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INSURANCE SUPERVISORS

# **Detailed Assessment of Observance IAIS Insurance Core Principles (ICPs) Bailiwick of Guernsey**

**June 2019**

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The International Association of Insurance Supervisors (IAIS) is a voluntary membership organisation of insurance supervisors and regulators from more than 200 jurisdictions. The mission of the IAIS is to promote effective and globally consistent supervision of the insurance industry in order to develop and maintain fair, safe and stable insurance markets for the benefit and protection of policyholders and to contribute to global financial stability.

Established in 1994, the IAIS is the international standard setting body responsible for developing principles, standards and other supporting material for the supervision of the insurance sector and assisting in their implementation. The IAIS also provides a forum for Members to share their experiences and understanding of insurance supervision and insurance markets.

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## Executive summary

The insurance industry in the Bailiwick of Guernsey is a critical part of the financial services sector and the jurisdiction's economy. The sector is a major employer and insurance is an important part of the Bailiwick's international business focus. The insurance sector is dominated by its international component. Guernsey is the largest captive insurance domicile in Europe. It is home to several important niche insurers and offers innovative corporate forms to facilitate specialty risk management. The jurisdiction also has a small domestic market largely servicing the insurance needs of local residents.

In the past, Guernsey has actively worked to maintain high supervisory standards but also to avoid unnecessary regulatory cost. In the view of the Guernsey authorities, careful attention to this balance has helped differentiate the market from other international financial centres, while maintaining its cost competitiveness as an international insurance domicile. As Guernsey is a relatively small and specialised market, it is sensitive to global economic forces, and faces other day to day challenges such as attracting and maintaining necessary insurance skill sets. Industry participants and supervisory staff, however, are generally knowledgeable and relationships between the supervisor and regulated entities are generally good.

Guernsey has a high level of observance of current international standards. In recent years, it has made a concerted effort to try and keep pace with post 2011 ICP changes. It has also made other important investments in improving supervision. For example, requirements have been strengthened in the areas of insurer governance and internal controls, enterprise risk management requirements, conduct of business requirements, and cross border cooperation and crisis management. It has also made significant investments and refinements to the Probability Risk and Impact System (PRISM) which is both an approach to supervision as well as a software application that facilitates supervisory work. In addition, centralisation and reorganisation of specialist functions in the supervisory organisation have helped to increase efficiency and focus of supervisory efforts.

Guernsey is in the process of implementing several other important supervisory initiatives which should further strengthen and advance its level of observance. These include development and implementation of a new enforcement law, implementation of new ORSA requirements, completion of work on cross border crisis planning, implementing broader disclosure requirements for much of the market, and improving its focus on Conduct of Business issues.

Regulatory and supervisory challenges remain, however, if Guernsey is to continue progress in its strategic direction. Supervisory objectives set out in legislation should be clarified to meet international standards. Independence, accountability and transparency of the supervisory authority in the exercise of its powers and functions can be improved, particularly with respect to establishing the GFSC, rather than government as the authority responsible for setting fees on regulated entities. Consideration should be given to increasing the level of supervisory resources directed to insurance supervision, particularly as this would help with strategic initiatives and fulsome offsite and onsite analysis of risks in institutions.

More information on the structure, profitability and other characteristics of insurance markets should also be made available by the supervisor to the public as part of its annual report and through other means. This information is important to understanding the sector, the risks it faces and the nature, scale and complexity of the market. It is also important to understanding the effectiveness of supervisory programmes described in the annual report and would

complement increased disclosure requirements being implemented on industry. Furthermore, external audit requirements for insurers should be strengthened and more explicit minimum standards, guidance and assessment procedures for governance and internal controls may help further improve governance in the sector.

The GFSC has made a considerable investment in implementing, adapting and improving the PRISM framework which meets many of the ICP standards. Further improvements should, however, be considered including:

- increasing the frequency of offsite reporting for all insurers rated as having medium low or above impact. This involves moving from an annual to a six-month cycle (which is currently planned). Consideration should also be given to quarterly reporting for some insurers.
- continuation and expansion of the programme of thematic reviews as they help identify emerging problems in the market.
- more regular and comprehensive assessment of insurance managers given their importance to the market and the large number of captive and other small insurers that they are responsible for.
- refinement of Key Risk Indicators used as part of the PRISM framework to ensure that that offsite reporting is as effective as possible and addresses a broader range of risks.

Guernsey should complete its development of a new enforcement law for the financial services sector. The law will improve the supervisor's access to enforcement tools and help to preemptively address compliance problems. Strengthening the organisation's powers to appoint administrators is particularly important in this regard. Additional changes to legislation should be made to strengthen the position of policyholders and beneficiaries in the event of an insurer insolvency. This can be accomplished by establishing a high priority for policyholder and beneficiary claims in the event of an insolvency under the Insurance Business Law (IBL).

The GFSC should review current valuation standards and develop a plan for better observance of ICP 14 standards. For example, valuation of assets and liabilities do not always reflect the risk adjusted present value of their cash flows and current standards for reserving do not provide for the inclusion of a margin over current estimates (MOCE). In addition, the valuation of insurer loans to parents and related entities as eligible capital should be reconsidered; and inclusion of a broader range of risks in the Prescribed Capital Requirement (PCR) formula (ie a provision for operational risk).

Closer cooperation between the Channel Islands Financial Services Ombudsman and GFSC may help make Conduct of Business supervision more proactive. Conduct of business requirements for insurers and intermediaries have been strengthened over the last two years and GFSC has increased its supervisory focus on conduct problems including those involving policyholders in other jurisdictions (eg foreign expatriate policyholders sold products by Guernsey insurers) as well as domestic policy holders. The Channel Islands Financial Services Ombudsman was established in 2015 and is having a positive impact on the handling of complaints in the insurance sector. Regular discussion and engagement between these two bodies in supervisory planning should be encouraged and may help further improve conduct in the industry.

Several other smaller issues, challenges and recommendations are noted in the body of this report. In overview, however, supervisory programmes appear to be well organized, well managed and effective in dealing with policyholder risk given the nature, scale, and complexity of the market.

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## Acronyms

AIR	Authorised Insurance Representative
ALM	Asset and Liability Management
AML/CFT	Anti-Money Laundering and Countering Financing of Terrorism
CIFO	Channel Islands Financial Services Ombudsman
EU	European Union
ERM	Enterprise Risk Management
FSC Law	Financial Services Commission (Bailiwick of Guernsey) Law, 1987,
GFSC	Guernsey Financial Services Commission
GDP	Gross Domestic Product
GVA	Gross Value Added
IBL	Insurance Business (Bailiwick of Guernsey) Law, 2002
IAIS	International Association of Insurance Supervisors
ICC	Incorporated Cell Companies
ICP	Insurance Core Principle
IFRS	International Financial Reporting Standards
ILS	Insurance Linked Securities
IMIL	Insurance Managers and Intermediaries Law
IOM	Isle of Man
ISB	Insurance Supervision Board
IMS	Information Monitoring System
IMF	International Monetary Fund
MCL	Minimum Criteria for Licencing
MOCE	Margin Over Current Estimate
MPTL	Motor Third Party Liability
Mn.	Million
MOU	Memorandum of Understanding
MMOU	IAIS Multilateral MOU on Cooperation and Information Exchange
OPQ	Online Personal Questionnaire
ORSA	Own Risk and Solvency Assessment
PRISM	Probability Risk and Impact System
PCC	Protected Cell Companies
UK	United Kingdom

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# 1 Assessment of Insurance Core Principles

## 1.1 Introduction and Scope

This document provides a detailed assessment of supervision in the insurance sector of Guernsey. The assessment was conducted by Charles Michael Grist, Insurance Regulation and Supervision Consultant, from November to January, 2018, on behalf of the International Association of Insurance Supervisors (IAIS). The last detailed assessment of the Guernsey insurance sector was conducted in January 2011, by the International Monetary Fund, using Insurance Core Principles (ICPs) issued by the International Association of Insurance Supervisors (IAIS) in 2003.

