



PRUDENTIAL FRAMEWORK OF CORPORATE GOVERNANCE FOR OFFSHORE INSURANCE AND INSURANCE-RELATED COMPANIES

Introduction

1. Corporate governance refers to the manner in which boards of directors and senior management oversee the offshore insurers' business. It encompasses the means by which members of the board and senior management are held accountable and responsible for their actions. Corporate governance includes corporate discipline, transparency, independence, accountability, responsibility, fairness and social responsibility. Timely and accurate disclosure on all material matters regarding the insurer, including the financial situation, performance, ownership and governance arrangements, is part of a corporate governance framework. Corporate governance also includes compliance with legal and regulatory requirements.

Scope

2. As part of measures to raise corporate governance standards in the conduct of offshore insurance business, this Prudential Framework of Corporate Governance for Offshore Insurers (Framework) is issued for adoption by offshore insurers in Malaysian Integrated Offshore Financial Centre (IOFC) on the island of Labuan. The term "insurers" covers all life, general and composite insurer, reinsurer and captive company.

3. The Framework shall apply *mutatis mutandis* to the following:

- i. an offshore insurer that engages services of an offshore underwriting manager or offshore insurance manager, including subsidiary rent-a-captive; and
- ii. an offshore-insurance related company, namely offshore insurance manager, underwriting manager and insurance broker.

4. The Framework establishes basic principles of good corporate governance which focus on the processes and structures used to direct and manage the business and affairs of offshore insurers. The Framework contains six parts dealing respectively with:

- A. Board responsibility and oversight;
- B. Management accountability;
- C. Corporate independence;
- D. Internal controls and operational risk management; and
- E. Public accountability
- F. Financial reporting.

A. BOARD RESPONSIBILITY AND OVERSIGHT

A1. *Board establishment*

5. Every offshore insurer must be headed by an effective board charged with the responsibility of leading the insurer. The board carries ultimate responsibility for the proper stewardship of company resources, the achievement of corporate objectives and good corporate citizenship. Each individual director should dedicate sufficient time and commitment to the affairs of the insurer.

A2. *Board balance*

6. The board should include a balance of executive directors and non-executive directors (including independent non-executives) such that no individual or small group of individuals can dominate the board's decision making. Executive directors add value to the decision-making process by providing a management and operational perspective to issues placed before the board. This ensures that decisions of the board can be successfully executed to achieve their intended objectives. The participation of non-executive directors enables a balanced and objective consideration of issues, hence facilitating optimal decision-making. Non-executive directors who are independent enhance accountability in the decision-making process by removing self-serving interests which may tend to cloud good judgment in decision making. The need for board accountability and independence is of paramount importance in an offshore

insurance company to protect non-interested parties (specifically policy owners and claimants) against the mismanagement of funds entrusted to the insurer.

A3. Board appointments

7. There should be a formal and transparent procedure for the appointment of new directors to the board to protect the integrity of the board against unjustified bias. This helps to preserve the freedom that should be accorded to board members to exercise their independent and professional judgment within the law without fear or favour. The internal procedure established by an offshore insurer for the appointment of new directors should provide sufficient checks and balances to ensure that nominations of new directors are made in the best interests of the offshore insurer and its stakeholders before an application is made to LOFSA under section 14 of the Offshore Insurance Act 1990 (OIA).

8. In addition, the offshore insurer should also establish an objective and transparent mechanism for the assessment of the effectiveness of its directors on an ongoing basis and an enforceable mechanism to replace ineffective directors.

9. Directors sitting on the board of an offshore insurer should be persons of calibre, credibility and integrity with the necessary skills and experience to bring sound and independent judgment to bear on issues relating to the strategy, performance and resources of the insurer. Candidates proposed for nomination to the board of an offshore insurer should not be disqualified under the fit and proper criteria prescribed under the Guidelines on Fit and Proper Persons Acting as Directors/Controllers/Principal Officers in Labuan IOFC issued by LOFSA on 21 January 2002. The guidelines generally prescribe that a director, controller or a principal officer of an offshore company or foreign offshore company shall have *"sufficient skills, knowledge and soundness of judgement to undertake and fulfill the particular duties and responsibilities"*.

