

# NATIONAL INSURANCE COMMISSION

## GOVERNANCE AND RISK MANAGEMENT FRAMEWORK

### FOR LICENSED INSURERS (NON-LIFE)

#### *Governance Framework*

#### **Governance framework**

1. (1) The insurer shall take reasonable care to organize and control its affairs effectively taking into account the nature, scale, complexity and diversity of its business and the risks that it faces and shall have adequate risk management procedures and controls in place.

(2) Without limiting subparagraph (1), the insurer shall

- (a) establish and maintain a governance framework that provides for
  - (i) the apportionment of responsibilities between its directors, senior management and key persons in control functions;
  - (ii) separation of the oversight function from management responsibilities; and
  - (iii) adequate monitoring and control of the business and affairs of the insurer by the directors and its senior management.
- (b) establish and maintain such strategies, policies, procedures and controls, including internal controls, as are appropriate for the nature, scale and complexity of its business and its risk profile; and
- (c) ensure that its policies, procedures and controls are regularly reviewed and updated as required.

(3) The procedures and controls established and maintained under subparagraph (2)(b) shall

- (a) provide for
  - (i) the prudent management of the insurer's licensed business, in accordance with sound insurance principles; and
  - (ii) the effective oversight of its senior management and key persons in control functions;
- (b) recognise and protect the interests of policyholders; and
- (c) take into account—
  - (i) the nature, scale and complexity of the business of the insurer; and
  - (ii) the degree of risk associated with each area of its business.

(4) An appropriate and effective corporate governance framework must be established, maintained and implemented in each subsidiary of the insurer through which the insurer carries on business.

## **Directors**

2. (1) The insurer shall
- (a) have an adequate number of directors who
    - (i) are capable of exercising independent judgment;
    - (ii) as a board, have sufficient knowledge, skills, experience and understanding of the business of the insurer, and the risks to which it is exposed, to ensure that the board is able to fulfil its responsibilities; and
    - (iii) have sufficient time and commitment to undertake their duties diligently; and
  - (b) ensure that its directors are adequately resourced and that they have sufficient powers to
    - (i) obtain in a timely manner such information as they require to undertake their functions; and
    - (ii) access senior management, key persons in control functions and other relevant persons.

(2) The insurer shall make and retain for a period of six years, a record of how it has complied with this paragraph.

## **Composition of board**

3. (1) Without limiting paragraph 2(1), the insurer shall, at all times, have
- (a) at least seven directors; and
  - (b) sufficient non-executive directors to ensure that more than half the members of the audit committee are non-executive directors.
- (2) Of the directors
- (a) at least one third in number shall be persons who are citizens of Ghana;
  - (b) at least one third in number shall be persons who are resident in Ghana; and
  - (c) at least one third in number shall be independent non-executive directors.
- (3) A director who is both a citizen of, and resident in, Ghana may be counted for the purposes of subparagraphs (2)(a) and (b).
- (4) The Chief Executive Officer of the insurer

- (a) shall be a director of the insurer's board, but
- (b) shall not be appointed, or act, as the Chairman of the board.

(5) Either the Chief Executive Officer or the Chairman of the board, or both the Chief Executive Officer and the Chairman of the board, shall be a citizen of, and resident in, Ghana.

(6) If, at any time, the insurer does not comply with subparagraph (1), (2), (3), (4) or (5), it shall

- (a) immediately give the Commission written notice of its non-compliance; and
- (b) within a period not exceeding twenty-one days from the date that it first failed to comply with subparagraph (2), submit to the Commission an application for approval to appoint sufficient directors to bring it back into compliance with the subparagraph concerned.

#### **Responsibilities of board**

4. (1) The board of the insurer has ultimate responsibility for the business and affairs of the insurer and for ensuring its effective organisation.

(2) Without limiting subparagraph (1), the board has the following responsibilities:

- (a) monitoring the sufficiency and independence of its members;
- (b) establishing—
  - (i) the insurer's business objectives and the strategy for achieving those objectives; and
  - (ii) the insurer's risk management strategy;
- (c) ensuring that it has effective oversight of the management of the insurer, including periodically reviewing and overseeing the insurer's
  - (i) overall business strategy and corporate values; and
  - (ii) risk management strategy;
- (d) setting or approving and periodically reviewing the significant strategies, policies, procedures and controls of the insurer;
- (e) monitoring the management of the insurer by senior management in accordance with the strategies and policies established or approved by the board;
- (f) ensuring that
  - (i) a governance framework complying with these licensing conditions is established and maintained by the insurer;

- (ii) the insurer has adequate and sufficiently qualified and experienced senior managers and other employees and has established the required control functions;
  - (iii) appropriate and effective procedures and controls are established, maintained and implemented for giving effect to the strategies and policies of the insurer, including internal controls and procedures and controls with respect to risk management;
  - (iv) the insurer complies with its regulatory and AML/CFT obligations;
  - (g) monitoring the effectiveness and implementation of the risk management and other strategies, policies, procedures and controls established by the insurer;
  - (h) establishing clear and objective performance goals for the insurer and for senior management and periodically monitoring performance against those goals and assessing their continued relevance and appropriateness;
  - (i) ensuring that the insurer establishes and maintains policies relating to the engagement, dismissal and succession of senior management;
  - (j) establishing standards for business conduct and ethical behaviour for directors, senior management and other employees; and
  - (k) monitoring, and ensuring, the financial soundness of the insurer.
- (3) The board shall
- (a) establish and periodically review criteria for determining whether directors are independent;
  - (b) establish and periodically review governance procedures for the board; and
  - (c) periodically review its own performance.