The current assessment is benchmarked against the ICPs issued by the IAIS in October, 2011, including revisions authorised up until December, 2017. The revised principles were developed and issued subsequent to the 2008 global financial crisis and differ substantially from those issued in 2003. Some of the most significant changes include:

- They generally have wider scope, stronger requirements and greater depth;
- They recognise and require a risk-based approach to supervision; and
- Four key areas of supervision are significantly reinforced: governance, enterprise risk management and internal control, group supervision and macroprudential supervision.

The ICPs apply to all insurers, whether private or government controlled, in all markets. Specific principles apply to the supervision of intermediaries.

The objectives of the assessment are to enhance the jurisdiction's understanding of the ICPs and aid in their implementation, to identify major differences between existing practices and the international standards as well as to provide recommendations and advice to help future development of the supervisory programmes. The assessment should not be construed to be part of the IMF/World Bank Financial Sector Assessment programme.

The assessment was undertaken as part of a pilot project by the IAIS in agreement with the Guernsey Financial Services Commission. The assessment does not include review of some principles. These include ICP 22 (AML/CFT), ICP 23 (Group Supervision), and ICP 24 (Macroprudential). With respect to ICP 22, On 15 January 2016 the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) issued its report on the Fourth Assessment on the Bailiwick of Guernsey's Anti-Money Laundering and Combating the Financing of Terrorism controls. In view of the fact that MONEYVAL issued a report on Guernsey in 2016, and that this report showed close compliance with international standards, the Guernsey authorities and the IAIS Secretariat were of the view that further detailed assessment of this ICP by an IAIS assessor was unnecessary.

With respect to ICP 23, the ICP is largely aimed at group wide supervisors. As such, the Guernsey authorities felt that it is not directly relevant to the GFSC. This is because the GFSC has issued a public policy statement saying that it does not licence insurers which, in line with IAIS principles, would otherwise act as a group wide insurer. Having said that the Commission is committed, in its capacity as a host supervisor, to cooperate, with a group wide insurance supervisor and does so regularly.

With respect to ICP 24, The GFSC requested that the ICP not be assessed for the following reasons:

- Most life and general insurance (albeit the latter to a lesser extent) bought by local residents is bought from insurers outside the Bailiwick.
- Almost all Guernsey insurers insure entities and people predominantly outside the Bailiwick.
- Guernsey insurers are too small and limited in scope to undermine financial markets.
- The insurance industry in the Bailiwick is not in itself large enough to threaten macro-economic stability even if job losses began to occur.
- The Commission performs horizontal reviews as far as possible and tracks relevant environmental factors. However, the insurance sector in the Bailiwick is both heterodox and specialised. It is therefore generally difficult to compare one firm with another in a meaningful way.

## 1.2 Information and Methodology Used for Assessment

The level of observance for each ICP reflects the assessment against its standards. Each ICP is rated in terms of the level of observance as follows:

- **Observed:** where all the standards are observed except for those that are considered not applicable. For a standard to be considered observed, the supervisor must have the legal authority to perform its tasks and exercise this authority to a satisfactory level.
- **Largely observed:** where only minor shortcomings exist, which do not raise any concerns about the authorities' ability to achieve full observance.
- **Partly observed:** where, despite progress, the shortcomings are sufficient to raise doubts about the authorities' ability to achieve observance.
- **Not observed:** where no substantive progress toward observance has been achieved.

The assessment is based solely on the laws, regulations, and other supervisory practices in place at the time of the assessment in Fall 2018. While the assessment does not reflect on-going regulatory initiatives, some key proposals are discussed by way of additional comments in this report. The authorities have provided a self-assessment, supported by examples of actual supervisory practices and assessments, related to entities the identities of which have not been disclosed, which enhanced the robustness of the work. Technical discussions with, and briefings by, officials from the GFSC have also enriched discussions of this report as did discussions with some industry participants, professional associations, consumer groups and other government and supervisory authorities. Discussions with these stakeholders were conducted on a confidential basis without the presence of government or supervisory authorities.

The assessor is grateful to the GFSC for its cooperation and thoughtful logistical arrangements, particularly the helpful coordination of various meetings with industry stakeholders. The assessor is also grateful for the many valuable inputs and insightful views

received from insurers, professional associations, consumer groups and other industry participants and government agencies received during the course of this assessment.

### **1.3 Overview — Institutional and Macroprudential Setting**

#### **1.3.1 Geography and Population**

The Bailiwick of Guernsey is located in the English Channel, in the Gulf of St Malo off the north-west coast of France. The Bailiwick consists of the principal islands of Guernsey (population 63,000), Alderney (population 2,000) and Sark (population 600), together with other smaller islands. Although geographically the islands form part of the British Isles, politically they do not form part of the United Kingdom or the European Union. Guernsey is one of three British Crown Dependencies, along with Jersey and the Isle of Man.

#### **1.3.2 The Government**

The island of Guernsey's legislative assembly is called the States of Deliberation, also known as the States of Guernsey. It comprises the President of the Royal Court of Guernsey (the Bailiff) as ex-officio Presiding Officer, 38 Deputies, two Representatives of the States of Alderney, and two non-voting Law Officers of the Crown. The Deputies are elected by universal suffrage (voting aged 16 and over). The island is divided into seven constituencies, each electing either five or six members. The Alderney representatives are elected annually by the States of Alderney. The States of Deliberation sit for a term of four years, after which there is a general election. The Senior Committee of the States of Guernsey is the Policy and Resources Committee and the President of this Committee is the island's senior politician (known as the Chief Minister). Alderney and Sark have their own legislative bodies, the States of Alderney and the Chief Pleas in Sark. The States of Guernsey provide a number of key services in Alderney, as a result of which Guernsey has fiscal authority in Alderney.

#### **1.3.3 Relationship with the United Kingdom**

The Bailiwick is a dependency of the Crown. The Queen in Council exercises supreme legislative and judicial powers in the Bailiwick and has ultimate responsibility for the good government of the islands. The Crown acts through the Privy Council on the recommendations of the Ministers of Her Majesty's Government in their capacity as Privy Counsellors. The UK Ministry of Justice acts as the point of contact between the political authorities in the Bailiwick and the Crown but is not otherwise involved in the islands' internal affairs. The Ministry of Justice is responsible for ensuring that laws approved by the parliament in the Bailiwick are placed before the Privy Council for Royal Sanction. Where uniform legislation is required the ordinary practice is for the Bailiwick to enact its own "mirror" legislation.

The Bailiwick is not represented in the UK parliament. The Bailiwick is, and always has been, legislatively independent from the UK with the full capacity to legislate for the islands' insular affairs. The Bailiwick's right to raise its own taxes is a long recognised constitutional principle. The government of the UK does not provide any direct financial assistance to the Bailiwick but the UK is responsible for the Bailiwick's international relations and for its defence. In recent years the UK has recognised the appropriateness of the Bailiwick having greater independence with respect to international relations, particularly where those affairs relate to matters within the competence of the Bailiwick political authorities. The Bailiwick has never

been an overseas territory nor a colony and the constitutional relationship is distinctly different from that of the British Overseas Territories.

