P O Box 427 Pretoria 0001 South Africa
370 Helen Joseph Street Pretoria 0002
+27 12 313 3911 / 0861 12 7272
www.resbank.co.za

SOUTH AFRICAN RESERVE BANK
Prudential Authority

Insurance Act, Act 18 of 2017

Prudential Communication 4 of 2022

Application process for approval to conduct insurance business outside South Africa

Objective of this Prudential Communication
This communication provides clarity on the application of section 5(5) of the Insurance Act, 2017 (Act No.18 of 2017) (Insurance Act) for approval to conduct insurance business outside South Africa

1. Application

1.1. This Prudential Communication is applicable to all licensed insurers (other than a reinsurer, a branch of a foreign reinsurer, Lloyd's underwriter or Lloyd's).

2. Purpose

2.1. The purpose of this Prudential Communication is to: -

i. Provide clarity on the application process in terms of section 5(5) of the Insurance Act, for insurers to conduct insurance business outside South Africa;
ii. To confirm the process in respect of adding foreign jurisdictions to an insurer's licensing conditions where such insurer is licensed to conduct insurance business in a specific class or sub-class of business in terms of Schedule 2 of the Insurance Act; and
iii. Provide conditional prior approval for section 5(5) of the Insurance Act applications for:

   a. Insurers where the business model is based on multinational programmes[1]; and
   b. Insurers adding foreign jurisdictions where the insurance business procured is not material considering the risk appetite and/or solvency position of the insurer or when compared to the materiality consideration as defined in the Own Risk and Solvency Assessment (ORSA) policy of each insurer.

3. Conducting business outside South Africa

3.1. Section 5(5) of the Insurance Act, reads as follows: *An insurer may not, without the approval of the PA, conduct any business, including business similar to insurance business, outside South Africa.*

[1] insurance programs with a coverage territory encompassing at least 4 jurisdictions (including the country in which the insured is domiciled)

4. Market Spiral Mitigations

4.1. Paragraphs 9.6 and 9.7 of Prudential Standard GOI 3.3, Reinsurance and Other Forms of Risk Transfer by Insurers states the following:

> *9.6.* *A local direct insurer that is licensed to conduct reinsurance may not, without the prior written approval of the PA, reinsure any insurance business that another insurer (whether in South Africa or not) within the same insurance group has reinsured. This restriction on inwards retrocession arrangements is to prevent the risk of market spirals and intra-group contagion.*
>
> *9.7.* *Approvals for inwards retrocession arrangements must be requested on a contract by-contract basis.*

5. Application process challenges for approval to conduct insurance business outside South Africa in respect of section 5(5) of the Insurance Act

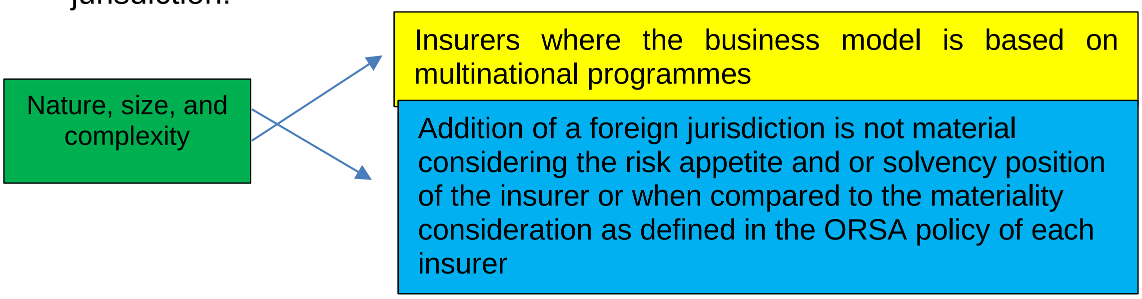
5.1. The PA has been consulted by various insurers on the process challenges inherent with applications in terms of section 5(5) of the Insurance Act.

5.2. The PA understands that when a risk in a foreign jurisdiction presents itself, it would need to be attended to expeditiously. Potential insurance business opportunities outside South Africa may lapse whilst regulatory approval is awaited from the PA to conduct insurance business in the foreign jurisdiction, especially in a particular class or sub-class of business for which the insurer already received approval to conduct business in.