(4) Any criteria established by the board under subparagraph (3)(a) apply in addition to, and do not replace, the criteria used to determine whether a non-executive director is independent in accordance with paragraph 35.

(5) Where the board is required to review any matter periodically under these licensing conditions, it shall review the matter at least annually.

#### **Board committees**

5. (1) The insurer shall, at all times have
- (a) an audit committee;
  - (b) a risk management committee;
  - (c) an investment committee; and
  - (d) such other committees as the board considers appropriate.

(2) The committees

- (a) are committees of the board; and
- (b) shall be comprised solely of directors.

(3) The majority of the directors of the audit committee shall be non-executive directors who

- (a) have not, at any time in the last five years, been an executive director of the insurer;
- (b) are not connected to the insurer;
- (c) do not have any shares or have any other interest in the insurer, other than director's remuneration, and is not entitled to vote at meetings of shareholders of the insurer, or any class of such shareholders; and
- (d) does not have a material conflict of interest in relation to the insurer.

(4) At least one of the directors of the investment committee shall be an independent non-executive director with appropriate qualifications or experience in investment management.

(5) If the insurer establishes a remuneration committee, the majority of the directors of the committee shall be independent non-executive directors.

(6) The board should consider whether, taking account of the nature, diversity and complexity of the insurer's business, it is appropriate to establish other committees to assist it in the effective discharge of its responsibilities.

(7) The board shall ensure that the primary responsibilities of each committee are provided to each committee member in writing.

#### **Investment committee**

6. (1) The function of the investment committee is to formulate the insurer's investment policy and to issue guidelines to management.

(2) The principal objective of the investment committee is to secure the safety, yield and marketability of the company's investments, which the committee shall also ensure are diversified and adequately spread in accordance with these licensing conditions.

#### **Senior management**

7. (1) Subject to the strategies and policies established by the Board, the senior management of the insurer is responsible for

- (a) overseeing the operations of the insurer and providing direction to it on a day-to-day basis in accordance with the strategy and policies established by the board;

- (b) providing the board with recommendations, for its review and approval on the insurer's strategy, business plans and significant policies;
- (c) providing the board with timely and accurate information, including financial information, that is adequate to enable the board to fulfil its responsibilities, including holding senior management to account; and
- (d) ensuring that, insofar as it is necessary for them to perform their duties, all employees of the insurer are
  - (i) made aware of and understand the strategies, policies, procedures and controls established and maintained by the insurer; and
  - (ii) provided with information concerning the insurer and its business; and
- (e) promoting a culture of sound risk management, compliance and the fair treatment of policyholders and potential policyholders.

**Control functions**

8. (1) The insurer shall establish and maintain the following control functions
- (a) a risk management function;
  - (b) a compliance function;
  - (c) an actuarial function;
  - (d) an internal audit function; and
  - (e) such other functions as it considers appropriate for the nature, scale and complexity of its insurance business.
- (2) Key persons responsible for control functions shall be provided with the authority, independence and resources required to enable them to operate effectively.
- (3) The insurer shall outsource control functions only as permitted by these licensing conditions.

**Appointment of person responsible for control functions**

9. (1) Subject to subparagraph (2), the insurer shall appoint a senior employee, or senior employee of a member of the same group as the insurer, to
- (a) undertake the duties of each control function; or
  - (b) if the duties of the function are to be undertaken by more than one employee, whether or not in conjunction with an outsourcing service provider, to have overall responsibility for, and oversight of, the control function.
- (2) Subparagraph (1) does not apply if the duties of the control function are to be wholly outsourced to a service provider.

(3) A person responsible for a control function is considered to be a principal officer for the purposes of section 49 of the Insurance Act.

(4) The insurer shall not appoint a person to be responsible for a control function unless

- (a) it is satisfied that the person is fit and proper to be responsible for that control function; and
- (b) the Commission has given its approval for the appointment of that person under section 49(1) of the Insurance Act.

(5) The insurer shall not

- (a) appoint a person to be responsible for a control function, or
- (b) outsource a control function, or material aspects of a control function, to a service provider

without the approval of the board or, where a board committee has responsibility for the function, without the approval of that committee.

(6) Where a control function is to be undertaken in full or in part at the group level

- (a) the insurer shall, on seeking approval for the appointment, provide the Commission with details of all fees, costs and charges to be paid by the insurer in respect of the performance of the control function; and
- (b) shall not agree to any change in the fees, costs and charges payable without giving the Commission at least 28 days notice of the change.

