

## Instructions

### Responsibilities and recognition of insurance audit offices

These instructions contain only a brief overview of the requirements and recognition of insurance audit offices. In actual cases, the legal provisions shall apply exclusively. The FMA is available for any further questions.

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#### 1. External audit requirement (art. 40 ISA)

Insurance undertakings must have their business activity audited each year by an audit office independent of the insurance undertaking and recognized by the supervisory authority, the FMA. They must provide the audit office with all information necessary for a proper audit (article 40, paragraph 1 ISA).

According to the will of the legislative power, the external audit institute assumes certain tasks of the insurance supervisory authority. This has created an additional supervisory instance between the insurance undertaking and the supervisory authority. In order to fulfill this responsibility properly, the requirements for recognition of an audit office under supervision law are correspondingly strict.

According to article 40, paragraph 2 ISA, the obligations of the insurance undertakings vis-à-vis the audit office shall include in particular:

- a) keeping materials available that are necessary for determining and assessing assets and liabilities;
- b) granting access to their books, receipts, business correspondence, and the minutes of the board of directors and the general management;
- c) submitting the reports of the internal audit.

In the case of third-State insurance undertakings with an agency or branch in the Principality of Liechtenstein, the audit at the place of business of the main establishment is recognized if it meets the requirements contained in the ISA and if the audit also covers the agency or branch in Liechtenstein (paragraph 3). This provision is subject to article 41, paragraph 2 ISA, according to which the audit report must be submitted simultaneously to the board of directors of the insurance undertaking, the audit office pursuant to the provisions of the Law on Persons and Companies (PGR), and the supervisory authority.

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## **2. Responsibilities of the audit offices (art. 41 ISA)**

The audit offices must review whether:

- a) the business activities of the insurance undertaking comply with the legal requirements and the articles of association;
- b) the preconditions for licensing, including the actuarial requirements, are fulfilled on a continuous basis; and
- c) the business report and the reporting to the supervisory authority comply with the legal requirements.

The audit report must be submitted simultaneously to the board of directors of the insurance undertaking, the audit offices pursuant to the provisions of the Law on Persons and Companies, and the supervisory authorities. The legally prescribed external audit may also be conducted by the general audit office pursuant to the PGR, provided that this audit office fulfills the special conditions applicable to the external audit office (art. 67 ISO).

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## **3. Special duties of the audit offices (art. 71 ISO)**

The audit offices are required to:

- a) notify the supervisory authority of every change to the articles of association of the company and to the rules as well as every change to the composition of its organs and of the senior auditors reported to the supervisory authority;
- b) entrust the management of the insurance audits only to auditors who have been reported to the supervisory authority and who fulfill the special preconditions;
- c) report the head of the mandate and the senior auditor to the supervisory authority prior to the begin of the audit;
- d) submit their business report to the supervisory authority each year.

The supervisory authority may demand information concerning the reasons for demission of members of the general management and of the senior auditors reported to the supervisory authority.

Insurance undertakings must notify the supervisory authority without delay of changes to the audit office. This notification must be made prior to any public announcement. Changes to the audit office also require approval by the supervisory authority. The corresponding entry into the Public Registry is only permissible after such approval (art. 43 para. 1 and para. 2 ISA).

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#### **4. Recognition of audit offices (art. 40 para. 4 ISA, art. 68 et seq. ISO)**

A license issued by the supervisory authority is required to work as an insurance audit office; such a license is granted if the preconditions described in art. 69 and 70 ISO are fulfilled (art. 68 para. 1 ISO).

According to art. 69 ISO, a license is only issued to trust and audit companies if

- a) they are limited companies with paid-up share capital of at least 200,000 francs;
- b) the organization of their business guarantees the appropriate, expert, and permanent fulfillment of the audit responsibilities, and
- c) the senior auditors enjoy a good reputation as business people and have proven knowledge of insurance auditing.

The audit office may neither accept administrative or accounting assignments from the insurance undertaking to be audited nor may it assume other responsibilities that are incompatible with its audit mandate. The fees received for an audit mandate may on average not exceed 10% of the total annual fee revenue of the audit office. An audit mandate for an insurance group shall be considered a single audit mandate (art. 70 ISO).

The supervisory authority will withdraw the license from the audit office if the preconditions for exercising audit activities are no longer fulfilled or if the audit office seriously breaches its duties (art. 68 para. 2 ISO).

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#### **5. Audit report (art. 72 ISO)**

The audit report shall clearly show whether the provisions governing the business activities of insurance undertakings have been complied with and whether the preconditions for granting their license are permanently and continuously fulfilled. The audit office must independently evaluate the business report (annual account statement and annual report); for this purpose, the insurance undertaking must make the requisite materials available. Reports from internal audits shall also be taken into account.

The audit office must explain whether the business report has been compiled in accordance with the requirements, and whether it has received all the necessary information and materials from the insurance undertaking. The audit report must be signed by the senior auditor and by the audit office.

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## 6. Application for recognition

The application for recognition as an insurance audit office must be submitted to the FMA as the insurance supervisory authority and must contain the following information and evidence to fulfill the preconditions set out in art. 69 and 70 ISO:

- extract from the Public Registry;
- evidence of paid-up share capital;
- description of the organization with respect to shareholders, composition of the staff, number of clients subject to the Insurance Supervision Act;
- confirmation of the current risks of litigation by the company lawyer and evidence of coverage against financial claims by third parties (liability insurance);
- the audited annual account statements from the last two years, including composition of fee revenues;
- detailed curricula vitae with evidence of experience in insurance auditing, character references, and confirmation that the reported senior auditors have passed the requisite professional examinations;
- confirmation that no administrative or accounting assignments or any other mandates have been accepted from the insurance undertaking to be audited.

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