10. At least one member of the board of an offshore insurer should be qualified or experienced in insurance or insurance-related disciplines. Offshore insurers should also develop a program to familiarise a new director with the industry (including relevant legal and regulatory requirements) and the company. On an ongoing basis, offshore insurers should notify the board of all new regulatory requirements introduced via guidelines and circulars issued by LOFSA within one month of the date of their issuance.

A4. Board responsibilities

11. The board should explicitly assume specific minimum responsibilities in relation to the affairs of the offshore insurer which facilitate the effective discharge of the board's stewardship responsibilities. The terms of appointment should clearly spell out the responsibilities to be assumed by the directors, which should include as a minimum, the following principal responsibilities:

- Reviewing and approving a strategic plan for the offshore insurer;
 - Overseeing the conduct of the offshore insurer's business to ensure that the business is properly managed towards achieving the insurer's corporate objectives, and that the insurer's dealings with its policy owners, claimants and creditors are conducted in a fair and equitable manner;
 - Identifying key business risks, determining the risk appetite of the offshore insurer, and ensuring the implementation of appropriate systems to manage risks within established risk-tolerance limits;
 - Approving corporate policies on critical areas of operations including underwriting, investment, reinsurance and claims management;
 - Succession-planning, including the appointment, training, remuneration and performance review of senior management;
 - Ensuring the adequacy and integrity of the offshore insurer's internal control and management information systems, including systems for monitoring compliance with applicable laws, regulations, rules, directives and guidelines;
- and

- Establishing Audit Committee and setting up an Internal Audit Department with qualified internal audit personnel. The internal auditor should report directly to the Audit Committee.

A5. Board remuneration

12. There should be a formal and transparent procedure for developing policies on the remuneration of directors and setting the remuneration packages of individual directors. The level of remuneration should reflect the experience and level of responsibility borne by an individual director. It should be sufficient to attract and retain directors of calibre needed to manage the offshore insurer successfully, but at the same time, should also be balanced against the need to ensure that insurance funds are not used to subsidise excessive remuneration packages. The specific remuneration packages of individual directors should be determined by the full board with the individuals concerned abstaining from discussions on their own remuneration. Remuneration packages for executive directors that link rewards to corporate or individual performance should be structured with care to avoid incentives for insider excesses.

A6. Board chairmanship

13. There should be a clear division of responsibilities between the top management positions in an offshore insurer which will ensure a balance of power and authority, such that no one individual has unfettered decision-making powers. The chairman of the board should be a non-executive director. Accordingly, an insurer should not combine the roles of board chairman and chief executive officer.

A7. Board meetings

14. The board should meet regularly, with due notice given of issues to be discussed. The board should, prior to each meeting, be duly furnished with all relevant information and statistics necessary to enable it to properly consider issues to be discussed, and the proceedings of board meetings and decisions of the board should be recorded.

15. Independence and accountability is lost when the board fails to convene regular meetings to deliberate issues of strategic importance to the offshore insurer because such a situation lends itself to the free reign of executive directors in the affairs of the insurer. Circular resolutions cannot be a perfect substitute for board meetings since they do not offer the opportunity for active debate over the issues circulated and a biased presentation of the issues without an opportunity for the board members to raise immediate questions or reservations may lead to inappropriate decisions being made.

A8. Board authority

16. The board should establish and document a formal schedule of matters specifically reserved for its decision to ensure that the direction and control of the insurer is firmly in its hands. The schedule should be made available to all directors on appointment and communicated to all levels of staff in an offshore insurance company and should be kept up to date. The schedule should include at least the following matters:

- Acquisitions and disposals of assets of the offshore insurer or of its subsidiaries that are material in nature;
- Related-party transactions of a material nature;
- Authority levels for core functions of the offshore insurer;
- Corporate policies on investment (including the use of derivatives), underwriting, reinsurance, claims management and risk management; and
- The outsourcing of core business functions.

B. MANAGEMENT ACCOUNTABILITY

B1. Organisational structure and allocation of responsibilities

17. There should be a documented and well-communicated organizational structure that clearly shows lines of reporting, responsibilities and authority. The allocation of duties and responsibilities should be documented in well-defined job descriptions. There should be no gap in reporting lines and effective management control should be maintained at all levels throughout the organization of the insurer.