#### **Authority, independence and resources of control functions**

**10.** (1) The board shall ensure that each control function

- (a) possesses sufficient independence to undertake the duties of the control function objectively and, in particular, is not
  - (i) involved in the performance of services or activities that it is responsible for monitoring;
  - (ii) placed in a position where it is expected to undertake duties that conflict with its duties as the control function concerned; or
  - (iii) subjected to any undue influence or pressure with respect to the carrying out of its duties as control function;
- (b) is given sufficient status within the insurer to ensure that senior management and the board react to, and act on, its recommendations;
- (c) has such access as is required to effectively undertake its duties as control function to

- (i) every employee and service provider of the insurer and, where appropriate, to the board, the audit committee and the internal audit function; and
  - (ii) documents and information relating to the business of the insurer and its policyholders;
- (d) has sufficient
- (i) human resources with adequate professional qualifications, relevant experience and training;
  - (ii) non-human resources, including information technology and management information systems,
- to undertake the duties of the control function effectively.

(2) The authority and responsibilities of each control function, and the head of the control function, shall be set out in writing.

(3) The board shall periodically assess the performance of each control function.

*Strategies, Policies, Procedures and Controls*

**Establishment of strategies, policies, procedures and controls**

**11.** (1) The insurer shall

- (a) establish
  - (i) a risk management strategy, policies, procedures and controls;
  - (ii) a reinsurance strategy, policies, procedures and controls;
  - (iii) an underwriting strategy, policies, procedures and controls;
  - (iv) an investment strategy, policies, procedures and controls;
  - (v) a remuneration policy;
  - (vi) internal controls; and
  - (vi) such other strategy, policies, procedures and controls as are appropriate given the nature, size and complexity of its business and the degree of risk associated with each area of its business; and
- (b) ensure that the strategy, policies, procedures and controls established in accordance with paragraph (a)
  - (i) comply with the detailed requirements of these licensing conditions; and

- (ii) are fully and clearly documented and communicated, as appropriate, to senior managers, persons in control functions and other relevant employees.

(2) The strategies, policies, procedures and controls of the insurer shall specify the duties and responsibilities of the board and senior management.

(3) Where the insurer is part of a group, the strategies, policies, procedures and controls required by these licensing conditions shall include group-wide strategies, policies, procedures and controls.

### *Risk Management*

#### **Establishment of risk management strategies and policies**

**12.** (1) The insurer shall establish and maintain a clearly defined strategy and policies for the effective management of all significant risks to which the insurer is or may be exposed.

(2) The risk management strategy and policies shall

- (a) be appropriate for the nature, scale and complexity of the insurer's business;
- (b) specify how risks are to be identified, monitored, managed and reported on in a timely manner;
- (c) take into account the probability, potential impact and the time duration of risk;
- (d) set the set the level of risk that the insurer is prepared to accept for each type of risk, taking account of the need to ensure its long term financial soundness, (the insurer's risk appetite) and, where appropriate, authority levels for employees; and
- (e) provide for
  - (i) insurance risk, including product, design and pricing risk and underwriting risk;
  - (ii) credit risk;
  - (iii) market risk, including investment risk and liquidity risk;
  - (iv) operational risk, including legal risk;
  - (v) regulatory risk;
  - (vi) contagion and related party risk;
  - (vii) strategic risk; and
  - (viii) such other risks as the board may identify as material.

(3) For the purposes of subparagraph (2)(e)(viii), the board shall specifically consider whether reinsurance risk is material to the insurer.

### **Risk management procedures and controls**

**13.** (1) The insurer shall establish and maintain procedures and controls that are sufficient to ensure that the risk management strategy and policies are effectively implemented.

(2) The board and senior management are responsible for

- (a) ensuring that they understand all the risks to which the insurer is exposed in its business;
- (b) assessing the resources required for an appropriate risk management procedures and controls, including accurate and reliable management information and reporting procedures, and for ensuring that the required resources are available; and
- (c) overseeing the implementation of the insurer's risk management strategy, policies, procedures and controls.

(3) The risk management procedures and controls of the insurer shall

- (a) enable the insurer to monitor the adequacy and effectiveness of
  - (i) its risk management strategy and policies and their implementation; and
  - (ii) measures taken to address any deficiencies identified in the risk management strategy, policies, procedures and controls; and
- (b) ensure that any exceptions to the insurer's risk management strategy and policies are reviewed and authorised by senior management and, where appropriate, the board.

### **Risk management function**

**14.** (1) The principal duty of the risk management function is to assist the insurer to identify, assess, monitor, manage and report on the key risks of the insurer in a timely manner.

(2) The insurer shall require

- (a) the person responsible for the risk management function, or
- (b) where the duties of the risk management function are wholly outsourced to a service provider, that service provider

to report to the board any matter that may have an adverse material impact on the risk management system of the insurer, as soon as reasonably practicable after identifying the matter.

## *Internal Controls*

### **Establishment and maintenance of internal controls**

**15.** (1) The insurer shall establish and maintain adequate and effective internal controls procedures appropriate for the nature, size and complexity of its business.

(2) The internal controls shall, as appropriate, operate at all levels of the insurer and shall extend to any outsourced functions.

(3) Where the insurer also operates through branches and subsidiaries, its internal control must extend to those operations and enable effective oversight by the insurer.