### **1.3.4 Guernsey's Economy**

The currency of the Bailiwick is the pound sterling (£). The States of Guernsey issues Guernsey bank notes and coins. The Guernsey note issue and other notes denominated in pounds sterling (for example, those issued by the Bank of England and the Jersey note issue) can also be used in the Bailiwick. The bank base rate in Guernsey is that set by the Bank of England.

Guernsey's total gross domestic product for 2017 was £3.050 billion. Following a period of volatility from 2009 to 2012 there have been steady, modest increases in GDP, but little cumulative real growth since 2009, with an average annual growth rate of 0.64%. The financial sector is by far the largest sector of the economy, representing 44% of Gross Value Added (GVA). The next largest sectors are Wholesale Retail and Repairs (approximately nine percent of GVA) and Public Administration and Trading Bodies (at approximately eight percent of GVA). As at March 2017, there were 30,977 employed and self-employed people in the Guernsey workforce, with 6,747 (21.8%) employed in the finance sector, making it the Bailiwicks largest employer. As at March 2017 there were 686 people registered as unemployed, which represents 2.3% of the total workforce. The annual rate of inflation as at the end of December 2017 was 2.4%.

### **1.3.5 Legal System and Courts**

The civil law system in Guernsey is based upon Norman customary law. This has been added to and amended by English common law and, more recently, by statute enacted by the States of Guernsey. While Norman customary law is still applicable in some areas, in practice much of the legal framework is strongly influenced by English or European law. The criminal law of the Bailiwick of Guernsey is substantially similar, but not identical to, English law.

The Judiciary of the island of Guernsey has three components: The Magistrate's Court (which has limited jurisdiction), the Royal Court (which has unlimited criminal jurisdiction) and the Guernsey Court of Appeal. In Alderney there is the Court of Alderney and in Sark, the Court of the Seneschal. They have limited jurisdiction. More serious cases from these islands are tried in the Royal Court of Guernsey. Appeals lie from Alderney and Sark cases to the Royal Court of Guernsey. For most civil matters the Royal Court is the principal court. Appeals lie from the Royal Court to the Guernsey Court of Appeal. From the Guernsey Court of Appeal there is an appeal to the Judicial Committee of the Privy Council in London.

Judges in the Bailiwick of Guernsey are independent of the governments in the islands. All judges are appointed by the Crown and the majority of Court of appeal judges are English Queen's Counsel. The President of the Royal Court of Guernsey is the Bailiff of Guernsey. He and the Deputy Bailiff are also appointed by the Crown. The senior judges in the other islands are the Chairman of the Court of Alderney and the Seneschal of the Court of Sark.

There are two "Law Officers" of the Crown in the Bailiwick of Guernsey. They are appointed by the Crown. The senior Law Officer is Her Majesty's Procurer ("Attorney General") and the junior Law Officer, Her Majesty's Comptroller ("Solicitor General"). The Law Officers'

Chambers are, in effect, a non-political “Department of Justice” for the entire Bailiwick. The Chambers’ duties embrace work which in England would be carried out by the Home Secretary, the Attorney General, the Director of Public Prosecutions, and the Director of the Serious Fraud Office. They supervise all prosecutions throughout the Bailiwick. In making decisions on prosecutions the Law Officers act as independent officers – independent of the islands’ parliamentary assemblies and independent of the Courts before which they prosecute. All prosecutions in the Bailiwick of Guernsey are brought in the name of the Law Officers.

The Law Officers are the central authority in the Bailiwick dealing with agencies in the UK and other countries requesting assistance in investigating and prosecuting crime. Such applications will often be made after preliminary contact has been made at an early stage in an investigation and advice given by law enforcement. Such preliminary contact is encouraged. When formal requests for assistance need to be made to the Law Officers, such requests must be sent to them directly and not through the UK Central Authority.

There are three types of legislation in Guernsey: Laws, Ordinances and Statutory Instruments. Laws are primary legislation and can apply across the Bailiwick as a whole or specifically to Guernsey, Alderney and/or Sark. They require the approval of the relevant Bailiwick parliaments (the States of Guernsey, the States of Alderney and the Chief Pleas of Sark) and require approval by the Privy Council. Ordinances are secondary legislation made by one or more of the Bailiwick parliaments.

Many laws contain provisions that permit the making of Statutory Instruments (regulations) by the relevant political committees in the Bailiwick and sometimes by other bodies in the Bailiwick such as the GFSC. For example, the Commission has made regulations under the Insurance Business (Bailiwick of Guernsey) Law that define long-term insurance business (Insurance Business (Definition of Long Term Business) (Amendment) Regulations, 2004); define the content and form of license applications (Insurance Business (Licensing) Regulations, 2010); make provisions in relation to the functions and responsibilities of general representatives (Insurance Business (Duties of General Representatives) Regulations, 2008); and define the content and form of the documents to be submitted as part of the annual return (Insurance Business (Annual Return) Regulations, 2008).

### **1.3.6 Institutional Framework and Arrangements**

The GFSC is the only authority responsible for financial sector supervision including insurance supervision. The GFSC’s authority extends across the whole Bailiwick, including Alderney and Sark. There are currently no insurance businesses located on those two territories but residents make use of Guernsey, as well as UK based businesses, for their insurance needs. The GFSC is a unitary regulator which is empowered to carry out the supervision of the insurance, banking, investment and fiduciary sectors. The GFSC was created by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, (the FSC Law). Prior to 1988 responsibility for supervision of insurance rested with a government department. In the insurance sector, the GFSC is responsible for supervision of insurers, insurance intermediaries and professional insurance managers who manage a large number of captive and niche insurers. The Commission is funded solely by fees levied on licensed entities.

