaration) where the amount claimed exceeds KYD1 million, is deemed a "financial services proceeding" and is allocated to the specialist Financial Services Division (FSD) of the Grand Court (one of the five divisions of the Grand Court). FSD proceedings attract fixed fees for the commencement of proceedings of KYD5,000, are assigned to specific commercial judges and have specific procedural guide-

lines. As a result, hearings in the FSD are generally fast-tracked and, thus, heard within six to eight weeks following the closing of pleadings.

Civil actions that do not fall within the aforementioned scope of financial services proceedings are allocated to the Civil Division of the Grand Court, which typically deals with civil cases of a more general basis. No specific judges are immediately assigned to cases in the Civil Division, although judges retain a discretion to direct that they be "seised" of any particular case. In addition to attracting certain fixed fees, proceedings commenced in the Civil Division endorsed with a claim for a debt or liquidated demand attract ad valorem fees of 1% of the principal sum claimed in excess of KYD10,000; 0.5% of the principal sum claimed in excess of KYD100,000 and ¼% of the principal sum claimed in excess of KYD1 million.

9.4 The Enforcement of Judgments

Foreign judgments have no direct operation in the Cayman Islands, so, for example, they cannot directly be enforced by execution. However, certain foreign judgments may be enforced pursuant to Cayman Islands statutory or common law rules.

There is a specific procedure for the registration of judgments of the superior courts of Australia and its External Territories for the purposes of their enforcement under the Foreign Judgments Reciprocal Enforcement Law (1996 Revision). Foreign judgments outside Australia and its External Territories can only be enforced pursuant to common law.

A party seeking to enforce a foreign judgment pursuant to common law must commence an action in the Cayman Islands on the foreign judgment. The action must be brought in the FSD. Subject to certain exceptions, a foreign judgment may be enforced pursuant to Cayman Islands common law if all of the following conditions apply: (i) the judgment is a determination of the existence of rights against a person (in personam) rather than over property (in rem); (ii) the foreign court had jurisdiction over the party against whom the plaintiff is attempting to enforce the judgment; (iii) the judgment is not impeachable under the relevant common law rules; and (iv) the judgment is final and conclusive (notwithstanding that it may be subject to an appeal in the foreign courts). In most cases it is then possible to apply for summary or default judgment on the ground that the defendant has no defence to the claim. Provided the aforementioned conditions are met, the judgment procedure will be quicker and more straightforward than that for a claim that must be brought on its merits.

9.5 The Enforcement of Arbitration Clauses

Arbitration clauses in commercial insurance and reinsurance contracts can be enforced. Furthermore, unless otherwise

agreed by the parties, the Grand Court may, on the application of a party to the arbitration proceedings who has given notice to the other parties, determine any question of law arising in the course of the proceedings that the Grand Court is satisfied substantially affects the rights of one or more of the parties. Any application made to the Grand Court pursuant to the Arbitration Law will be heard in the FSD.

9.6 The Enforcement of Awards

An award made by an arbitral tribunal may, with leave of the Grand Court, be enforced in the same manner as a judgment or order of the Grand Court to the same effect, and where leave is so given; judgment may be entered in terms of the award.

Foreign arbitral awards have no direct operation in the Cayman Islands, so, for example, they cannot directly be enforced by execution. However, previously, awards made in states that are party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“New York Convention”) could be enforced within the Cayman Islands (the Cayman Islands is a party to the New York Convention). Following the enactment of the Arbitration Law in July 2012, that jurisdiction has been significantly extended so that arbitral awards from any foreign state may be enforced pursuant to Cayman Islands statute, irrespective of whether or not the New York Convention is engaged.

9.7 Alternative Dispute Resolution

See answers above.

9.8 Penalties for Late Payment of Claims

Pursuant to the Insurance Law, where CIMA is of the opinion that an insurance licensee (i) is committing, or about to commit, an act that is an unsafe or unsound practice in conducting the business of the licensee, or (ii) is pursuing, or about to pursue, a course of conduct that is an unsafe or unsound practice in conducting the business of the licensee, CIMA may direct the licensee, in relation to a policy, a line of business or the entire business of the licensee, to cease or refrain from committing the act or pursuing the course of conduct and to perform such acts as in the opinion of CIMA are necessary to remedy or ameliorate the situation.

A person who, without reasonable cause, fails to comply with such direction given by CIMA commits an offence and is liable on summary conviction to a fine of KYD100,000 or to imprisonment for a term of five years or to both and, if on conviction on indictment, to a fine of KYD500,000 or to imprisonment for a term of ten years or to both. Furthermore, if the offence of which the person is convicted is continued after conviction, he commits a further offence and is liable to a fine of KYD10,000 for every day on which the offence is so continued.

Additionally, CIMA has broad powers to take regulatory enforcement action, which it may exercise without notice on an urgent basis, where appropriate. Such actions include (i) suspension of the licence of a licensee; (ii) revocation of the licence of a licensee; (iii) the imposition or amendment of conditions or further conditions on a licence or registration; (iv) requiring the substitution of a director, operator, senior officer, general partner, promoter, insurance manager or shareholder of a licensee or registrant (as applicable); (v) appointing a person to assume control of the affairs of a licensee or registrant; (vi) appointing a person to advise a licensee or registrant on the proper conduct of its affairs; and (vii) in serious cases, applying to the Grand Court for an order directing that the company be wound up.

