

Guidance Notes on Setting up an International Insurance Company in Saint Lucia

St. Lucia entered the international financial services industry in mid-2001. Since the launch, there has emerged a niche area for this new model jurisdiction in international insurance. The legislation for this product is flexible and facilitates the establishment of captive insurance companies. The annual fees are amongst the lowest in the industry and the professional service infrastructure is rapidly developing. In fact, insurance managers from other jurisdictions are using the jurisdiction in some cases relocating parts of their operations to St. Lucia. With the increasing use of insurance vehicles for tax planning and asset protection, professionals, middle-sized businesses and mid – high net worth individuals are ready users of St. Lucian international insurance companies.

General

An insurance company can be established in St. Lucia under the International Insurance Act, 1999 (the Act). This is the legislation that governs the operation of captive insurance companies, reinsurance companies and other insurers that have a legitimate need for an international license. The Act and Regulations made there under outline the requirements and procedure to be followed in applying for a license (available at <http://www.pinnaclestlucia.com>)

International Insurance Companies may either be newly incorporated as an International Business Company (IBC) or be continued or re-domiciled into St. Lucia if previously incorporated elsewhere (see re-domiciliation page 8).

The first step is an application to the Minister of International Financial Services (the Minister) for his consent to incorporate an international business company in St. Lucia for the purpose of carrying on international insurance business. This consent process is essentially the due diligence exercise on the parent company and / or the individuals involved and is carried out by the Financial Services Supervision Unit (FSSU), the Government offshore regulatory department.

At the time of submitting the application for consent, the substantive application for an insurance license is also submitted to the Minister through the Director of International Financial Services (the Director), who is the head of the FSSU. The review of the application is an assessment of the insurance business intended to be carried out, and of the financial stability of the company, and involves analysis of a business plan with all the relevant technical data.

Normally, a decision on both applications will be given at the same time. Applicants should make allowance for at least thirty (30) days for the processing of applications. The approval of the insurance license at this time will be subject to the incorporation and capitalization of the company.

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Types of Insurance Companies

There are no restrictions on the types of insurance that can be underwritten by a St. Lucian international insurance company. However, there are different classes of licenses that depend, firstly on whether the license is for general or life insurance, or both, and secondly on whether the insured will be directly connected to the insurance company. The classes are as follows:

Class A – General Insurance:

- Sub Class 1 – insured must be the parent or an affiliate or associated company of the insurance company.
- Sub Class 2 – no requirement for relationship between the insured and the insurance company.

Class B – Life Insurance

Class C General & Life:

- Sub Class 1 – as above
- Sub Class 2 – as above

Capital Requirements

The minimum capital required varies according to the class of license. In addition to the capital, each insurance company is also required to maintain a deposit of \$50,000 in an approved bank or financial institution (not necessarily in St. Lucia). The insurance company will be required to give a written undertaking that the deposit will be kept and maintained free and clear of all encumbrances during the currency of the license.

The minimum capital requirements are:

Class A 1:	\$50,000
Total including deposit	\$100,000
Class A 2 and B:	\$100,000
Total including deposit	\$150,000

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Class C 1:	\$150,000
Total including deposit	\$200,000
Class C 2:	\$200,000
Total including deposit	\$250,000

It is to be noted that the Act stipulates minimum capital requirements but the actual capital required in each case will be determined by the Minister based on the nature of the business to be undertaken.

Solvency Margins

The Act does not specify the actual solvency margins. However, the Director has discretion to fix margins and he has issued guidelines, which may be summarized as follows:

- Class A 1: the greater of \$100,000 and 10% of net retained annual premium
- Class A 2: the greater of \$150,000 and 20% of the first \$5 million of net retained annual premium plus 10% of any net retained annual premium in excess of \$5 million.
- Class B: \$150,000 (note that the liabilities of a life company must be certified by an actuary)
- Class C 1: the sum of the margin required for Classes A 1 & B
- Class C 2: the sum of the margin required for Classes A 2 & B

Allowable Assets

Allowable assets include:

- (a) Cash in hand or on deposit with an institution licensed under the Banking Act of Saint Lucia or with a financial institution in good standing under the laws of a Recognized Country or Jurisdiction, or with other financial institutions approved by the Minister from time to time; and