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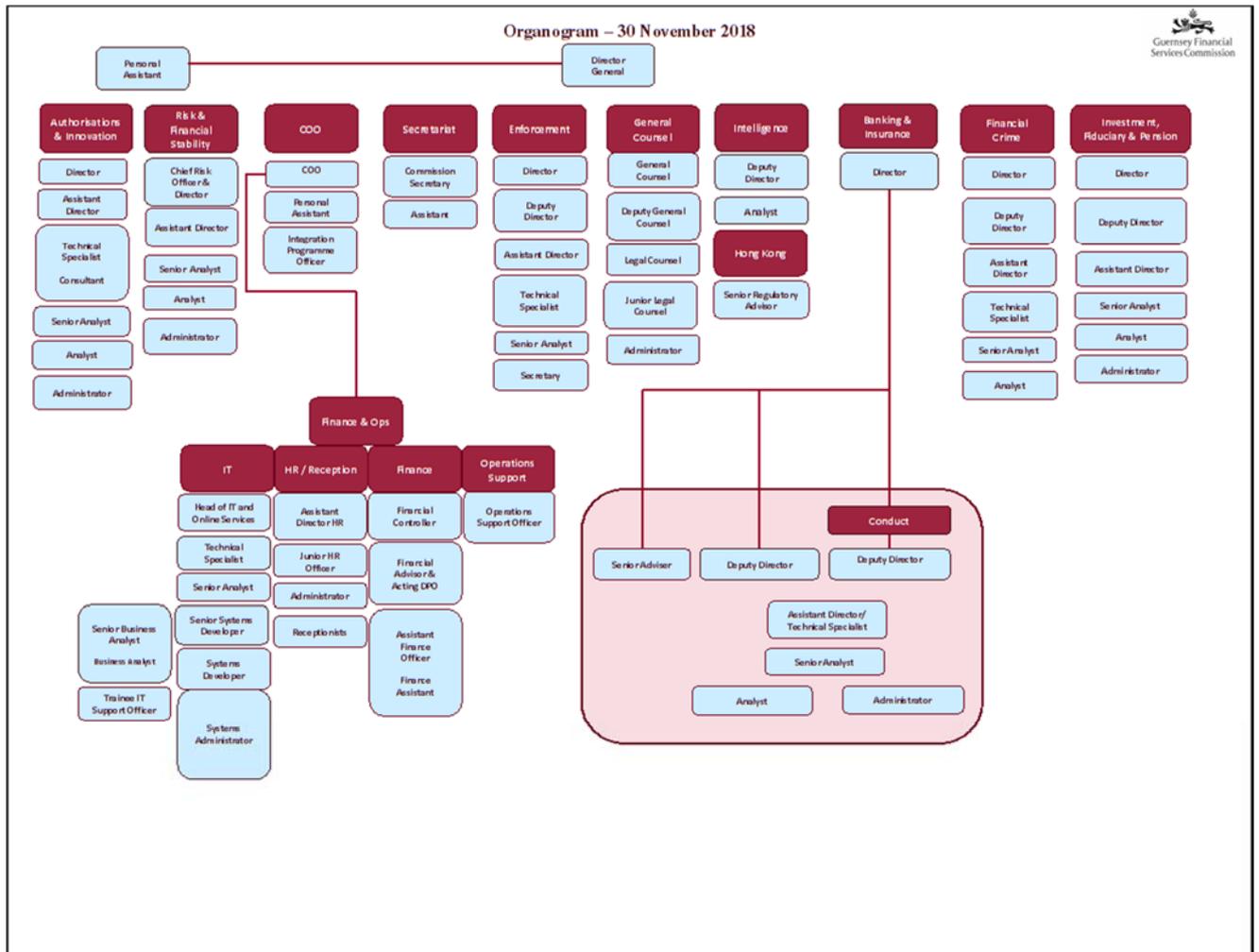
The GFSC is headed by a board of 8 members, known collectively as the Commissioners, who are elected by the States. The Commissioners act as the governing body of the Commission and oversee the activities of the Commission's executive. The Commissioners appoint such officers and servants as are considered necessary for carrying out the Commission's functions, the most senior of these is the Director General. The Director General, alongside the heads of each division within the Commission, make up the Executive Committee.

The GFSC's activities are carried out by a number of organisational divisions, with either specific sector or functional responsibilities (see Chart 1). They include: Banking and Insurance Division; the Investment, Fiduciary and Pension Division, the Financial Crime Supervision and Policy Division, the Enforcement Division, the Risk Unit, Authorisations, General Counsel and the Finance and Operations Division. There is also a central Financial Stability and Policy team and an Intelligence team.

The Commission uses an impact and risk-based approach to supervising licensees, referred to as PRISM (Probability Risk and Impact System). The PRISM framework was developed by the Central Bank of Ireland after the 2008 financial crisis. It is both an approach to supervision and a software application. The core idea behind PRISM is that more resources should be focused on those regulated entities that could cause the most harm, or impact on the jurisdiction, should they fail.

PRISM segments all the firms regulated by the Commission into distinct impact categories on the basis of quantitative data. Each firm is rated and placed into one of four impact categories reflecting its relative importance based on size, turnover, client base and so forth: high, medium high, medium low and low. A firm's rating is revised as these metrics change over time. Higher impact firms are assessed more frequently and in more detail than lower impact firms (see ICP 9).

Chart 1: GFSC Organisational



In total, the GFSC employs 103.4 Full Time Equivalent staff. Approximately 11 Full Time Equivalents are dedicated to insurance supervision. Supervisory staff appear to have good educational backgrounds, strong knowledge of the insurance sector and to operate with a high level of professionalism. All are located in the GFSC offices St. Peter Port.

**1.3.7 Industry Structure and Recent Trends**

In 2015, Financial Services contributed £1,162m to Guernsey’s GDP, of which £145m or 12.5% was attributed to the Insurance sector (Total GDP – £2,816m). Out of the 6,721 people employed in the financial services sector in 2015, 775 or 11.5% were employed in the insurance sector (total employed persons in Guernsey – 31,810).

The insurance industry in Guernsey is made up of two distinct segments: the domestic market and the international market. The Guernsey market also includes some corporate legal structures for insurers whose usage is common in international financial centres but is otherwise rare.

The Protected Cell Company (PCC) was originally invented in Guernsey in 1997 and has since evolved into the most commonly used legal structure for international business. A PCC is a corporate structure in which a single legal entity is comprised of a core and several cells that

have separate assets and liabilities. More recently, the PCC has been complemented by the Incorporated Cell Company (ICC). Unlike cells within a PCC, each cell of an ICC is a separately incorporated legal entity, as is the ICC itself. At December 31, 2017 there were 861 insurer entities operating in Guernsey. Of these there were 8 domestic insurers and 315 international insurers. The latter segment included 486 cells in protected cell companies (PCCs) and 51 cells in incorporated cell companies (ICCs)).

Total premiums written by Guernsey insurers in 2017 amounted to £4.78 billion and insurers held gross assets totalling £28.32 billion. The average annual growth rate of industry assets over the last 10 years was 7.69 percent while the annual growth rate of premiums was 3.74 percent. The industry is served by 36 insurance intermediaries and 20 insurance managers who are largely engaged in managing captive insurers and specialty niche insurers.

**Table 2: Guernsey Insurers 2017**

<b>Domestic Insurers:</b>	<b>8</b>
• Long-term	2
• Short-term	4
• Long-term and short-term	2
<b>International Insurers:</b>	<b>315</b>
• Insurance Companies	239
• Protected Cell Companies Engaged in Insurance (with 486 Separate Cells)	61
• Incorporated Cell Companies (with 52 Separate Cells)	15
<b>Total Insurance Companies</b>	<b>323</b>
<b>Total Insurance entities including Cells</b>	<b>861</b>

### 1.3.8 Domestic Market

The domestic insurance market caters to the insurance needs of residents and risks based in Guernsey. There are, however, relatively few domestic insurers. There is one larger domestic insurer covering business and personal lines supplemented by a few small insurers including two locally incorporated friendly societies that offer short-term sickness benefits. In addition to the locally incorporated insurers, a number of Guernsey branches of U.K. insurers are licensed to write “domestic business” (ie, insuring local residents and risks based in Guernsey including assets of trusts and companies managed on the island).

One reason that there are not more locally incorporated domestic insurers is that local residents may access insurance products from a wide-range of non-locally incorporated

insurers. In the domestic market, the GFSC has a policy of recognising some foreign insurers either by description (ie, insurers licensed in the European Economic Area, Jersey, and Isle of Man (IOM) – but in practice mostly the UK) or via notification. Recognised insurers may underwrite insurance business in Guernsey without a physical presence or licence but only through licensed insurance intermediaries. The recognised insurer regime was put in place to ensure that local consumers have access to a good range of insurance providers and products. An insurer that is not recognised by description must submit a notification form providing details of its home supervisor and a description of the business it is authorised to undertake. The GFSC acknowledges receipt of the notifications and relies on the relevant home supervisors to supervise recognised insurers. Insurance intermediaries must declare the recognised insurers they deal with to the Commission annually.

