
Intermediary Seminar 27 November 2008

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Topics around the Functioning of the Board and Stakeholders



The Functioning of the Board

- Introduction
- Source of Board functions



Specific Board responsibilities

- 1) Corporate Governance
- 2) Care of ethics and standards of business conduct
- 3) Internal reporting system
- 4) Business strategy
- 5) Risk management
- 6) Accountability
- 7) Regulatory compliance



Stakeholders

- Definition
- Primary
- Associated
- De facto

Risk Monitoring, Mitigation and Control

Daniel Le Page
Senior Analyst



Risk Monitoring, Mitigation and Control

Why monitor?

- Market events
- Complaints
- Professional indemnity insurance
- Legal and regulatory



Risk Monitoring, Mitigation and Control

Key risks

- Solvency
- AML
- Regulatory
- Management and supervision



Risk Monitoring, Mitigation and Control

Assessing risk

- External audit
- Self assessment

Risk Monitoring, Mitigation and Control

Example Self Assessment - General Insurance

Risk	Factors	Assessment	Comments	Mitigation / Control	F	Reviewed	Comments
Composition of Board							
	Skills & Experience	LOW	Sales Director sales - 22 years, Compliance Director - 2 years No PI experience	Check that board has adequate skills and experience	A	Jan-08	Non exec assists as a consultant on PI.
	Qualifications	HIGH	Sales Director - none, Finance Director - 30 years, Compliance Director - 2 years	Monitor training and competence	A	Jan-08	Sales Director undertaking CII course. Compliance Director undertaking Compliance Diploma
	Overall	MED					Training being undertaken.
Conflicts of Interest							
	Declarations	MED	Sales Director - brother now works for rival intermediary	Check confidentiality agreement with director	A	Jan-08	Dave's brother, Jon has started work for AN Intermediary
	Overall	MED					Agreement reworded to ensure adequate protection in place.
Binding authorities							
	Audit requirements	MED	Three points raised, one rated high.	Liase with insurer to rectify	A	Apr-08	All problems rectified to insurer's satisfaction
	Complaints	LOW	No complaints for 2007	Check complaint history	M	Jan-08	
	Level of business	MED	Agreement specifies £100,000 premium pa.	Check premium income in respect of binder	M	May-08	Premium income just below, undertaking sales campaign
	Overall	LOW					Problems rectified, only £200 off target.
Claims							
	Processing rate	LOW	Max claim process period 1 month, no outstanding claims	Check report log	M	Dec-08	
	Overall	LOW					
Renewals							
	Errors	MED	2 renewals issued with errors	Check complaint history	M	Dec-08	Premiums miscalculated
	Overall	MED					Additional training given to handler.

The above is for illustrative purposes only.

Licensees should consider the specific risks faced by their business when compiling monitoring and management tools.



Risk Monitoring, Mitigation and Control

Example Self Assessment - Long-term Insurance

Risk	Factors	Assessment	Comments	Mitigation / Control	F	Reviewed	Comments
Composition of Board							
	Skills & Experience	HIGH	Sales Director - 2 years in sales (not insurance), Compliance Director - 1 year	Check that board has adequate skills and experience	A	Jan-08	
	Qualifications	HIGH	Sales Director - none, Finance Director - 30 years, Compliance Director - 2 years	Monitor training and competence	A	Jan-08	Staff undergoing training (year 1)
	Overall	HIGH					Training & Competence scheme implemented & training being undertaken. Board aware of issue and are taking on additional director with Insurance experience.
Solvency							
	Net asset position	LOW	Net assets exceed liabilities by sufficient margin	Check Net assets	D	Nov-08	
	Check deductible PI	MED	Deductible below 125% of net assets but only just	Check ratio of deductible to net assets	D	Nov-08	
	Minimum Capital Requirement	LOW	Requirement is met, financial position monitored daily	Check MCR is met	D	Nov-08	
	Overall	MED					Monitor position - take action if necessary
Complaints							
	Number	MED	Five complaints but 3 are service related	Check complaint history	M	Nov-08	Two remain unresolved
	Type	HIGH	Compliant re advice provided in 2006	Check complaint history	M	Nov-08	Mark to notify the Commission
	Overall	HIGH					Monitor position - take action if necessary
PI Insurance / Claims							
	Current claims	LOW	No current claims but see complaints	Check report log	M	Nov-08	
	Overall	MED					Monitor position - take action if necessary

The above is for illustrative purposes only.

Licencees should consider the specific risks faced by their business when compiling monitoring and management tools.