5.3. The PA therefore recognises that the current approach to apply for every additional jurisdiction outside South Africa, highlights the impracticality and potential delays in the turnaround time of submitting and assessing individual applications per jurisdiction.

6. New process for the assessment of applications made in respect of section 5(5) of the Insurance Act (and where applicable, market spirals where approvals for inwards retrocession is necessary on a contract-by-contract basis)

6.1. The diagram below describes the new application process in terms of section 5(5) of the Insurance Act, considering the size, nature, and complexity of the business model of the insurer and the risk impact of the addition of a foreign jurisdiction:



6.2. Insurers' business model based on multinational programmes

6.2.1. The process will entail an annual submission of an application to conduct insurance business, outside of South Africa in terms of section 5(5) of the Insurance Act. This includes the payment of the relevant application fee as prescribed in Communication 2 of 2019, Prudential Standard on fees payable for applications made under the Insurance Act.

6.2.2. The PA may grant approval ***<u>for a period of one year</u>***, for an insurer to conduct insurance business, outside of South Africa in specific foreign jurisdictions. During this one year period insurance business may be conducted in ***<u>additional foreign jurisdictions without separate applications being made to the PA.</u>***

6.2.3. The approval referred to in paragraph 6.2.2 is subject to the following conditions:

6.2.3.1. The approval only applies to global insurance programs (i.e., insurance programs with a coverage territory encompassing at least 4 jurisdictions (including the country in which the insurer is domiciled), that is conducted on a multinational basis.

6.2.3.2. The approval is limited to the classes and sub-classes of business the insurer is authorised to write outside South Africa.

6.2.3.3. The nature of the risks underwritten in any foreign jurisdiction must fall within the risk appetite of the insurer when quantified from a market risk, credit risk, insurance risk and liquidity perspective. Any risks underwritten in a foreign jurisdiction that fall outside the specified risk appetites when quantified from a market risk, credit risk, insurance risk and liquidity perspective will fall outside the ambit of the approval.

6.2.3.4. The assessment of in-country foreign jurisdiction risks should be aligned to the risk management practises of the insurer applied to similar insurance business in South Africa.

6.2.3.5. The underwriting of the risks in the foreign jurisdiction should follow underwriting guidelines established and embedded within South Africa.

6.2.3.6. Quarterly reporting requirements specific to the addition of foreign jurisdictions are required. The format of the quarterly reporting requirements is attached as Annexure A. Signed declarations are required from the Head of Actuarial control function and the CEO of the insurer.

6.2.3.7. The quarterly reporting requirements need to be supplemented with a letter from the Head of Risk Management control function confirming:

i. that the insurer met the limitations on reinsurance arrangements as set out in the licensing conditions of the insurer, where applicable.
ii. that the insurer mitigates the risk of fronting and market spirals in terms of GOI 3.3.

iii. the nature of the risks underwritten in the added foreign jurisdiction(s) fall within the risk appetite of the insurer when quantified from a market risk, credit risk, insurance risk and liquidity perspective.

6.2.3.8. Any amendments to underwriting guidelines or risk management practises to assess the additional foreign jurisdictions must be communicated to the PA within one month, and the impact of the amendments must be quantified accordingly.

6.2.3.9. Please note that the PA reserves the right to withdraw the approval at its sole discretion, should it be necessary, or circumstances so dictate.

6.2.3.10. The PA will amend the Annexure to the license conditions of an insurer, to add the additional jurisdictions, on a quarterly basis, following the submission of the quarterly reporting requirements and letter from the Head of Risk Management control function confirming:

i. that the insurer met the limitations on reinsurance arrangements as set out in the licensing conditions of the insurer, where applicable.
ii. that the insurer mitigates the risk of fronting and market spirals in terms of GOI 3.3.
iii. the nature of the risks underwritten in the added foreign jurisdiction(s) fall within the risk appetite of the insurer when quantified from a market risk, credit risk, insurance risk and liquidity perspective.