The domestic market is characterised by a few insurance products that are compulsory for consumers. With respect to Motor third party liability insurance, recognised insurers must apply for special authorisation and must be a member of the UK motor insurer bureau. For other types of compulsory insurance products, there are no additional requirements. Compliance with requirements for compulsory products (eg motor third party liability) is not said to be a significant issue.

**Table 3: Compulsory Insurance Products**

Motor third party liability for bodily injury and property damage.	Employers' Liability
Vessels and Speedboats (Third-Party Liability, Mooring Charges and Removal of Boats)	Steam Boilers Insurance
Various Professional indemnity Insurances (eg intermediaries)	Surf-Riding (Long Boards) Compulsory Third Party

Given the limited number of domestic insurers, the structure of the market, and the fact that it is dominated by one large local firm, the public issuance of financial data on the domestic market is constrained for reasons of confidentiality. In addition, as many insurance firms used by domestic residents are outside the Bailiwick and Guernsey, numbers relating to domestic insurance penetration and density are not available.

Insurance intermediaries in Guernsey primarily service the local market. There are 36 insurance intermediary firms and licenses are split between general and long-term business licences. There are 23 general insurance licences. These firms advise on and arrange traditional general insurance policies like motor, household, theft and business interruption for retail and commercial customers. There are also five firms with long term licensees. Long term insurance includes life (pure protection policies), and insurance wrapped investment products (single and/or regular premium). All of the firms providing advice on insurance wrapped investments are also licenced under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 to provide investment advice. Eight insurance intermediaries are licensed to engage in both general and long-term business.

The long- term intermediaries provide advice to residents on life and health insurance as well as insurance-based investment products. A number of them are also licensed to provide

advice on traditional investment products and pensions. Some long-term intermediaries also provide mortgage broking services.

Almost all of the general insurance intermediaries are subsidiaries or branches of larger, often international, insurance groups like Willis, NFU Mutual or AJ Gallagher. In contrast, the long-term intermediaries tend to be locally established, manager owned businesses. Historically, there were a number of smaller (3-5 staff) long term intermediaries and advisers but over the past 5 years the sector has become increasingly consolidated. Insurance intermediaries are the major distribution channel in the market. Other distribution channels like Bank assurance or direct sales are not a prevalent force though some insurance is purchased on-line from UK insurers. Some more specialist insurance covers, like professional indemnity, are also provided through off-island brokers.

### **1.3.9 International Insurance**

The International insurance market far exceeds the size and importance of the domestic market and is more heterodox in character. Guernsey's international insurance sector, is made up of captive insurers, commercial insurers and reinsurers writing an extensive range of businesses. As previously mentioned, Guernsey is the largest captive insurance centre in Europe. General insurers offer, for example, employers/public liability, business interruption, motor, property damage, catastrophe risks, and hull liability. The international life insurers service the life and health insurance needs of expatriates and high-net-worth individuals as part of their wealth management strategies, and provide insurance-based employee benefits. There is also a significant and growing overseas Insurance Linked Securities (ILS) market.

The captives operating in Guernsey have a diverse range of operations in terms of scale, nature, and complexity. Many captives are owned by U.K. parents. A large proportion of captive insurers employ fronting arrangements generally using EU insurers, mainly from the UK. Typically, a fronting insurer requires the captive to provide collateral (eg, letters of credit that meet regulatory standards), to protect its legal and credit exposures. As previously mentioned, almost all captive insurers are managed by professional insurance managers.

Many captives are involved in writing third party risks in the United Kingdom and other jurisdictions. These risks often represent a significant insurance cost for the captive's parents and are therefore a focus of risk management for them. When captives participate in compulsory third-party insurance, such as motor third party liability or employer's liability, they require a fronting insurance company who will price the risk, issue the policy and then cede some of the risk to the captive insurer.

Apart from captives, there are 46 third party general insurers in Guernsey. These generally specialise in certain areas such as kidnap and ransom; medical and travel and employee benefits. These general insurers serve both companies and expat individuals around the world. Expat life insurance is another established part of the Guernsey market which is dominated by one local firm.

Another area of the market is reinsurance. This sector largely – though not exclusively – re-insures global catastrophic risks. Traditionally this has been accomplished through alternative risk transfer systems but recently two traditional rated re-insurers have been established to offer catastrophic risk reinsurance internationally.

The captive insurance sector in Guernsey is reasonably mature and has seen limited growth in both stand-alone captives and cellular captives in recent years. Recent growth areas in Guernsey’s insurance industry are reinsurance companies and insurance linked securities (ILS). The reinsurers either provide reinsurance to a parent or group insurance company or are providing specialist reinsurance to the market. The ILS market consists mainly of collateralised catastrophe reinsurance contracts although the types of risk covered are evolving and expanding. Whilst both sectors are still smaller than the traditional captive sector they are where much of the recent growth has occurred and are creating more specialist employment opportunities.

The insurance sector in Guernsey also differs in some respects to other international insurance centres. For example, Bermuda, as well as writing more premium, is a major reinsurance centre and writes reinsurance for a wide range of commercial insurance companies, many of whom may insure the general public. In comparison, Guernsey’s market is primarily made up of captives that solely insure the risks of their owner and don’t write any third-party risk. As a result, Guernsey’s international sector is less exposed to the general public. However, there are some exceptions such as some of the above-mentioned reinsurance business.

**1.3.10 Insurance Management**

Regulated insurance managers are a vital part of Guernsey’s international insurance sector and for this reason are licensed and regulated under the Insurance Managers and Intermediaries Law (IMIL). These managers provide professional management services to captives and other international insurers such as the growing ILS and reinsurance sectors. The managers will typically provide the insurers they service with administrative services including financial and regulatory reporting. They also carry out compliance functions and will be the GFSC’s main point of contact when looking at some insurers.

As a result, the Commission maintains close contact with, and oversight of, the insurance manager sector. All licensed insurers, whether managed or not, are required to meet the same standards of corporate governance and controls, such as a locally constituted board. Some managed insurers have separate offices and employ dedicated staff and make limited use of the managers’ services, while some insurers are fully serviced by the manager. This is more common for captives and other simple entities. Many of the insurance managers are part of large international insurance groups, however there are still a small number of small manager-owned businesses.

**Table 3: Premiums Written in 2017\***

	General	Life	Captive	Reinsurance	Other	Total
<b>Premium in £ mn</b>	834.36	597.78	1,298.09	793.99	1,259.77	4,783.99
<b>% of total market</b>	17.44	12.50	27.13	16.6	26.33	100.00

Given the nature of the insurance sector, international participation in the industry is very strong. Almost all insurers except some small insurers have capital participation from outside Guernsey including participation of major European and American insurance groups. A very small number of insurers, primarily captives and non-retail insurers, also have ownership linkages with banks.

**1.3.11 Operating Performance, Assets and Liabilities, and Solvency Position**

Whilst operating performance can be difficult to gauge, the Guernsey insurance industry appears to be well-capitalised relative to the current regulatory requirements, with average capital resources well above the regulatory requirements (see Table 9 below). Given that most general insurers in the domestic retail market are in the UK, that there is only one major local domestic general insurer (which does not publish its results), and one dominant international life insurer, there is not much quantitative data available on this sector.

Local general and life intermediaries can be analysed. Information is available on the by average number of Authorised Insurance Representatives per firm, level of capital, and median return on capital – although it is worth noting that many firms in this sector will be owner-run and owners will be taking a salary.

**Table 4**

<b>Average number of AIRs per firm</b>	<b>Median level of capital</b>	<b>Return on Equity (before-tax)</b>
8	1207%	22.25%

Captives range considerably in size and the prime aim of the captive is not profitability. However, this sector can be analysed by average gross written premium, average PCR, and median return on equity (before-tax).

