

# HOW TO SET UP

## A REINSURANCE OR CAPTIVE INSURANCE COMPANY

### DESCRIPTION

A reinsurance company is a legal entity other than an insurance company whose main activity consists in underwriting the risks carried by an insurance company or another reinsurance company, with the exclusion of direct insurance activity.

A reinsurance captive is a reinsurance company owned by a company other than an insurance or reinsurance company and which is not part of an insurance or reinsurance group as defined in the Directive 98/78/CE, the purpose of which is to provide reinsurance products that exclusively cover the risks of the company or companies to which it belongs, or to companies of the group of which it is part.

### AUTHORISATION REQUIREMENT

Before commencing activity, a Luxembourg reinsurance company must be authorised by the Minister of Finance whose powers are delegated to the insurance supervisory authority.

### SUPERVISORY AUTHORITY

The *Commissariat aux Assurances* (CAA) is in charge of the prudential supervision of reinsurance companies. Any substantial modification to the action plan, change to the Articles of incorporation or other alteration to the information communicated at the time authorisation was requested, must be brought to the prior attention of the supervisory authority.

### LEGAL AND REGULATORY FRAMEWORK

The legal framework of reinsurance companies is governed by:

- the law of 6 December 1991 on the insurance sector, as modified, and interpreting regulation, in particular the Grand-Ducal Regulation of 5 December 2007 specifying the conditions for approval and the practice of reinsurance companies, and the Grand-Ducal Regulation of 5 December 2007 establishing the terms and

conditions of the complementary supervision of insurance and reinsurance companies that are part of an insurance or reinsurance group;

- the law of 8 December 1994 relating to annual accounts and consolidated accounts, as modified;
- Circular letters concerning the reinsurance industry issued by the *Commissariat aux Assurances*.

These texts are available on the website of the *Commissariat aux Assurances*: [www.commassu.lu](http://www.commassu.lu)

### LEGAL FORM

Article 94 point 1 of the law of 6 December 1991, as modified, identifies the legal forms that can be adopted by a reinsurance company.

### HEAD OFFICE AND CENTRAL ADMINISTRATION

A Luxembourg domiciled reinsurance company must have its central administration in the Grand Duchy, complete with robust administrative and accounting organisation and adequate internal auditing procedures.

### SHAREHOLDERS

The suitability of shareholders, whether direct or indirect, who hold a qualifying holding or who are in a position to exercise a significant influence over the conduct of business, must be satisfactory, taken into consideration the need to ensure the sound and prudent management of the company. The following information relating to shareholders must be submitted to the *Commissariat aux Assurances* as part of the application file:

### CAPITAL BASE

In order to obtain authorisation, a reinsurance company must establish a minimum guarantee fund. The size of the guarantee fund is at least EUR 3,600,000 for a reinsurance company and EUR 1,225,000 for a captive reinsurance company.

- details concerning the reputation of the direct and indirect shareholders;
- an organisational chart of the group that owns the company, containing all parent companies and related companies and linked financial institutions;
- the most recent audited annual accounts of the major shareholders.

The company will not be authorised unless the structure of its direct and indirect shareholders is transparent.

### BOARD OF DIRECTORS

The company must be managed by a board of directors comprising at least three members, whose proficiency and professional standing are established by means of a curriculum vitae and a copy of their police record.

### PROFESSIONAL STANDING AND EXPERIENCE OF THE APPROVED MANAGER

The day to day management of a reinsurance company is undertaken by a natural person or a legal person who or which has been appointed to the role of *dirigeant agréé* (approved manager). The *dirigeant* must receive prior approval from the Minister of Finance. In order to be authorised as *dirigeant* of a reinsurance company, a natural person must produce evidence of a sound professional reputation and relevant expert knowledge and must be domiciliated in or near the Grand Duchy of Luxembourg.

### EXTERNAL AUDITING

The annual accounts must be submitted for auditing by an independent auditor. The auditor must be selected from a list authorised by the *Commissariat aux Assurances*.

## AUTHORISATION PROCEDURE

Prior to commencing activities, an application file must be submitted to the *Commissariat aux Assurances* for examination and approval.

This file contains the following principal documents:

- the Articles of incorporation;
- information about the direct and indirect shareholders;
- information about the directors;
- the name of the *dirigeant agréé* (approved manager);
- the name of the approved auditor;
- an action plan containing, in particular, the following:
  - the company policy for accepting and passing on risk;
  - the structure of the minimum guarantee fund;
  - a set of provisional accounts;
  - a calculation of the margin of solvency over a three year period.

### Useful information sources

[www.commassu.lu](http://www.commassu.lu)

*Commissariat aux Assurances*  
(Luxembourg insurance supervisory authority)