### **Matters to be covered by internal controls**

**16.** (1) The internal controls shall be designed to secure that

- (a) the business of the insurer is planned and conducted properly and in accordance with
  - (i) the strategies and policies established by the board and any policies established by senior management, including the business objectives established by the board; and
  - (ii) the established procedures.
- (b) the business of the insurer is being operated in compliance with its regulatory obligations;
- (c) the assets of the insurer are appropriately safeguarded and the liabilities controlled through measures designed to minimise the risk of loss from irregularities, error, fraud and physical damage, and to identify such occurrences promptly should they occur;
- (d) there are appropriate arrangements in place for the delegation of authority and responsibility and for the segregation of duties;
- (e) the accounting and other records of the insurer are complete, accurate and timely and can be used to compile financial statements as required by the regulatory enactments, management information and returns to the Commission in line with the insurer's obligations;
- (f) the board and senior management is able to assess and monitor the adequacy of the insurer's capital resources, in relation to the business of the insurer, including its risk profile and the quality of its assets;
- (g) the board and senior management is able to identify and regularly assess all relevant risks in the conduct of the insurer's business, so that
  - (i) identified risks can be measured, monitored and controlled appropriately; and
  - (ii) any losses can be monitored and controlled on a regular and timely basis.

- (h) the board and senior management are able to properly guard against involvement in financial crime and ensure that the insurer is complying with the anti-money laundering and terrorist financing legislation;
- (i) adequate business resumption, disaster recovery and other contingency arrangements (complying with paragraph 27) are in place and tested at appropriate intervals; and
- (j) adequate controls are in place in relation to information technology systems, including controls that
  - (i) protect the accuracy and security of the insurer's information technology systems;
  - (ii) that provide the insurer's employees with access only to records where that access is required for their roles and function; and
  - (iii) ensure that changes to systems and records are recorded and that only valid changes are made to them.

(2) The internal control policies shall require any deficiencies identified in the internal control system to be reported in a timely manner to senior management and for material internal control deficiencies identified to be reported to the board, even though they may have been corrected.

#### **Responsibilities of board and senior management in relation to internal controls**

**17.** (1) The board of the insurer has ultimate responsibility for ensuring that adequate and effective internal controls are established and maintained by the insurer.

(2) Without limiting subparagraph (1), the board of the insurer shall

- (a) ensure that senior management
  - (i) implements the internal controls strategies and policies established by the board; and
  - (iii) monitors the effectiveness of the insurer's internal controls and the insurer's market conduct activities; and
- (b) approve
  - (i) an appropriate organisational structure for the insurer; and
  - (ii) new products and major risk management initiatives.

(3) Senior management of the insurer have responsibility for

- (a) implementing the strategy and policies of the board with respect to internal controls;
- (b) ensuring that

- (i) the internal controls required by these licensing conditions are established and maintained;
  - (ii) the required information systems are put in place; and
  - (iii) the internal controls are monitored and deficiencies corrected as soon as reasonably practicable; and
- (c) the internal controls are reviewed at least annually and the results reported to the board.

*Internal Audit*

**Internal audit function**

**18.** (1) The principal duties of the internal audit function are

- (a) assessing whether the insurer's existing risk management strategy, policies, procedures and controls and its internal controls remain sufficient, effective and appropriate for the insurer's business;
- (b) assessing whether the insurer's risk management strategy, policies, procedures and controls and its internal controls, are being implemented and complied with;
- (c) assessing whether the procedures and controls for monitoring and assessing the on-going capital and solvency requirements of the insurer are effective and are being implemented;
- (d) assessing the reliability, integrity and completeness of the accounting, financial reporting, management information and information technology systems;
- (e) periodically reviewing the risk management function;
- (f) periodically reviewing the compliance function; and
- (g) monitoring the insurer's information systems.

(2) The responsibilities specified in subparagraph (1) shall extend to all the activities of the insurer, including outsourced activities, and where the insurer has established branches or subsidiaries, to those branches and subsidiaries.

(3) The internal audit function shall be subject to independent review by the audit committee and the insurer's external auditor.

(4) The internal audit function shall

- (a) be independent from the management of the insurer and shall not, in any way, be involved in the operation of the insurer's business; and
- (b) report directly to the board, through the head of the function.

(5) The internal audit function shall be given the authority, for the purposes of fulfilling its responsibilities, to

- (a) undertake, on the internal audit function's initiative, a review of any department, unit or function;
- (b) require management to respond to any internal audit report, including on remediation or mitigation plans; and
- (c) refuse to carry out any task requested by the senior management if the internal audit function considers that it is inconsistent with its functions.

#### **Internal audit reports to be submitted to Commission**

**19.** (1) The insurer shall

- (a) within 21 days after the last day of each calendar quarter, provide the Commission with a list of reports that have been prepared by the internal audit function during that calendar quarter, with a summary of the areas covered by each report; and
- (b) on the written request of the Commission, submit to the Commission copies of such internal reports as are specified in the Commission's request, within the time period specified in the request.

#### *Compliance*

#### **Compliance procedures and controls**

**20.** (1) The insurer shall establish and maintain compliance procedures and controls that are

- (a) appropriate for the nature, scale and complexity of the insurer's business;
- (b) designed to ensure compliance
  - (i) by the insurer with its compliance policies and its regulatory and AML/CFT obligations;
  - (ii) by the insurer's board, senior management and employees with its compliance policies; and
  - (iii) with the insurer's internal controls;
- (c) adequate to identify compliance breaches; and
- (d) effectively implemented by the insurer.