18. The organizational structure and job description and authority limits for the chief executive officer (including any changes thereto) should be approved by the board. Job descriptions and authority limits for senior management other than the chief executive officer, line management and executive employees should be approved by the chief executive officer. The organizational structure and job descriptions should be made available to staff upon their recruitment.

B2. Conflicts of interest

19. Persons empowered with decision-making authority (including directors) should exercise care to avoid situations (including remuneration policies) that may give rise to a conflict of interest. Where such conflict exists, the circumstances giving rise to the conflict should be disclosed to the appropriate level of higher management which shall exercise its discretion, taking into account the overriding interests of policy owners, claimants, creditors and the public in general, as to whether to accept the conflict (with appropriate controls) or take action to remove it. A director or chief executive officer of an insurer shall make disclosure of circumstances giving rise to conflicts of interest.

B3. Communication

20. There should be effective channels of communication in place within the offshore insurer to ensure that all staff fully understand and adhere to policies and procedures affecting their duties and responsibilities and that relevant information (encompassing both internal financial, operational and compliance data as well as external market information) reaches the appropriate personnel. Information should be reliable, timely, accessible and provided in a consistent format that facilitates comparative analyses.

21. The lack of effective communication and adequate information inevitably compromises management accountability since employees cannot be held responsible for failing to implement and adhere to policies and procedures that were not communicated to them in the first place. Similarly, employees, in carrying out their duties, cannot be faulted for not taking account of relevant information that failed to

reach them or that reached them too late, or for making decisions based on information that, unknown to them, was incomplete or inaccurate. Management accountability therefore requires that there be an effective path of communication to ensure that important information about the operations of the insurer is reaching the appropriate levels of personnel in a reliable, timely, accessible and consistent manner.

22. The communication policy should ensure that the necessary framework and structural linkages exist to enable information to flow *upward* so that the board and senior management are aware of the business risks and operational issues confronting the offshore insurer; *downward* so that the insurer's objectives, strategies, expectations and established policies, procedures and regulatory requirements are communicated to lower management and operational personnel; and *across* the organization so that pertinent information can be shared to enhance the overall performance of the insurer.

B4. Goal-setting

23. There should be a formal process in place for the development of individual goals used for performance appraisals that ensure that the goals are in line with the offshore insurer's corporate objectives and responsibilities.

24. Offshore insurers should adopt a consultative approach to the development of individual goals used for staff performance appraisals with the full participation of the individuals concerned. The collective goals of each separable segment/business unit/division of the insurer should be approved by the chief executive officer in relation to the overall corporate objectives of the company as determined by the board, at the beginning of each assessment year.

C. CORPORATE INDEPENDENCE

C1. Related-party transactions

25. Related-party transactions should be conducted on terms that are at least comparable to normal commercial terms and should not leave the offshore insurer or its policy owners, creditors or claimants worse off under foreseeable circumstances that if

the transaction had not taken place. Full disclosure of related-party transactions should be made to the board of the offshore insurer. The prior approval of the board should be obtained for related-party transactions that are material in nature.

C2. Group structure

26. The group structure within which an offshore insurer operates should provide for a reasonable degree of corporate independence for the insurer from controlling shareholders and associated companies in deciding on matters affecting the company, its policy owners, claimants, creditors and minority shareholders.

27. Corporate independence is primarily achieved through the effective functioning of an independent board. In this respect, the principles related to board responsibility and oversight should apply. However, an appropriate group structure can also help to reduce or remove the potential risks of too many overlapping interests that may exert pressure on the offshore insurer to compromise its corporate independence. Overlapping or multi-tiered interests in the offshore insurer may also increase the financial risks associated with multiple gearing and excessive leverage.

C3. Multiple gearing and excessive leverage

28. In assessing and monitoring the capital adequacy of an offshore insurer operating under a corporate group/conglomerate structure, adequate provision should be made for the effects of multiple gearing or excessive leverage arising from both upstream and downstream structural linkages. Disclosure should be made of the extent of capital that is geared or leveraged.