**Table 5**

<b>Average gross written premium (£ thousands)</b>	<b>Average PCR</b>	<b>Return on Equity (before-tax)</b>
£6,123	916.3%	6.74%

General insurers serving the expatriate market constitute a relatively small part of the market; although it includes kidnap and ransom. This sector can be analysed by average gross written premium, average PCR, and median return on capital.

**Table 6**

Average gross written premium (£ thousands)	Average PCR	Return on Equity (before-tax)
£16,208	277.0%	13.82%

The international re-insurance market is dominated by ILS. This sector can be analysed though the number of ILS licenses in existence over past years; although these numbers are somewhat inflated as in 2016 fees for ILS cells were reduced in order to make it easier for sponsors to provide singular funding.

**Table 7**

	2015	2016	2017	2018
Number of ILS cells	86	79	133	331

As previously mentioned, traditional international re-insurance is a relatively limited activity in Guernsey. Two new rated re-insurers have, however, recently been established. According to the rating agency, their combined gross written premium in 2017 was £371.1mn, and their average ROE was -3.16%.

In all sectors, insurer profitability is generated largely through underwriting as the investment portfolios of most firms consist of bonds with a high investment grade, and money market and bank deposits. The exception to this is where policyholders hold unit-linked investment portfolios and where the insurance company must echo that choice to deliver the policyholder objective – although in this instance the investment risk is taken by the policyholder. Captives who lend back to their parents do so for reason of group funding rather than investment return.

### **1.3.12 Assets and liabilities**

Asset growth in the insurance sector has been strong. From 2014 to 2017, total sector gross assets grew by approximately 19.7 percent from £23.66bn to £28.33bn. Premium growth has lagged behind asset growth with premiums decreasing by -6.1% over the same period from £5.09bn to £4.78bn, although this reduction took place mostly in 2017. This trend has continued over the past 10 years with the average annual growth rate of assets being 7.69% while the average annual growth rate in premiums was 3.74%.

The investment profile for both life and non-life insurers appears to be conservative. For life insurers, investment funds make up 48.2% of their total investments. For non-life insurers,

captives and reinsurers, cash and bank balances comprise of 49.3%, 36.5% and 71.5% respectively.

**Table 8: Industry Assets and Liabilities (in £ millions)**

	2017
<b>Life:</b>	
<b>Total assets</b>	<b>7,814</b>
Intangible assets	4
Investments	6,246
<i>of which:</i>	
Government securities	676
Corporate securities	520
Equities	517
Real estate and real-estate related	0
Cash and bank balances	195
Investments supporting unit-linked	462
Receivables	432
Reinsurance recoverables	86
Other assets	1,046
<b>Total Liabilities and Share Capital</b>	<b>5,353</b>
Share capital	328
Accumulated retained earnings	337
Subordinated loans	7
Technical provisions	4,225
Other reserves	30
Other liabilities	426
<b>Non-Life:</b>	
<b>Total assets</b>	<b>6,086</b>
Intangible assets	0
Investments	3,412
<i>of which:</i>	
Government securities	1,076
Corporate securities	36
Equities	113
Real estate and real-estate related	6
Cash and bank balances	1,909
Receivables	183
Reinsurance recoverables	158
Other technical assets	1,013
Other assets	1,320
<b>Total Liabilities and Share Capital</b>	<b>10,836</b>
Share capital	226
Accumulated retained earnings	4,185
Subordinated loans	2
Technical provisions	3,004
Other reserves	1,981
Other liabilities	1,438

**Table 8 (continued): Industry Assets and Liabilities (in £ millions)**

	<b>2017</b>
<b>Reinsurance:</b>	
<b>Total assets</b>	<b>2,880</b>
Intangible assets	0
Investments	1,503
<i>of which:</i>	
Government securities	42
Corporate securities	340
Equities	125
Real estate and real-estate related	10
Cash and bank balances	548
Receivables	359
Reinsurance recoverables	110
Other technical assets	260
Other assets	648
<b>Total Liabilities and Share Capital</b>	<b>2,629</b>
Share capital	627
Accumulated retained earnings	202
Subordinated loans	4
Technical provisions	1,287
Other reserves	485
Other liabilities	24
<b>Captives:</b>	
<b>Total assets</b>	<b>9,256</b>
Intangible assets	0
Investments	4,820
<i>of which:</i>	
Government securities	215
Corporate securities	153
Equities	125
Real estate and real-estate related	0
Cash and bank balances	3,447
Receivables	318
Reinsurance recoverables	183
Other technical assets	225
Other assets	3,710
<b>Total Liabilities and Share Capital</b>	<b>12,536</b>
Share capital	5,393
Accumulated retained earnings	3,112
Subordinated loans	32
Technical provisions	3,761
Other reserves	201
Other liabilities	37

### 1.3.13 Solvency Position

Table 9 illustrates that for Guernsey, the solvency position of much of the industry has improved over the last 2 years while the solvency position of the reinsurance industry has declined. The solvency capital requirement in Guernsey is calculated using a risk-based method that considers a range of risks valued against predetermined factors set out by the regulator. This is referred to as the Prescribed Capital Requirement (PCR). The PCR is subject to a floor, referred to as the Minimum Capital Requirement (MCR) that is based on a simple percentage of the higher of premium or reserves. The PCR and MCR were introduced in 2015 prior to which a Solvency I style calculation was used.

**Table 9: Solvency Assets Available Over Required (End-Period)**

	2015*	2016	2017*
<b>Life</b> Regulatory Capital Resources to meet PCR/PCR (Subject to MCR Floor)	1386.0%	182.1%	219.9%
<b>Non-Life</b> Regulatory Capital Resources to meet PCR/PCR (Subject to MCR Floor)	2101.4%	164.7%	252.3%
<b>Reinsurance</b> Regulatory Capital Resources to meet PCR/PCR (Subject to MCR Floor)	2441.6%	477.6%	359.0%
<b>Captives</b> Regulatory Capital Resources to meet PCR/PCR (Subject to MCR Floor)	2025.0%	704.3%	916.3%

\* The PCR requirement was introduced in 2015 and applicable to the 2016 returns, the 2015 figure provided is based on the previous capital requirement.

Over the past 3 years, there have been 8 insurers subject to supervisory intervention. These interventions range from the imposition of license conditions, the appointment of inspectors and the agreement of remediation plans. In the past insurers have rarely failed. Since 2015, there has been 1 insurer placed into administration, liquidation or insolvency. 35 firms have fallen below their PCR and therefore had to take action to restore the PCR to 105% or above. The majority of these firms were captive insurers and were quickly re-capitalised by their parent. There have been 5 enforcement actions since 2013 in the insurance sector.

### 1.3.14 Risks and Vulnerabilities

The risks and vulnerabilities of the insurance industry vary substantially from sector to sector. All sectors can, however, be impacted by increased global economic instability, availability of insurance skills in the market and new trends such as cyber risks and blockchain technology.

Domestic insurers face risk from new entrants to the market undercutting premiums. On the other hand, there are infrastructural barriers to entry and such competition could well spur greater efficiency through competitiveness. Domestic intermediaries largely operate face-to-face or over the telephone. Their distribution strategy could be at risk from advice and selling over the internet and through other distribution models. This is, however, well recognised and well understood by market participants.