(2) The board shall

- (a) approve the compliance policy; and
- (b) on at least an annual basis—

- (i) review the compliance policy; and
  - (ii) assess the effectiveness of the compliance policy and the compliance procedures and controls in managing the insurer's compliance risk.
- (3) The compliance policy, procedures and controls of the insurer shall be—
- (a) documented in a compliance procedures manual; and
  - (b) communicated, and readily available, to the directors and to those senior managers and employees who have responsibility for implementing them.

### **Compliance function**

- 21.** (1) The principal duties of the compliance function are
- (a) to assist the insurer to meet, and to monitor its compliance with, its legal and regulatory obligations under
    - (i) the Insurance Act, the Market Conduct Rules and these and any other licensing conditions issued by the Commission;
    - (ii) the anti-money laundering and terrorist financing legislation; and
    - (iii) any other relevant legislation; and
  - (b) to promote and sustain a compliance culture within the insurer.
- (2) The person responsible for the compliance function shall report directly to the board.
- (3) For the purposes of subparagraph (1), the compliance function shall prepare a compliance procedures manual for the insurer or, where the preparation of the compliance procedures manual is outsourced, approve the compliance procedures manual.
- (4) The insurer shall require the person responsible for the compliance function to report to the chair of the board, as soon as reasonably practicable
- (a) any material non-compliance by a member of management; and
  - (b) any material non-compliance by the insurer with a regulatory or AML/CFT obligation if the compliance function is of the opinion that
    - (i) senior management is not taking the necessary remedial action; and
    - (ii) a delay would be prejudicial to the insurer or its policyholders.
- (5) The compliance function shall, on behalf of the insurer
- (a) maintain a register of compliance breaches containing information on the date, nature and extent of each compliance breach;

- (b) ensure that the employees of the insurer are aware of the need for and the objectives of compliance and of their responsibilities under the compliance procedures manual;
- (c) establish and maintain procedures for the monitoring and handling of complaints, and keeping the complaints procedures under review.

### **Actuarial function**

**22.** (1) The principal responsibilities of the actuarial function are the evaluation and monitoring of, and the provision of advice to the insurer concerning

- (a) the technical provisions;
- (b) premium and pricing;
- (c) scenario and sensitivity testing;
- (d) compliance with the obligations of the insurer, concerning the matters specified in paragraphs (a), (b) and (c).

(2) The person responsible for the actuarial function shall report to—

- (a) the board on the matters specified in subparagraphs (1)(a) and (d) and in relation to the matters specified in subparagraph (3); and
- (b) to the senior management on the matters specified in subparagraphs (1)(b) and (c).

(3) Without limiting paragraph (2), the person responsible for the actuarial function shall report to the board

- (a) on any matter that may have an adverse material impact on the insurer's solvency or financial condition or its ability to meet its liability to policyholders;
- (b) on any circumstance that may be material to an actuarial review of the insurer, including that the technical provisions and other liabilities are not adequate;
- (c) if the insurer is in contravention of, or the actuarial function considers that the insurer is likely to contravene, any provisions of the Act or any licensing conditions concerning the matters specified in subparagraph (1)(a) or (b) or any requirements concerning stated capital, solvency or financial condition;
- (d) if, in the opinion of the actuarial function
  - (i) the reinsurance cover held by the insurer is not adequate;
  - (ii) the data available to the actuarial function is insufficient, or of insufficient quality, to enable it to carry out its functions and undertake its responsibilities; and

(e) on any other matter specified by the board.

(4) The actuarial function shall carry out such activities as are necessary to undertake the responsibilities specified in subparagraph (1) and, in particular, shall evaluate, review, and where appropriate calculate, and provide advice on

- (a) the insurer's actuarial and financial risks;
- (b) the insurer's investment policies and the valuation of its assets;
- (c) the insurer's solvency position, including a calculation of minimum capital resources required for regulatory purposes and liability and loss provisions;
- (d) the insurer's prospective solvency position;
- (e) the insurer's risk assessment and management policies and controls relevant to actuarial matters or to the financial condition of the insurer;
- (f) the distribution to policyholders of payments and other benefits on participating policies;
- (g) the insurer's underwriting policies;
- (h) the design of the insurer's reinsurance programme in line with the company's risk strategy as approved by the board, and the subsequent negotiation of reinsurance arrangements;
- (i) product development and design, including the terms and conditions of insurance contracts;
- (j) the sufficiency and quality of data used in the calculation of technical provisions;
- (k) risk modelling, where applicable;
- (l) experience reviews and profit testing;
- (m) the completion of a financial condition report; and
- (n) any distribution or other benefits to be paid to shareholders.

(5) The insurer shall ensure that, at all times, it employs an Affiliate within its actuarial function.

### **Appointed actuary**

**23.** (1) The insurer shall appoint and at all times have an appointed actuary who may be

- (a) an external actuary; or
- (b) an employee of a licensed insurer, provided that the employee is a qualified actuary.

(2) The insurer shall not appoint a person as its appointed actuary unless the Commission has given its prior written approval to the person's appointment as the insurer's appointed actuary.