29. Multiple gearing occurs when the offshore insurer holds capital that is issued by an intermediate holding company, which in turn holds capital issued by the ultimate parent company. In such an instance, the external capital of the ultimate parent company is said to be geared up three times, first by the parent, a second time by the intermediate holding company, and finally by the offshore insurer. Such gearing can occur any number of times, progressively spreading the original source of capital thinner

and thinner over multiple tiers of entities with implications for the amount of "free" capital backing the insurer within the group.

30. Capital is leveraged when a parent issues debt (or other instruments not acceptable as regulatory capital for an insurer) and downstreams that capital to the insurer in a form of capital that on the surface qualifies as regulatory capital. This can pose a prudential risk where undue stress is placed on the insurer as a result of the obligation on the parent to service that debt.

31. Multiple gearing and excessive leverage can permit difficulties in one entity to be transmitted more quickly through corporate linkages to other entities within the group. Given this, an assessment of financial strength of an offshore insurer should take into account the extent to which gearing or leverage may have compromised the capital resources available to the insurer.

32. Offshore insurers shall disclose with the statutory annual returns submitted to LOFSA, the extent of geared or leveraged capital which constitutes more than one third of the total capitalization of the insurer under the following circumstances:-

- Where the capital is geared up more than twice (i.e. capital provided by the insurer's ultimate holding company is channelled through at least one intermediate holding company); and/or
- Where the capital is constituted from debt issued by the insurer's immediate shareholder.

D. INTERNAL CONTROLS AND OPERATIONAL RISK MANAGEMENT

D1. Risk recognition and assessment

33. Every offshore insurer should establish an effective internal control and risk management system that is capable of recognizing and continually assessing material risks that could affect its performance and financial condition. The assessment should cover all risks facing the offshore insurer on a consolidated basis (including underwriting risk, reinsurance risk, investment risk, geographical risk, operational risk and legal risk).

Internal controls should be revised as necessary to effectively address any new or previously uncontrolled risks.

34. The risk assessment process should identify and consider both internal factors (such as the complexity of the organization's structure, the portfolio mix, organizational changes and employee turnover) as well as external factors (such as fluctuating economic conditions, changes in the industry and technological developments) that could adversely affect the offshore insurer's performance and financial condition. Offshore insurers should also distinguish between those risks that are controllable from those that are not. Controllable risks should be mitigated through appropriate internal controls and the use of risk management tools. For those risks that cannot be controlled, the insurer must decide whether to accept the risks or withdraw from, or reduce the level of the business activity that creates exposure to the risks concerned. The responsibility for establishing an effective risk management and internal control system should rest with the board.

35. More importantly, risk management should be nurtured as an inherent part of the offshore insurer's corporate culture. It is also possible for insurers to effectively manage risk through largely informal mechanisms. However, good corporate governance in risk management can only be effective where there is a consciousness within the senior management ranks of the critical importance of knowing and continuously monitoring the full spectrum of risks that directly affect the insurer's performance and financial condition.

D2. Internal Audit

36. There should be an effective and comprehensive internal audit carried out by operationally independent and competent staff. The internal audit function should report directly to the board through the Audit Committee (AC), and its findings and recommendations should be communicated to senior management and all levels of staff concerned. The frequency and extent of internal audit reviews should commensurate with the nature, complexity and risk of the insurer's activities.

37. The internal audit functions is an important part of any effective internal control and risk management system because it provides an independent assessment of the adequacy of, and compliance with, established policies and procedures. The nature of the internal audit role makes it critical that internal audit personnel is independent from the day-to-day activities of the insurer, and have unrestricted access to all activities conducted by the insurer, including the operations of its branches and subsidiaries. Direct accountability to the board facilitates the proper functioning of corporate governance by enabling the internal auditor to provide the board with information that is not biased in any way as a result of interference by the affected levels of line or senior management. The importance of the internal audit function to the corporate governance process also requires that it be staffed with competent, well-trained officers who have a clear understanding of their role and responsibilities and the risks or *potential* risks faced by the insurer.

38. The primary scope and responsibilities of the internal audit are:

- Adequacy and effectiveness of system on internal control;
- Compliance with laws, rules and regulations, policies and procedures, guidelines and directives;
- Detection of frauds, errors, omissions and other irregularities;
- Management audit; and
- Information systems audit.