Risk Monitoring, Mitigation and Control

Mitigating risk

- Understanding & recording risks faced
- Fiscal prudence
- Client and market knowledge
- Compliance function
- Training



Risk Monitoring, Mitigation and Control

Controlling risk

- Board meetings
- Monitoring & supervision
 - of compliance function
 - of outsourced functions
 - of staff
- Timely & appropriate action



Corporate Governance

Tracy Bideau
Senior Analyst



Corporate Governance

Findings and examples

- Dominance of, or reliance on, one director
 - Each director is accountable and responsible
- Lack of direction of the business
- Lack of Board meetings or attendance at Board meetings
- Lack of understanding by the Board of the underlying business of the company
- Lack of understanding of the risks to the company
- Lack of effective compliance function



Corporate Governance

Findings and examples

- Lack of understanding of the compliance function
- Delegation to the compliance officer
- Lack of reporting to the Board
- Lack of understanding of regulatory laws and their practical implementation
- Lack of oversight of the accounting and solvency position of the company
- Lack of resource for the nature and scale of the operation (particularly, compliance function)



Corporate Governance

Example 1

- One director (AIR) undertaking business with no or little oversight by the other directors or a compliance function
- False valuations provided to clients
- Poor client files
- Complaints notified to Commission



Corporate Governance

Example 1 continued

Resulted in:

- Investigation
- Clients (book of business) transferred
- Director resignation
- Licence suspended



Corporate Governance

Example 2

- Employee (AIR) transacting business the directors did not understand
- Lack of appropriate advice provided to clients
- Poor client files
- No compliance oversight
- Directors did not understand regulatory requirements



Corporate Governance

Example 2 continued

- Complaints notified to Commission and claims made against company
- Onsite and further investigation undertaken and further regulatory issues identified
 - Unusual transactions
 - Mixing of personal and company assets
- Failure to renew PI insurance



Corporate Governance

Example 2 continued

Resulted in:

- Investigations
- Warrant issued
- Clients (book of business) transferred
- Company placed into compulsory liquidation



Corporate Governance

Example 3

- Director (AIR) undertaking business with little oversight by the other directors or an effective compliance function
- Commission notified of suspicious insurance claim
- Request to surrender licence just prior to pre-arranged on-site visit

Corporate Governance

Example 3 continued

- On-site went ahead resulting in number of concerns:
 - Unable to provide an accurate client list
 - No plans for clients
 - Uncertainty of accounting and solvency position of company



Corporate Governance

Example 3 continued

Resulted in:

- Director arrested for attempted deception
- Conditions imposed
- Warrant executed to search for client records and financial information
- Company and director's assets frozen
- Company placed into compulsory liquidation



Corporate Governance

Example 3 continued

Resulted in:

- Director sentenced to 13 months imprisonment
 - attempted deception/failing to answer bail
- Liquidator investigations found further suspicious transactions
- Director disqualified from acting as a director for 11 years



Corporate Governance

Additional findings

- Improvements seen in majority of companies
- More recent on-site visits highlighted:
 - Reliance on one director or AIR
 - Lack of understanding of underlying business by directors
 - Little oversight by directors
 - Weak compliance function



Corporate Governance

Regulatory action taken

- Changes to the Board
- Conditions
- Suspension of licence (withdrawn)
- Compulsory / agreed voluntary liquidation

Future action could now include

- Prohibition orders
- Fines



Corporate Governance

- Board must understand underlying business and risks associated with that business
 - Controls in place to mitigate the risks
 - Monitor the risks
- All directors on the Board are responsible
- Cannot delegate responsibility
- Open relationship with the Commission



Changes to the Law & Regulations since December 2007

David Quick
Senior Analyst



Anti Money Laundering Regulations and Handbook

- Implementation date – December 2007
- Business Risk Assessment – now due for review
- Individual Client Risk Assessments – should be nearing completion



Law, Rules, Codes & Regulations Implementation Dates 2008

- Client Money Handling
- Annual Returns more data required
- Minimum Criteria for Licensing
- Conduct of Business Rules
- Trigger events to be notified
- Cease business if minimum criteria not met
- Disclosure of regulatory issues to PI insurers



Law, Rules, Codes & Regulations Implementation Date March 2008

- Notify AIR changes within 10 days
- Accounting records to include all contractual commitments
- Advertising – no pre-submission required
- Approval of +15% portfolio transfers
- Outsourcing code – approval for new arrangements
- Retention, access and destruction – non accounting records (e.g. client files)



Law, Rules, Codes & Regulations Implementation Date March 2009

- Minimum Capital requirement £25k
- Approved Assets Regime
- Appoint an approved Compliance Officer
- Minimum Level of PI cover
(or at renewal if before March 2009)
- Training & Competence Scheme in place
- CPD records kept for AIRs



Law, Rules, Codes & Regulations Sources

- www.gfsc.gg> insurance>insurance law
- IMIL consolidated text (inc. Minimum Criteria for Licensing)
- Annual Return Regs
- Client Money Regs
- Approved Assets Regs
- Conduct of Business Rules
- Minimum Capital rules

Law, Rules, Codes & Regulations Sanctions

On a festive note:-

- Suspension of licences is out
- Fines & Prohibition Orders are in
- Revocation remains



Diane Colton
Director of Insurance



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