**Avoiding conflicts where external actuary appointed as appointed actuary**

**24.** (1) The insurer shall not appoint an external actuary as its appointed actuary unless the board has taken reasonable steps to

- (a) determine whether the person to be appointed has any interest or holds any position, whether in or outside the insurer, that may conflict with the person's functions and duties as appointed actuary; and
- (b) following the appointment
  - (i) require the appointed actuary to advise it of any conflicts that may arise during the person's appointment; and
  - (ii) seek periodic confirmation from the appointed actuary as to whether any conflicts of interest have arisen since the actuary's appointment.

(2) If the board determines that a person to be appointed, or a person who has been appointed, as appointed actuary has any conflicts of interest, the board shall either ensure that the conflict is appropriately managed and controlled or, if that is not possible, ensure that the person is not appointed or ceases to be the appointed actuary.

(3) The fact that a person is the appointed actuary of more than one licensed insurer is not, in itself, a conflict of interest.

*Other Strategies, Policies, Procedures and Controls*

**Underwriting and pricing strategy, policies, procedures and controls**

**25.** (1) The insurer shall establish and maintain

- (a) an underwriting and pricing strategy and policies; and
- (b) procedures and controls designed to secure that the underwriting and pricing strategy and policies are effectively implemented.

(2) Without limiting subparagraph (1)(a), the underwriting and pricing policies shall provide for

- (a) the evaluation of risks underwritten or to be underwritten;
- (b) the establishment of adequate premium levels;
- (c) the mitigation and diversification of risks by
  - (i) defining limits on the amount of risk retained; and
  - (ii) providing for the transfer of appropriate levels of risk away from the insurer through adequate and appropriate reinsurance arrangements.

(3) Without limiting subparagraph (1)(b), the procedures and controls shall include controls of expenses related to premiums and claims.

(4) The underwriting and pricing strategy and the significant underwriting and pricing policies shall be approved, and reviewed periodically by the board.

(5) Senior management shall monitor the underwriting and pricing strategy procedures and controls on an ongoing basis.

### **Remuneration policy**

**26.** (1) The board shall

- (a) establish a remuneration policy and ensure that the remuneration policy is periodically reviewed;
- (b) consider whether it would be appropriate to establish a remuneration committee and, if it considers appropriate, establish a remuneration committee.

(2) The remuneration policy

- (a) shall
  - (i) take full account of the insurer's business objectives and its long term financial soundness; and
  - (ii) cover the remuneration of directors, senior managers and any other employees who, in discharging their responsibilities, may have a material impact on the insurer's risk exposure;
- (b) shall not include incentives that are likely to
  - (i) cause imprudent, unnecessary, inappropriate or excessive risk-taking; or
  - (ii) result in the unfair treatment of policyholders or potential policyholders.

### **Business continuity**

**27.** (1) The insurer shall establish a business continuity policy, and put business continuity arrangements in place, aimed at ensuring that, in the event of an unforeseen interruption or disruption

- (a) the insurer is able to continue to carry on its insurance business and to meet its regulatory and AML/CFT obligations;
- (b) losses to its functions, systems and data are limited and any losses may be recovered in a timely manner; and

- (c) where the severity of the interruption or disruption results in the insurer ceasing its insurance business, or any part of it, it is able to resume its business in a timely manner.
- (2) The business continuity policy and arrangements shall be
- (a) appropriate for the nature, size and complexity of the insurer's business and the risks to which it is exposed; and
  - (b) regularly reviewed and tested, and updated as required.
- (3) Without limiting subparagraph (1) or (2), the interruptions and disruptions covered by the business continuity plan and arrangements shall include
- (a) the loss or failure of internal and external resources, including human resources, systems and other assets;
  - (b) the loss or corruption of data and other information; and
  - (c) external events, such as criminal acts, weather events and other natural disasters.

### **Information systems**

**28.** (1) The insurer shall have in place reliable and secure information systems that cover all the significant activities that it carries on and that enable it to measure, assess and report on the size, composition and quality of its exposures.

- (2) Without limiting subparagraph (1)
- (a) the information systems shall be designed to ensure that
    - (i) all transactions are recorded on an accurate, complete and timely basis;
    - (ii) there is accurate and complete accounting information for all on-balance sheet and off-balance sheet activities;
    - (iii) the integrity of the system hardware, software and data is protected through appropriate access and process controls;
    - (iv) an accurate, secure and reliable audit trail is generated for all transactions; and
    - (v) there is reliable back up of data on an appropriate periodic basis; and
  - (b) the insurer shall establish policies, processes and controls for the development and maintenance of its information systems which shall cover
    - (i) planning for future technology requirements consistent with the insurer's business strategies and business plans;
    - (ii) identifying and evaluating technology solutions for business activities;

- (iii) the acquisition and, if appropriate, development of software;
- (iv) the documentation, testing and implementation of software; and
- (v) delivery and support, including the identification and solution of problems.

(3) The insurer's information systems shall be supported by adequate contingency arrangements.

#### *Conflicts of interest*

##### **Conflicts of interest**

**29.** (1) The insurer shall establish and maintain procedures and controls to identify conflicts of interest, and potential conflicts or interest and, where conflicts do arise, to ensure that they are effectively managed in a manner that is fair to its policyholders, whether by disclosure, internal rules of confidentiality, declining to act or otherwise.