39. The AC plays a crucial role in ensuring the effectiveness of the internal audit function. The board of an insurer should establish an AC and provides for the internal audit department to report directly to the AC. The AC should be independent and comprising sufficient number of members of high professional calibre in order for their views to carry sufficient weight. The members of the AC should not hold other directorships in the same industry unless prior notification is given to the board. The external and internal auditors should also be allowed free access to the AC. The independent reports of the AC and external and internal auditors, and corrective actions

taken should be tabled and discussed at length by a full board and if necessary, made available for inspection by shareholders.

40. The primary responsibilities of the AC are:

- To review the overall condition, in particular financial status of the offshore insurer, its internal controls and audit program, performance and findings of internal auditors and to recommend action to be taken by management;
- To review with external auditors the scope of their audit and audit reports including their findings and any action to be taken;
- To select independent auditors for appointment by the board each year;
- To ensure prompt publication of annual accounts of the insurer. The board is duty bound to ensure that accounts are timely and accurate, with frequent reviews of the adequacy of provisions and against contingencies and bad and doubtful debts; and
- To review all service contracts of directors and to ensure that such contracts are in the best interest of insurer.

41. Pursuant to section 16A(1) of the OIA, every offshore insurer shall conduct an internal audit of its books and operations annually and shall submit to LOFSA a report of such audit together with the internal auditor's comments which includes comments on its accounting system and controls within three months from the completion of the audit. The report shall also be forwarded to the AC that has been given the responsibilities to review the audit report. An exit meeting with LOFSA to highlight preliminary significant findings shall be carried out immediately upon completion of the physical audit.

D3. Internal control activities

42. The offshore insurer should develop an internal control culture within the organization that integrates control activities into the daily operations of the insurer. Internal control activities should involve all levels of personnel and should cover the entire spectrum of the control process, including the establishment of control policies

and procedures, the verification that the control policies and procedures are being adhered to and the regular evaluation of the effectiveness of internal controls.

43. Control activities are most effective when they are viewed by management and all employees as an *integral* part of the daily activities of the offshore insurer, rather than in *addition* to them. Furthermore, controls that are an integral part of the insurer's daily activities enable quick responses to changing conditions and avoid unnecessary costs. For effective internal control, risks identified in the risk assessment process must be controlled on a timely basis. In many cases, this entails *daily* control activities. Periodic internal audit or supervisory checks, although in themselves important control activities, are not sufficient to address risks in a timely, and therefore effective, manner. It is also not sufficient for senior management to simply establish appropriate policies and procedures for the various activities and business units of the insurer. They must regularly ensure that all parts of the organization operate in compliance with established policies and procedures and also evaluate the policies and procedures to ensure that they remain adequate. Internal controls should be reviewed especially under changing circumstances to take account of new or changing risks.

44. Insurers should adopt a holistic approach to internal control activities and the internal audit should evaluate the adequacy and effectiveness control activities.

45. Internal control deficiencies or breaches, whether identified by business units, internal audit, LOFSA examiners or other control personnel (e.g. compliance officers), should be reported in a timely manner to the appropriate management level and addressed promptly.

46. Timeliness in reporting and acting on internal control deficiencies (risks that are not effectively controlled) or breaches is critical to mitigate any exposure to the insurer. In order to ensure that all internal control deficiencies are addressed in a timely manner, senior management should establish a system to track internal control weaknesses and actions taken to rectify them. Procedures should exist for the prompt reporting of

internal control deficiencies or breaches to the appropriate management level and prompt follow-up or corrective action. Serious deficiencies and breaches should be reported to senior management and the board.

D4. Segregation of duties

47. There should be an appropriate segregation of duties such that staff is not assigned potentially conflicting responsibilities. Areas of potential conflicts, which are not addressed, either completely or partially, by a segregation of duties, should be compensated by other forms of mitigating controls against misconduct and subject to careful, independent monitoring.

48. Assigning potentially conflicting responsibilities to one individual (for example, claims processing and payments) provides the opportunity for that individual person to misappropriate corporate assets by manipulating records for personal gain, or conceal losses. Areas of potential conflict should be identified, minimized and subject to independent monitoring. As far as possible, conflicting duties within the insurer should be separated between different individuals or business units. Where this is not practicable, there should be other mitigating controls to address potential conflicts, and a system for independent and vigilant monitoring must be firmly established and implemented. To the extent practicable, job rotation may also be justified for certain critical activities to ensure that individuals are not in a position to conceal their activities for any extended period of time.