Insurance managers face compliance risk given the increasing challenge of enhanced regulatory requirements (data protection for example). International insurers' main risk is the need to ensure that their distribution process meets the regulatory requirements of several countries; given that local rules can differ significantly. This is however mitigated by enhanced surveillance of regulatory requirements.

The life insurance industry could face increased Conduct of Business risk from perceptions or concerns about product mis-selling. As much of the life insurance in Guernsey now leaves investment risk to the policyholders, and products tend to be more complex, these concerns could impact both domestic and international market sales (eg products directed towards expatriates).

A series of extreme catastrophic events (such as those associated with climate change) could impact on alternative risk transfer and reinsurance operations. The industry is, however, well prepared for such events and has endured major losses in previous years (eg 2018).

#### **1.4 Preconditions for Effective Insurance Supervision:**

##### **1.4.1 Sound and Sustainable Macroeconomic and Financial Sector Policies:**

Macroeconomic and financial sector policies are set by the States of Guernsey. Guernsey's economy has remained relatively stable over the past 10 years, with steady but low levels of GDP growth. Inflation has tended to move in concert with that in the UK but at a slightly lower rate. As with the UK, Brexit (the United Kingdom's decision to leave the European Union (EU)) has increased the level of uncertainty regarding Guernsey's future trading relationships. Senior members of the States have been engaging with the UK government on this issue and continue to closely monitor it.

Guernsey has a Financial Stability Committee. The committee is a non-statutory body that was constituted by the States primarily to provide advice on co-ordination of strategies and policies to enhance Guernsey's capability to identify, understand, monitor and address systemic risks. The committee is made up of representatives from the Commission, senior civil servants and a small number of external consultants.

##### **1.4.2 Well Developed Public Infrastructure**

Guernsey has a strong and well-developed legal system (described above). Judges are independent from the executive and legislative arms of government and access to the court system appears not to be a major impediment to pursuing legal action though legal costs can be high. Major pieces of legislation impacting the insurance sector include the following:

- The Financial Services Commission (Bailiwick of Guernsey) Law, 1987
- The Insurance Business (Bailiwick of Guernsey) Law, 2002 and associated regulations
- The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 and associated regulations.
- The Companies (Guernsey) Law, 2008
- The Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance, 2008
- The Financial Services Commission (Limitation of Liability) Ordinance.
- The Disclosure (Bailiwick of Guernsey) Law, 2007 and associated regulations.

Guernsey does not have its own specific law providing statutory provisions for contracts of insurance. Retail and commercial policy wordings generally follow standard wordings found in the UK. The UK Insurance Act 2015 and the UK Consumer Insurance Act 2012 indirectly affect

policy wordings since most insurers writing policies in Guernsey will also be subject to UK law. A large portion of the sector involves sophisticated insureds and niche businesses. Policy wordings in these areas are ultimately agreed to by the parties to the contract of insurance.

The Channel Islands Actuarial Association (“the CIAA”) is a regional association of the Institute and Faculty of Actuaries which is the UK chartered actuarial institute. Although based in the UK it educates and regulates actuaries around the world. The CIAA provides training and education locally. The CIAA is also member of the Actuarial Association of Europe. The actuarial profession is well developed in Guernsey with 26 qualified actuaries and 18 students, a proportionately high number for a jurisdiction of its size.

Guernsey has a well-developed accounting and professional services sector with a large number of accountancy practices on the island, including the “big four”. The accounting profession is represented in the Bailiwick by the Guernsey Society of Chartered and Certified Accountants (“GSCCA”). The GSCCA promotes, and acts as a voice for the local accounting industry on issues like harmonisation of accounting and auditing practices and principles. It also engages in continuing education of members and promotes public education of the profession. The GSCCA has in excess of 1,200 qualified members, as well as a larger body of associate and student members. Qualified members are required to be members of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland, the Association of Chartered Certified Accountants, or the Chartered Institute of Management Accountants.

Auditors and actuaries must be members of an appropriate professional body who set and enforce standards of professional conduct for their members. The Financial Reporting Council has some degree of oversight of local audit firms. Companies (Guernsey) Law, 2008, as amended requires companies in Guernsey to have their financial statements audited, in line with recognised accounting standards. The regulatory laws set down further, detailed provisions regarding audit requirements and accounting standards (see ICP 14).

The main body representing the insurance industry with government is the Guernsey International Insurance Association (“GIIA”). It represents “the combined interests of both Guernsey insurers and Guernsey insurance managers”. Membership is also open to “those industries that support the insurance activities on the Island, such as accountants, lawyers, investment professionals, bankers and actuaries.” GIIA carries out lobbying on behalf of the insurance industry with the regulator and government, arranges training and organises promotional events. There is no similar group that represents the interests of intermediaries. There is, however a Guernsey International Business Association which represents the interests of the broader financial sector in Guernsey.

Guernsey has its own local branch of the Chartered Insurance Institute (“CII”) called the Insurance Institute of Guernsey (“IIG”). The CII has over 125,000 members and the IIG has approximately 400 members, of which 70% have some form of insurance qualification. The IIG supports students studying the CII exams, and also provides monthly training sessions and an education day once a year. The CII does not licence individuals but provides professional qualifications which are generally accepted by supervisory bodies as part of their licensing requirements. It also has disciplinary powers over its members.

### **1.4.3 Effective Market Discipline**

Companies are relatively easy to establish and the corporate law allows considerable flexibility to establish different corporate forms. Companies (Guernsey) Law, 2008, as amended sets out requirements for types of corporations, the duties and responsibilities of directors, processes for corporate decision making, the rights of shareholders and the requirement for

audited financial statements, amongst other things. Financial institutions are required to adhere and report on a Code of Corporate Governance developed by GFSC (see ICP 7).

**1.4.4 Mechanisms for Effective Consumer Protection**

Guernsey consumers have access to the Channel Islands Financial Ombudsman (“CIFO”). The Ombudsman opened its offices in November 2015, following the enactment of the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014, and a corresponding law in Jersey. CIFO offers access to an independent complaint handling mechanism for financial services in Guernsey, Jersey, Alderney, and Sark. It includes services provided by insurance companies, insurance managers and insurance intermediaries.

CIFO can consider complaints from individual customers and microenterprises, irrespective of their location, for acts or omissions relating to the services provided in or from within the Bailiwick of Guernsey (Guernsey, Alderney and Sark) on or after 2 July 2013. The CIFO initially tries to resolve cases through mediation, however if this is unsuccessful, CIFO will investigate the case and issue a decision. The Ombudsman can award compensation, payable by the financial services provider, up to a maximum of £150,000. Payment by the financial services business is obligatory.

Guernsey has no general policyholder compensation scheme in the event of insurer insolvency. Long term business must, however, hold a high percentage of assets in trust to meet policyholder liabilities in the event of company insolvency. Guernsey does not have a compulsory third-party liability fund to pay certain compulsory insurance claims (eg personal injuries to a person where the insured uninsured or cannot be identified). Many insurers offering compulsory third-party liability operating in Guernsey market are, however, UK insurers and are covered by such schemes from their home jurisdictions. Guernsey is currently considering whether or not to develop a policyholder protection scheme of its own.

**1.4.5 Access to Efficient Financial Markets**

Insurers have access to a broad range of financial instruments in UK, EU and other world markets. Guernsey has no currency exchange control restrictions and shares the pound sterling currency with the UK, Jersey and the IOM. The insurance industry has access to the same asset range as U.K. insurers. Insurers may also access international markets if investments denominated in euro, U.S. dollars or other currencies are required for matching purposes.