(2) The insurer shall not unfairly place its interests above those of its policyholders and, where a properly informed policyholder would reasonably expect that the insurer would place the policyholder's interests above its own, the insurer shall act in accordance with that expectation.

(3) Without limiting subparagraph (1), the insurer shall take all reasonable steps to identify conflicts of interest between

- (a) the insurer, including its directors, senior managers, insurance agents and persons responsible for control functions, or any person exercising control over the insurer; and
- (b) its policyholders.

(4) Where the policies of the insurer to manage conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to policyholder interests will be prevented, the insurer shall clearly disclose the general nature and sources of conflicts of interest to the policyholder before undertaking any insurance business with the policyholder.

(5) The insurer shall, in making disclosure under subsection (4), provide the policyholder with sufficient detail, taking into account the nature of the policyholder, to enable the policyholder to take an informed decision with respect to matter in the context of which the conflict of interest arises.

(6) In this paragraph, "policyholder" includes a potential policyholder and an actual or potential beneficiary under an insurance contract.

#### *Outsourcing*

##### **Responsibility for outsourced activities**

**30.** (1) Where the insurer outsources an activity, the insurer

- (a) shall oversee the performance of the activity by the service provider; and

- (b) remains responsible for
  - (i) the performance of the activity by the service provider; and
  - (ii) any failure by the service provider in relation to the performance of the activity.
- (2) The insurer shall not outsource
  - (a) any duties of the compliance function or the internal audit function; or
  - (b) any activity if the outsourcing of that activity would
    - (i) impair the Commission’s ability to supervise the insurer; or
    - (ii) affect the rights of a policyholder or potential policyholder against the insurer, including the right to obtain legal redress.
- (3) The insurer shall not outsource any of the duties of the risk management function or the actuarial function without the prior written approval of the Commission.
- (4) Subparagraph (2)(a) does not prevent the compliance function being undertaken at a group level, where approved by the Commission.
- (5) Subparagraph (3) does not affect or limit the requirement to have an appointed actuary.

**Outsourcing of material activities**

**31.** The insurer shall not enter into an outsourcing arrangement in relation to any material activity unless

- (a) the board of the insurer has
  - (i) undertaken an assessment of the outsourcing risk;
  - (ii) satisfied itself as to the expertise and experience of the service provider;
  - (iii) satisfied itself that the charges, fees and costs payable under the outsourcing agreements are reasonable given the activities to be undertaken by the service provider under the agreement and are affordable given the insurer’s current and likely future income and costs;
  - (iv) taking full account of the matters specified in subparagraphs (i), (ii) and (iii), approved the outsourcing arrangement; and
  - (v) satisfied itself that the outsourcing will be subject to appropriate controls;
- (b) the insurer has established an outsourcing policy with respect to the activities to be outsourced (“the relevant activities”);

- (c) the insurer has given the Commission not less than two week's notice of its intention to do so.

### **Outsourcing policy**

- 32.** (1) The outsourcing policy established under paragraph **31(b)** shall
- (a) consider the potential effects of outsourcing on the compliance function;
  - (b) include an evaluation of whether, and the extent to which, the relevant activities are appropriate for outsourcing;
  - (c) set out the internal review and approvals required;
  - (d) specify criteria for making outsourcing decisions, including how, and to whom, particular types of relevant activities should be outsourced; and
  - (e) provide for outsourcing only as permitted by, and in accordance with, these licensing conditions.
- (2) The board of the insurer
- (a) shall approve the insurer's outsourcing policy and keep it under review; and
  - (b) is responsible for ensuring that any outsourcing arrangements are put in place and operated in accordance with the insurer's outsourcing policy.

### **Managing outsourcing risks**

- 33.** (1) If the insurer outsources any activities, it shall establish and maintain appropriate and adequate procedures and controls to manage its outsourcing risk.
- (2) Without limiting subparagraph (1), the outsourcing management risk procedures and controls shall
- (a) provide for the monitoring and controlling of the insurer's outsourcing arrangements; and
  - (b) take account of the key outsourcing risks specified in the Schedule.

### **Outsourcing arrangements**

- 34.** (1) The insurer shall, before entering into any outsourcing arrangement, whether material or otherwise, undertake appropriate due diligence with respect to the service provider to whom the activities will be outsourced to enable it to assess
- (a) the service provider's capacity and ability to undertake the outsourced activity; and
  - (b) the risks associated with outsourcing the proposed activity to the service provider.
- (2) The outsourcing of any material activity shall be governed by a written contract with the service provider that

- (a) clearly specifies all material aspects of the outsourcing arrangement, including
  - (i) the activities to be outsourced, including agreed service levels;
  - (ii) the rights and responsibilities of the parties;
  - (iii) the protection by the service provider of confidential information relating to the insurer or its customers;
  - (iv) provisions for monitoring the outsourcing; and
  - (v) provisions for the termination of the arrangement by the insurer; and
- (b) gives the insurer and its auditor access to all documents and information relevant to the outsourced activity.

(3) The insurer shall establish and maintain a contingency plan for each outsourcing agreement that it enters into.