6.3. For insurers adding foreign jurisdictions where the addition of the insurance business from a foreign jurisdiction is not material considering the risk appetite and/or solvency position of the insurer or when compared to the materiality consideration as defined in the ORSA policy of the insurer

6.3.1. This will entail an annual submission of an application to conduct insurance business, outside of South Africa. This includes the payment of the relevant application fee as prescribed in Communication 2 of 2019, Prudential Standard on fees payable for applications made under the Insurance Act.

6.3.2. The PA may grant approval ***for a period of one year***, for an insurer to conduct insurance business, outside of South Africa in specific foreign jurisdictions. During this one year period insurance business may be conducted in ***additional foreign jurisdictions without separate applications being made to the PA.***

6.3.3. The approval referred to in paragraph 6.3.2 is subject to the following conditions:

6.3.3.1. The approval is limited to the classes and sub-classes of business the insurer is authorised to write outside South Africa.

6.3.3.2. The nature of the risks underwritten in any foreign jurisdiction must fall within the risk appetite of the insurer when quantified from a market risk, credit risk, insurance risk and liquidity perspective. Any risks underwritten in a foreign jurisdiction that fall outside the specified risk appetites when quantified from a market risk, credit risk, insurance risk and liquidity perspective will fall outside the ambit of the approval.

6.3.3.3. The assessment of in-country foreign jurisdiction risks should be aligned to the risk management practises of the insurer applied to similar insurance business in South Africa.

6.3.3.4. The underwriting of the risks in the foreign jurisdiction should follow underwriting guidelines established and embedded within South Africa.

6.3.3.5. Quarterly reporting requirements specific to the addition of foreign jurisdictions are required. The format of the quarterly reporting requirements is attached as Annexure A. Signed declarations are required from the Head of Actuarial control function and the CEO of the insurer.

6.3.3.6. The quarterly reporting requirements need to be supplemented with a letter from the Head of Risk Management control function confirming:

i. that the insurer met the limitations on reinsurance arrangements as set out in the licensing conditions of the insurer, where applicable.
ii. that the insurer mitigates the risk of fronting and market spirals in terms of GOI 3.3.
iii. the nature of the risks underwritten in the added foreign jurisdiction(s) fall within the risk appetite of the insurer when quantified from a market risk, credit risk, insurance risk and liquidity perspective.

6.3.3.7. Any amendments to underwriting guidelines or risk management practises to assess the additional foreign jurisdictions must be communicated to the PA within one month, and the impact of the amendments must be quantified accordingly.

6.3.3.8. Please note that the PA reserves the right to withdraw the approval at its sole discretion, should it be necessary, or circumstances so dictate.

6.3.3.9. The PA will amend the Annexure to the license conditions of an insurer, to add the additional jurisdictions, on a quarterly basis, following the submission of the quarterly reporting requirements and letter from the Head of Risk Management control function confirming:

i. that the insurer met the limitations on reinsurance arrangements as set out in the licensing conditions of the insurer, where applicable.
ii. that the insurer mitigates the risk of fronting and market spirals in terms of GOI 3.3.
iii. the nature of the risks underwritten in the added foreign jurisdiction(s) fall within the risk appetite of the insurer when quantified from a market risk, credit risk, insurance risk and liquidity perspective.

7. Exclusions to the application process for approval to conduct insurance business outside South Africa

7.1. The dispensation above, will not apply to the following:

i. Insurers adding foreign jurisdictions for classes and sub-classes for which it is licensed for in terms of schedule 2 of the Insurance Act, where the addition of the insurance business from a foreign jurisdiction ***is material*** considering the risk appetite and/or solvency position of the insurer or when compared to the materiality consideration as defined in the ORSA policy of the insurer. In this case an application within the ambit and requirements of section 5(5) of the Insurance Act need to be submitted for each additional foreign jurisdiction.

ii. Insurers adding foreign jurisdictions to its licensing conditions where the insurer ***does not have approval to conduct insurance business in a specific class of business in terms of Schedule 2 of the Insurance Act*** In this case an application needs to be submitted in respect of section 26 of the Insurance Act.

8. Enquiries

8.1. For further information about this Communication, please contact the PA via email at PA-Standards@resbank.co.za.

Kuben Naidoo
Deputy Governor and CEO: Prudential Authority

Date: 2022-02-22

Annexure A

The prescribed additional reporting requirements is set out in an Excel format as attached.