10. Insurtech

10.1 Insurtech Developments

Whilst the game-changing qualities of insurtech have been recognised as an important part of the discussion on the development of the insurance industry in the Cayman Islands, the authors are not aware of any specific and material insurtech initiatives or developments by local regulators.

However, to facilitate the emergence of insurtech initiatives and the development of insurtech products and other fintech-related ventures, the Cayman Islands government has announced that it is planning to introduce an adaptable, technology-neutral, regulatory sandbox-type framework that will facilitate and promote innovative applications of technology.

10.2 Regulatory Response

Please see [10.1 Insurtech Developments](#).

11. Emerging Risks and New Products

11.1 Emerging Risks

Emerging risks that affect the Cayman Islands are similar to those in other key financial sector jurisdictions as described above.

11.2 New Products or Alternative Solutions

As discussed above, there has been an increase in alternative risk transfer products such as insurance-linked securities facilitated by the class C licence regulatory regime. There is an increasing focus on transactions that provide innovative solutions to the transfer of longevity risk. The Cayman Islands is also the natural domicile for insurers and reinsurers affiliated with investment funds given its status as leading private equity and hedge funds domicile.

As an international insurance centre, the Cayman Islands has experienced significant growth. Stability, a sophisticated legal system and regulatory regime, and appropriate implementation of international standards are all factors in making the Cayman Islands ever more popular.

12. Recent and Forthcoming Legal Developments

12.1 Developments Impacting on Insurers or Insurance Products

Although not specifically insurance or reinsurance related, there are legal developments that will have an impact on the insurance and reinsurance sector amongst others.

The Cayman Islands is a member of the OECD's Inclusive Framework on Base Erosion and Profit Shifting (BEPS), which brings together over 100 jurisdictions to collaborate on the implementation of the OECD BEPS Package. The Tax Information Authority (International Tax Compliance) (Country-by-Country Reporting) Regulations, 2017 were gazetted on 15 December 2017 to implement BEPS Action 13, namely Country-by-Country Reporting, in the Cayman Islands. These regulations only apply to multinational enterprise groups with consolidated group revenue of USD850 million or more during the previous fiscal year ("MNE Groups"). Groups with consolidated group revenue of less than USD850 million are excluded. However, Cayman Islands resident entities that are constituent

entities of MNE Groups are required to take certain steps to comply. As part of its BEPS compliance, the Cayman Islands has introduced the International Tax Co-operation (Economic Substance) Law, 2018 (the "ES Law") in response to requirements for geographically mobile activities to have economic substance. Under the ES Law, a "relevant entity" that is carrying on "insurance business" is required to maintain economic substance in the Cayman Islands and file annual notifications and reports. Such entities have been required to comply with the ES Law since 1 July 2019.

The Cayman Islands Data Protection Law, 2017 (DPL) came into force in September 2019. International financial sector businesses will find many similarities between the DPL and the data protection laws of other jurisdictions where they are active. The DPL requires a data controller to comply with eight data protection principles when processing personal data and to ensure that those principles are complied with in relation to personal data processed on the data controller's behalf pursuant to a written contract. The DPL deals also with data security, data breaches and the rights of individual data subjects, including providing a privacy notice.

13. Other Developments

13.1 Additional Market Developments

There are no such developments other than those mentioned above.

Walkers is a leading international law firm with ten offices, in *Bermuda, the British Virgin Islands, the Cayman Islands, Dubai, Guernsey, Hong Kong, Ireland, Jersey, London and Singapore. Walkers' Cayman Islands re/insurance team has six partners and seven other qualified lawyers. Of the Cayman Islands law firms, only Walkers has sizeable offices in the three principal re/insurance jurisdictions: the Cayman Islands, Ireland and Bermuda. The re/insurance team regularly works with the finance and corporate, insolvency and dispute resolution, and regulatory and risk practices to offer a full suite of

legal services for the re/insurance market. Key practice areas are alternative capital solutions, captives and direct insurers, distressed insurance, finance, general corporate, longevity/mortality, M&A, regulatory risk advisory, outsourcing, reinsurance, secured lending, tax and alternative exchange of information.

*Walkers works in exclusive association with Kevin Taylor, trading as "Walkers Bermuda", a full-service commercial law firm providing advice on all aspects of Bermuda law.

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Lucy Frew is a partner based in the Cayman Islands office and heads the global regulatory and risk advisory group. Lucy regularly advises clients on re/insurance matters and has a long track record of advising re/insurers, brokers and intermediaries on matters ranging from

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Barnaby Gowrie is a partner based in the Cayman Islands office in the insolvency and dispute resolution group, and a member of the re/insurance team, and specialises in the complex international contentious and non-contentious restructuring of Cayman Islands

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CAYMAN ISLANDS LAW AND PRACTICE

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