#### *Definitions and Interpretation*

##### **Definitions**

**35.** (1) The following terms have the following meaning in these licensing conditions:

“Affiliate”, in relation to a person working within the actuarial function, means a person who

- (a) has completed a degree in actuarial science, mathematics or statistics or a degree which combines one or more of these subjects; and
- (b) has passed at least two subjects towards the qualification of Associate of a specified actuarial body;

“AML/CFT obligations” means an obligation of the insurer under the Anti-Money Laundering Act, 2008 or the Anti-Money Laundering Regulations, 2010;

“board” means the board of directors of the insurer;

“control function” means a function specified in paragraph 8;

“executive director” means a director of the insurer who

- (a) is an employee of the insurer; or
- (b) has day-to-day managerial or operational responsibilities in relation to the insurer;

“external actuary” means an actuary who is not an employee of the insurer;

“independent non-executive director” means a non-executive director of the insurer who

- (a) has not, at any time in the previous five years, been an executive director of the insurer;
- (b) is not connected to the insurer;
- (c) does not hold any shares, or have any other interest, in the insurer, other than director's remuneration as a director; and
- (d) does not have a material conflict of interest in relation to the insurer;

"non-executive director" means a director of the insurer who is not an executive director;

"outsourcing arrangement" means an arrangement between the insurer and a service provider under which the service provider, or another person acting for the service provider, undertakes an activity on a continuing basis that would normally be undertaken by the insurer and "outsource" shall be construed accordingly;

"regulatory obligations" means the obligations of the insurer under the Insurance Act, the Market Conduct Rules, these and any other licensing conditions issued by the Commission and any directives of the Commission applicable to the insurer;

"senior management" means

- (a) the senior managers of the insurer acting collectively; or
- (b) those senior managers having responsibility for particular functions;

"senior manager" of the insurer means an employee of the insurer who

- (a) acts as chief executive or occupies a similar position;
- (b) holds a position that requires the employee to be answerable to the board; or
- (c) has responsibilities that include direct involvement in the insurer's management or decision making process at a senior level; and

"specified actuarial body" means

- (a) the Institute and Faculty of Actuaries of the United Kingdom;
- (b) the Society of Actuaries of the USA;
- (c) the Casualty Actuarial Society of the USA;
- (d) the Institute of Actuaries of Australia;
- (e) the Canadian Institute of Actuaries;
- (f) an actuarial body recognised by one of the bodies specified in paragraphs (a) to (e) as having equivalent status to that body; or

- (g) such other actuarial body as may, on application by the insurer, be approved by the Commission.

(2) For the purposes of these licensing conditions, one person (the first person) is connected to another person (the second person) in the following circumstances:

- (a) both persons are companies in the same group of companies;
- (b) the second person is an company, where:
  - (i) the first person is a significant owner of the second person; or
  - (ii) the first person is a director or senior manager of the second person;
- (c) the first person is a close family member of:
  - (i) the second person, where that person is an individual;
  - (ii) an individual who is a significant owner of the second person; or
  - (iii) an individual who is a director or senior manager of the second person.

#### **Effective date**

36. These licensing conditions shall take effect from **1<sup>st</sup> January, 2016**.

## **SCHEDULE**

### **PRINCIPAL OUTSOURCING RISKS**

**(Summarised from the Joint Forum Report**

**“Outsourcing in Financial Services”, February 2005)**

#### **Principal Outsourcing Risks**

- Strategic Risk:** The third party may conduct activities on its own behalf which are inconsistent with the overall strategic goals of the insurer.  
Failure to implement appropriate oversight of the outsource provider.  
Inadequate expertise to oversee the service provider.
- Reputation Risk:** Poor service from third party.  
Customer interaction is not consistent with overall standards of the insurer.  
Third party practices not in line with stated practices (ethical or otherwise) of licensed insurer.
- Compliance Risk:** Licensed insurer’s obligations under the Act, the Regulations or the Code or any relevant anti–money laundering and terrorist financing legislation contravened.

	Service provider has inadequate compliance systems and controls.
<b>Operational Risk:</b>	Technology failure. Inadequate financial capacity to fulfil obligations and/or provide remedies. Fraud or error. Risk that firms find it difficult/costly to monitor outsourcing performance.
<b>Exit Strategy Risk:</b>	The risk that appropriate exit strategies are not in place which could arise from over-reliance on one service provider, the loss of relevant skills in the insurer itself preventing it bringing the activity back in-house, and contracts which make a speedy exit prohibitively expensive.  Limited ability to return services to home country due to lack of staff or loss of intellectual history.
<b>Counterparty Risk:</b>	Inappropriate underwriting or credit assessments. Quality of receivables may diminish.
<b>Country Risk:</b>	Political, social and legal climate may create added risk. Business continuity planning is more complex.
<b>Contractual Risk:</b>	Ability to enforce contract.
<b>Access Risk:</b>	Outsourcing arrangement hinders ability of licensed insurer to provide timely data and other information to Commission.  Additional layer of difficulty in regulator understanding activities of the service provider.
<b>Concentration and Systemic Risk:</b>	Overall industry has significant exposure to outsource provider.  Concentration risk has a number of facets, including: (a) Lack of control of individual firms over provider; and (b) Systemic risk to insurance sector, or wider financial sector.