

NEW STATUTORY REGIME FOR INSURANCE GROUPS: AIA, FWD AND PRUDENTIAL

On 29 March 2021, legislation came into operation which amended the Insurance Ordinance (Cap. 41) and introduced the Insurance (Group Capital) Rules (Cap. 410).

The purpose of the legislation is to give the Hong Kong Insurance Authority (IA) statutory powers to regulate insurance groups. This brings Hong Kong in line with the recommendations of the International Association of Insurance Supervisors (IAIS) and the IAIS principles.

For an insurance group, the expectation is that the insurance regulator from one jurisdiction may assume the role of the group supervisor. The appropriate jurisdiction to take the group supervisor role depends upon the particular circumstances of each insurance group.

On 14 May 2021 the IA assumed the group supervisor role for the following groups:

1. AIA
2. FWD
3. Prudential.

How does the IA regulate the supervised group?

Group-wide supervision (GWS) is effected by the IA designating a Hong Kong incorporated company within the insurance group as a 'designated insurance holding company' (DIHC). The relevant Hong Kong incorporated DIHCs are: AIA Group Limited; FWD Management Holdings Limited; and Prudential Corporation Asia Limited.

The IA will supervise the 'supervised group' of the DIHC. The starting point to work out which members constitute the supervised group is to go up to the group holding company (which may be above the DIHC) and then down to all of the group holding company's subsidiaries. The IA may then include further entities in, or remove entities from, the supervised group.

The IA will require the DIHC to enter into arrangements with the group holding company. These arrangements are to ensure the DIHC is able - via the group holding company - to procure that members of the supervised group comply with the GWS requirements.

What requirements apply to the supervised group?

The GWS framework contains three regulatory pillars:

- Pillar 1: group capital requirements
- Pillar 2: risk management and governance
- Pillar 3: disclosure and reporting.

On 14 May 2021, the IA issued a Guideline on Group Supervision ([GL32](#)) which sets out principles and standards on:

- (a) Designation
- (b) Fit and Proper Criteria
- (c) Group Capital Adequacy
- (d) Disclosure
- (e) Major Acquisitions
- (f) Pecuniary Penalty
- (g) Corporate Governance
- (h) Risk Management and Internal Controls
- (i) Outsourcing
- (j) Investment Management
- (k) Enterprise Risk Management (ERM)
- (l) Group Internal Economic Capital Assessment (GIECA).

The above headings give a broad sense of the content of the GWS framework.

Group capital:

- The supervised group's tier 1 group capital must be not less than a specified 'minimum capital requirement'.
- The sum of the supervised group's tier 1 group capital and tier 2 group capital must not be less than a specified 'prescribed capital requirement'.

Group capital is calculated similar to a local capital summation method (rather than a group consolidation approach).

The DIHC must prepare an annual report on the capital requirements of the supervised group and certain members.

Major acquisitions: Major acquisitions (being more than 50% of a company) by any member of the supervised group must be approved by the HKIA (or be categorised as not material under an assessment framework prepared by the DIHC and approved by the IA).

Group control functions: The DIHC is required to have the following control functions for the supervised group: risk management function; financial control function; compliance function; internal audit function; and actuarial function.

IA approval of senior management and key persons in control functions: IA approval is required for the DIHC's chief executive, directors and key persons in control functions. These persons are subject to meeting ongoing fitness and proprietary requirements.

IA approval of shareholder controllers: IA approval is required for shareholder controllers (15%) of the DIHC, who are also subject to meeting ongoing fitness and proprietary requirements.

IA intervention powers: The IA has various intervention powers, including disclosure of information and documents; preparation of reports; prohibiting group transfers; requiring action to be taken in relation to the supervised group; and appointing a supervisory manager.

IA enforcement powers: The IA has inspection, investigation and disciplinary powers. The IA's powers include the issuing of reprimands and financial penalties against the DIHC (rather than other members of the supervised group).

When to consider the GWS framework?

The GWS framework must be embedded in the policies and procedures of the group. It also requires event-based steps to be taken, including for capital adequacy, acquisitions, material intra-group transactions and other significant events in relation to the supervised group.

Other key developments - risk-based capital

The GWS framework, although an important part of Hong Kong's regulatory framework, affects three insurance groups only.

Another key Hong Kong insurance development is the future introduction (possibly in 2024) of a risk-based capital (RBC) framework to reflect ICP Valuation and ICP 17 Capital Adequacy of the Insurance Core Principles promulgated by the IAIS.

The RBC framework comprises three key pillars/components:

- Pillar 1: regulatory capital rules and requirements
- Pillar 2: corporate governance and ERM (which is already in place)
- Pillar 3: reporting and disclosure requirements.

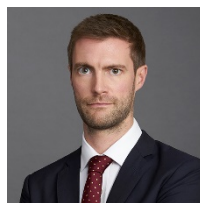
The RBC framework will result in substantive changes to Hong Kong's insurance capital requirements, affecting Hong Kong insurers generally. In due course a number of Hong Kong insurers will likely raise new capital as a consequence of the RBC framework.

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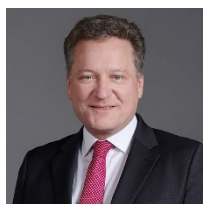


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