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- (b) Bonds, debentures or other evidence of indebtedness issued or guaranteed by:
- The government of Saint Lucia;
 - The government of the United Kingdom or of the United States of America or of any State thereof;
 - The government of Canada or of any province thereof; or
 - Any other Recognized Country or Jurisdiction or such other government as may be approved from time to time by the Minister; and
- (c) Bonds, debentures or other evidence of indebtedness issued or guaranteed by any municipal corporation and secured by rates or taxes levied and collectable by such municipal corporation under the authority of any of the governments mentioned in paragraph (b); and
- (d) Other equity or debt securities quoted and subject to an active listing on an approved stock exchange; provided, that such securities shall be included as allowable assets only to the extent of fifty percent of the total assets of the insurer;
- (e) Premiums receivable under bona fide written contracts of insurance;
- (f) Reinsurance balances receivable under bona fide written contracts of reinsurance;
- (g) Real property located in Saint Lucia by way of a subsidiary;
- (h) Accounts receivable, net of provision for bad and doubtful debts; and
- (i) Irrevocable letters of credit issued or confirmed by an institution licensed under the Banking Act of Saint Lucia, or by financial institutions chartered and in good standing under the laws of any Recognized Country or Jurisdiction, or by other financial institutions approved by the Minister from time to time.

Audit requirement

The application must include confirmation from an approved auditor in the form of a letter, that he/she has agreed to carry out the annual audit required under the Act. Approved auditors are generally accountants licensed and practicing in St. Lucia however the Minister may approve auditors from another jurisdiction. The annual auditor's report is to be submitted to the Minister within three (3) months of the end of the company's financial year. Four of the big five accounting firms are represented in St. Lucia where there are over 100 qualified accountants.

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Actuarial Requirement

A confirmation in the form of a letter from the proposed actuary that he/she accepts the appointment must also accompany the application. There is no requirement for the actuary to be resident in St. Lucia. The actuary is also required to certify the accuracy and sufficiency of the reserves for both general and life insurance, which is to be submitted along with the audited report.

Local Attorney Requirement

The Regulations require that an attorney practicing in St. Lucia be appointed. There are 130 persons admitted as Barristers in St. Lucia. As the profession is fused, these persons also carry the designations of Solicitor and Notary Royal. Many of these lawyers are parts of long standing law firms with established reputations and international networks.

Resident Director Requirement

An international insurance company must have at least two directors one of whom must be a resident of St. Lucia. All directors must be natural persons.

Local Management Requirement

The Act does not mandate the appointment of an insurance manager. However, the application form calls for particulars of how insurance management services are to be provided.

Corporate Management Requirement

The International Business Companies Act requires the appointment of a Registered Agent in St. Lucia, who will incorporate the company and provide the registered office. The Registered Agent also maintains the various registers (shareholders, directors, corporate secretary) of the company that must be kept in St. Lucia.

Formation of an International Insurance Company

There are three stages in the formation of an international insurance company. These are usually attended to simultaneously to accelerate the incorporation and licensing process. The regulatory department ensures that properly completed applications are attended to expeditiously without compromising on due diligence standards. All three stages are usually prepared by the registered agent.

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1. The Application for Consent to Incorporate the Insurance Company

The following information and documentation need to be provided to the Registered Agent:

- (a) Particulars of the applicant
- (b) Particulars of the shareholders and directors of the applicant / parent company. In the case of a public company quoted on a recognized stock exchange, this will not normally be necessary.
- (c) Particulars of the Company to be incorporated, (the proposed company), i.e. the name, address, nature of the business, the names of the proposed directors.
- (d) A due diligence questionnaire supplied by the registered agent to be completed by each director and shareholder of the proposed company. Where the parent company is not a public quoted company, the shareholders and directors of the parent company who will not participate in the proposed company must also complete a questionnaire. If there are a large number of such shareholders, only those holding more than ten percent (10%) of the issued shares need to complete the questionnaire.
- (e) A notarized copy of:
 - The photo page of the passport; and
 - The driver's license (or other form of photo identification) of each director/ shareholder.
- (f) Confirmation of the current home address of the directors and shareholders, e.g. a copy of a current utility bill.
- (g) A police report on each director and shareholder of the parent company and of the proposed company, where available.
- (h) A banker's reference for each director and shareholder.
- (i) A lawyer's reference for each director and shareholder.
- (j) An accountant's reference for each director and shareholder.
- (k) Curriculum Vitae for each director and shareholder.

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2. The Application for an Insurance License

The Registered Agent needs to be provided with the following information and documentation:

- (a) The class of license required.
- (b) The proposed share capital of the company and the par value of each share.
- (c) The method of raising the share capital (e.g. cash investment by parent company).
- (d) Certified evidence of capital and deposit requirement. This takes the form of a notarized declaration by the proposed shareholder of the company stating how it is proposed to capitalize the company and an undertaking that the shareholder will provide the capital and deposit required after the company has been incorporated.
- (e) A duly notarized, completed and executed 'Statutory Declaration' by each director and senior manager of the proposed company.
- (f) A notarized / certified copy of the incorporation / constitutional documents of the parent company (if applicable).
- (g) Particulars of any shareholders loan to the proposed company.
- (h) Three (3) years (at least) projected income statement of the proposed company.
- (i) Comparative financial statements of the last three (3) years for the parent company (if applicable).
- (j) A financial statement for the parent company for the current year up to the end of the month before the application is being made (if applicable).
- (k) In the case of the re-domiciliation of an existing company, and the proposed company has an operating history, (i) and (j) above must be supplied in relation to the proposed company.
- (l) The Business Plan: at the minimum, the Business Plan should contain the following:
 - An organizational chart showing the group structure, where the Applicant is a member of a group.