49. The segregation of duties should at least cover the separation between:

- Approval of the disbursement of funds and the actual disbursement;
- Operational and internal audit/compliance functions;
- The execution and recording of investment transactions;
- The execution and custody of title documents; and
- Underwriting and credit control.

D5. Information systems

50. There should be reliable information systems in place that cover all significant activities of the insurer. These systems, including those that hold and use data in electronic form, must be secured, maintained independently and supported by adequate contingency arrangements. Information systems should also provide for the independent verification of data produced and adequate audit trail.

51. Offshore insurers shall establish an information systems security policy to protect the confidentiality, integrity and availability of the insurer's computerized data. In addition, offshore insurers should maintain and regularly review business continuity and contingency plans on an *ongoing* basis to ensure that they can continue to operate "mission-critical" functions in the event of a management information system failure. Business continuity plans should also be periodically tested to ensure their functionality in the event of an unexpected disaster.

D6. Operational risk limits

52. Offshore insurers should establish operational risk limits within the risk tolerance boundaries determined by the board for all core activities of the insurer, including underwriting, reinsurance and investment.

53. Operational risk limits serve as important internal controls to contain an offshore insurer's exposure to business or market risks, abuses, professional misjudgment or fraudulent activities. The board is ultimately responsible for determining the risk appetite of the insurer. Within the risk tolerance boundaries established by the board, the board and senior management should determine operational risk-taking limits for the insurer's core activities, specifically, underwriting, reinsurance and investment.

54. Offshore insurers should establish their own operational risk limits for underwriting to manage risks associated with accumulation (the concentration of risks accepted), inadequate monitoring of large individual risks, premium defaults, oversights

in securing the necessary reinsurance arrangements for large risks not covered under automatic reinsurance treaties and the collapse or withdrawal of reinsurers.

D7. New products

55. There should be an established and formal procedure for new product approvals (both insurance products introduced for sale as well as financial options used in investment and reinsurance) and product reviews from the business, risk management and internal control perspectives. Internal controls should be regularly evaluated and assessed against changes in the offshore insurer's risk profile resulting from a change in products sold or used by the insurer in its activities.

56. The introduction of new insurance and financial products, either for sale by the insurer, or for use in its investment and reinsurance activities, is essentially a strategic issue. As such, its implications for the insurer can be enormous from the business as well as risk management and internal control perspectives. Therefore, it is imperative that new products (including derivatives and alternative risk transfer arrangements) be carefully considered by the appropriate management levels before they are approved for sale or use in the insurer's business activities.

E. PUBLIC ACCOUNTABILITY

E1. Unfair practices

57. No offshore insurer should, under any circumstance, engage in any unfair or deceptive acts or practices that prejudice the rights of policy owners and claimants or that jeopardize the stability of the market.

58. As custodians of public funds, it is incumbent upon offshore insurers to ensure that their dealings with the public are always conducted fairly, honestly and professionally. This cannot be compromised in anyway as officers of offshore insurers owe a public duty of trust to the policy owners and claimants with whom they deal. This duty requires that officers of offshore insurers take particular care to avoid conflicts of

interest or actions that constitute unfair or deceptive practices to the detriment of the insurer's policy owners and claimants.

59. Every offshore insurer shall conduct its business with due diligence and care in accordance with sound insurance principles pursuant to section 24(1)(a) of the OIA. Insurers are prohibited from engaging in any unfair or deceptive acts or conduct that constitute unfair trade practices, including but not confined to:

- Misrepresentations through false, deceptive or misleading statements – this includes misrepresentations as to the terms and benefits of insurance policies (including dividends and distribution surpluses), the financial condition of the insurer and information about competitors for the purpose of inducing a policy owner to lapse, forfeit or surrender his policy;
- Entering into any agreement to commit any act of boycott, coercion or intimidation resulting in a market monopoly of insurance business;
- Making or permitting any unfair discrimination that is not properly justified, between individuals of the same class and equal life expectations, in the rates charged for life insurance policies or life annuities, in the dividends or other benefits payable thereon, or in any other policy term and or condition; and
- Knowingly committing or performing as a general business practice, unfair claims settlement practices.

F. FINANCIAL REPORTING

F1. Proper records

60. Insurers should maintain records necessary to explain their financial transactions and which would enable the preparation of financial statements and the audit and examination of those financial statements.

61. Proper financial records are essential to the preparation of accurate financial statements and the audit process. They also represent an important safeguard against the misappropriation of insurance funds. Proper records enable supervisors and person responsible for the proper management of the insurer (including internal auditors) to

verify that the assets of the insurer are applied only to meet liabilities and expenses that are properly attributable to the insurance fund.

62. Every offshore insurer shall maintain adequate and proper records and books of account at its office within the Federal Territory of Labuan pursuant to section 24(1)(b) of the OIA and section 110 of the OCA. Officers of insurers shall observe their statutory duty of care and diligence in maintaining proper accounting records.

F2. Annual accounts

63. Annual accounts which are lodged with regulatory authorities must be audited by a registered auditor independent of the offshore insurer and must be accompanied by a directors' report about the operations of the insurer and a director's declaration as to whether the accounts have been prepared in accordance with approved accounting standards, present a true and fair view of the insurer's financial position and whether the insurer is solvent.

64. Offshore insurers shall comply with sections 16(1) and 19 of the OIA with respect to the appointment of an external auditor and the submission of financial statements to LOFSA respectively.

F3. Statutory reporting

65. Offshore insurers should be required by law to submit annual financial statements, duly audited, to the supervisory authority responsible for the financial surveillance of the insurer. Interim financial statements should also be submitted to the supervisory authority at regular intervals *within* the insurer's financial year. The statements should be of sufficient detail to enable the prompt detection of financial distress and provide a sound basis for projections to be made about the future operations and long-term viability of the insurer.

66. Offshore insurers shall comply with sections 19 of the OIA in respect of the submission of financial statement to LOFSA, and Guidelines on Submission of Financial

Statements and Statistical Returns on Insurance Operations issued by LOFSA on 5 December 1998 in respect of other statistical returns specified by LOFSA.

67. Insurers should exercise due care and diligence in ensuring the accuracy of information submitted to supervisory authorities. Section 24(2) of the OIA prohibits any offshore insurer from advertising or publishing, in any form, information which is untrue or which is likely to mislead another person in relation to the laws of the Federal Territory of Labuan or that offshore insurer's financial status or insurance or reinsurance plans or any other matter in respect of its offshore insurance business. However, more often than not, misleading information is provided as a result of negligence or irresponsibility on the part of officers concerned, and not with deliberate intent to deceive. Nevertheless, the implications of materially misleading information, whether furnished intentionally or not, can be equally damaging for the insurer and its stakeholders.

F4. Management reporting

68. The board and senior management should receive regular reports of such nature, frequency and detail that provide a sound basis for decision-making and enable them to effectively monitor on an ongoing basis, the financial performance and condition of the insurer in relation to its corporate objectives and responsibilities.

69. General purpose management reports should cover all the key aspects of the insurer's operations and should contain sufficient detail so as to provide the management with a sound basis for assessing the insurer's financial performance and condition at any point in time, for identifying real and potential problems facing the insurer and for formulating appropriate policies and strategies to achieve the insurer's corporate objectives and fulfill its fiduciary responsibilities.

70. Special purpose management reports prepared for decision-making should contain only *relevant data* (so as not to cloud the issue under consideration) and should include *relative data* (to enable management to appreciate the degree of materiality of

the issue) and *comparative data* e.g. of alternative scenarios, competitors or other business segments within the insurer (to provide a proper perspective of the issue).

71. Insurers should endeavour to report to the board on their core activities at least at quarterly intervals. As a general rule, this is sufficient to ensure that management is kept abreast of the business and affairs of the insurer. More frequent reports may be necessary for certain activities of the insurer which are subject to a higher degree of operational and/or market risks, or under certain market conditions of volatility which render the affairs of the insurer less predictable.

Implementation and Enforcement

72. Offshore insurers are required to adopt corporate governance practices as advocated in the Framework with effect from 1 January 2006 to further improve the general conduct of offshore insurance business in Malaysian IOFC.