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- An economic benefits chart showing the flow of economic benefits where this is not plain and obvious from reading of the business plan. For example, where premiums are paid to Company X (by policyholders) in return for some benefit from Company Y, this will need to be spelled out;
- A detailed feasibility study explaining why the Applicant wishes to establish a captive insurance company and the assumptions underlying the financial projections; (if applicable)
- A clearly defined list of intended policyholders; (if applicable)
- A detailed account of how premiums will be calculated;
- Detailed assumptions pertaining to claims and their calculation;
- Detailed basis on the manner in which Reserves will be calculated and some information on who will perform these calculations. (The professional qualifications of this person must also be given.);
- A full account of the Applicant's proposed Investment Strategy including evidence that the Applicant will maintain a well-balanced and diversified portfolio of 'allowable assets'. Such diversified portfolio of allowable assets must be computed in order to inter alia, establish the applicant's solvency;
- Detailed information on the Applicant's reinsurance strategy (if any) and information on the reinsures themselves (where available). A copy of each proposed reinsurance agreement must also be attached; and
- Sample copies of draft policies should be included as an Appendix to the Business Plan.

If needs be the registered agent can assist in compiling the business plan or any part of it and will be happy to work with existing advisors to the extent required. In any event, the registered agent may review the business plan and projections to ensure that they meet the expectations of the Director.

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3. The Application to Incorporate

Once the consent to incorporate has been granted, the Registered Agent will proceed to incorporate the company based on the information provided for the applications. A St. Lucian international insurance company would normally be exempt from taxation in St. Lucia. There is an option, however to elect to pay income tax at the rate of 1%, which may have advantages in some situations.

When the company has been incorporated, the registered agent will prepare the minutes, resolutions and other organizational documents needed to:

- (a) Appoint the directors;
- (b) Issue the shares;
- (c) Open bank accounts;
- (d) Secure the statutory deposit required under the Act; and
- (e) Meet any other requirements.

Redomiciliation

Where a company is being re-domiciled into St. Lucia from another jurisdiction the following additional information and documentation are required:

- (a) A copy of the Memorandum and Articles of the company;
- (b) A copy of the Certificate of Incorporation of the company;
- (c) A duly executed resolution of the board of directors of the company authorizing the re-domiciliation of the company into St. Lucia;
- (d) A Certificate of Good Standing from the company registry of the Country from which the company is moving; and
- (e) A copy of the organizational documents and respective registers of the company plus copies of minutes of board and shareholders meetings, up to the date of the re-domiciliation.

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After the Grant of the License

After the license has been granted the Director will expect to have been provided with the following within ninety (90) days of the grant of the license:

- (a) Original (or notarized) bank statement showing that the capital has been injected into the company where the capital is cash, or other evidence of capitalization as the case may be;
- (b) Original (or notarized) certificate of deposit showing that the \$50,000.00 security deposit is being held at an approved bank; and
- (c) A duly executed Agreement of Undertaking by the company in favor of the Government of St. Lucia in respect of the security deposit.

Books and Records

Every licensed insurance company is expected to maintain permanently at its principal office in St. Lucia books of accounts and records of its insurance business.

Reporting Requirements

Insurance managers are expected to know and comply with the various reporting requirements under the Act, the Regulations and conditions of the license.

Government and Professional Fees

(A) License / Application / Incorporation

License	\$ 2, 500.00
Application fee	\$ 500.00
IBC Incorporation fee	\$ 300.00
Total government fees	\$ 3, 300.00

Note: The license fee of \$2,500 and the IBC incorporation fees are pro rated in the year of incorporation on a quarterly basis.

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(B) Annual Fees

These will comprise the license fee of \$2500.00, the charges for professional services including the registered agent / registered office charges, director's fees and any other services requested.

(C) Additional Services

Additional Services such as bookkeeping and banking transactions may be provided upon request.

Auditing, actuarial and legal services are not included in the above and are usually agreed separately by the respective parties.

(D) Professional Fees

These will vary from one service provider to another and will be based on the level of involvement of the registered agent in preparing the application for incorporation and business plan.