Guernsey has a large investment and securities infrastructure comprising management, administration, and custody of open and closed-ended collective investment funds, discretionary and nondiscretionary asset management, stock broking, and investment advice. Guernsey also hosts the Channel Islands Stock Exchange, which is recognised by a number of other major exchanges around the world. A number of UK and international banks have branches and subsidiaries in Guernsey. The UK bank branches provide clearing services through their access to the Bank of England payment and clearing systems.

Table 10 summarises the observance of the ICPs arising from this assessment.

**Table 10**

Insurance Core Principle	Level	Overall Comments
1 - Objectives, Powers and Responsibilities of the Supervisor	LO	ICP 1.3 requires that the principal objectives of supervision promote the maintenance of a fair, safe and

Insurance Core Principle	Level	Overall Comments
		<p>stable insurance sector for the benefit and protection of policy holders.</p> <p>The existing legislation appears to broadly include the policyholder protection objective but it should be stated in a more direct and explicit fashion. In addition, given the way the section is drafted, there is the potential for conflict between actions taken to protect the public and actions taken to protect the reputation of the Bailiwick.</p>
<p><b>2 - Supervisor</b></p>	<p><b>LO</b></p>	<p>The GFSC meets most of the standards of the ICP. Independence, transparency and accountability of the organisation can be strengthened. In addition, more supervisory resources should be considered at least until new requirements like ORSA are fully implemented and off-site assessments are up to date.</p> <p>In order to more fully meet the requirements of ICP2.7, GFSC should also publish more information on the insurance sector it regulates in its annual report and elsewhere.</p> <p>Finally, many of GFSC's regulatory requirements are principle based in order to allow it to supervise the broad range of insurance entities within the Bailiwick. Consideration should be given to selectively supplementing these requirements with more specific rules, procedures or minimum standards.</p>
<p><b>3 - Information Exchange and Confidentiality Requirements</b></p>	<p><b>O</b></p>	<p>The supervisor has the necessary legislative authority and demonstrates the ICP standards in its supervisory practice.</p>
<p><b>4 - Licensing</b></p>	<p><b>O</b></p>	<p>The GFSC has strong licensing requirements and processes.</p>
<p><b>5 - Suitability of Persons</b></p>	<p><b>LO</b></p>	<p>Consideration should be given to developing more specific competency requirements for people in control functions (eg risk management).</p>
<p><b>6 - Changes in Control and Portfolio Transfers</b></p>	<p><b>LO</b></p>	<p>Regulatory requirements should be reviewed to ensure that significant <b>decreases below predetermined shareholder levels</b> comply with ICP 6.3. This will likely require legislative change.</p>
<p><b>7 - Corporate Governance</b></p>	<p><b>LO</b></p>	<p>The GFSC should continue its work to ensure compliance with ICP 7.8 which requires the insurer's Board to ensure that there is adequate governance and oversight of the external audit process.</p> <p>More explicit minimum standards and assessment procedures for governance and internal controls may help ensure more thorough and transparent assessments. They may also improve transparency of regulatory requirements and to the public and regulated industry.</p>

Insurance Core Principle	Level	Overall Comments
<b>8 - Risk Management and Internal Controls</b>	<b>LO</b>	The ICP requires insurers to have four effective internal control functions: compliance, actuarial, and risk management and internal audit. While Guernsey's governance code requires all four functions, it is not clear that all insurers meet this requirement in practice yet.
<b>9 - Supervisory Review and Reporting</b>	<b>LO</b>	GFSC has made a considerable investment in adapting, implementing and improving the PRISM framework which appears to meet many of the ICP standards. Further improvements (see below) should, however, be considered to enhance effective supervision.
<b>10 - Preventative and Corrective Measures</b>	<b>O</b>	The GFSC has the power to act against unauthorised insurance activities and pre-emptively act against licensees when required.
<b>11 - Enforcement</b>	<b>LO</b>	Although the GFSC has the authority to deal with many contraventions, consideration should be given to increasing the range of legislative tools available. It is particularly important that the supervisor have the power to appoint an administrator in situations where a licensee is pursuing an inappropriately risky course of conduct as well as in solvency situations. The GFSC is encouraged to complete its work on its new enforcement law as soon as possible. Our understanding is that the new law addresses this issue.
<b>12 - Winding-up and Exit from the Market</b>	<b>PO</b>	The legislation does not include an explicit legal provision to ensure that policyholders and beneficiaries are given high creditor priority in the event of insolvency.
<b>13 - Reinsurance and Other Forms of Risk Transfer</b>	<b>O</b>	None
<b>14 - Valuation</b>	<b>PO</b>	There is no requirement that valuation of assets and liabilities reflect the risk adjusted present value of their cash flows. The current standards do not provide for the inclusion of MOCE.
<b>15 - Investment</b>	<b>O</b>	None
<b>16 - Enterprise Risk Management for Solvency Purposes</b>	<b>LO</b>	Largely observed is based on the observation that the ORSA Framework is still being implemented and cannot be fully assessed until 2019.
<b>17 - Capital Adequacy</b>	<b>LO</b>	The Guernsey Framework reflects a high level of adherence to ICP 17 standards; however, there are a few perceived differences including: <ul style="list-style-type: none"> <li>• The PCR calculation does not capture all the relevant material risks (eg operational risk);</li> </ul>

Insurance Core Principle	Level	Overall Comments
		<ul style="list-style-type: none"> <li>The approach to determining capital resources eligible to meet regulatory requirements is not totally consistent with requirements; and</li> <li>Requirements for acceptance of internal models, these requirements remain, as yet, untested.</li> </ul> <p>In addition, the valuation of loans to shareholders in the captive sector should be reconsidered for capital purposes.</p>
<b>18 - Intermediaries</b>	<b>LO</b>	Largely observed is based on the observation that there does not appear to be an explicit requirement on intermediaries to name and disclose their relationship to their insurers. Otherwise there appears to be a high level of standards observance.
<b>19 - Conduct of Business</b>	<b>LO</b>	<p>Largely Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>The Licensed Insurer's (Conduct of Business) Rules, 2018, are new and on-site assessment is just beginning.</li> <li>Expansion of the thematic review programme is relatively recent.</li> <li>There is no direct overarching requirement for intermediaries to implement policies and procedures on the fair treatment of customers as an integral part of their business culture as there is for insurers.</li> </ul>
<b>20 - Public Disclosure</b>	<b>PO</b>	<p>Partly Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>The framework for disclosure is new and has not yet been fully implemented.</li> <li>The redaction requirements, in particular, have not yet been tested for propriety.</li> <li>Some information items contemplated in the ICP, such as investment objectives and policies and are not required to be disclosed.</li> <li>The requirements do not appear to include information on conduct of business risk, complaints and policies.</li> </ul>
<b>21 - Countering Fraud in Insurance</b>	<b>LO</b>	Largely observed is based on the observation that guidance and operational assessment of controls for inward facing fraud could be improved. Cybercrime is also an area where requirements and assessment could be strengthened.
<b>22 - Anti-Money Laundering and Combating the Financing of Terrorism</b>		<b>Not Assessed</b>
<b>23 - Group-wide Supervision</b>		<b>Not Assessed</b>

Insurance Core Principle	Level	Overall Comments
24 - Macroprudential Surveillance and Insurance Supervision		Not Assessed
25 - Supervisory Cooperation and Coordination	O	The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements
26 - Cross-border Cooperation and Coordination on Crisis Management	LO	Largely Observed is based on the observation that: The GFSC's contingency plan for a cross border financial crisis, while nearing completion, has not been implemented. Contingency plans for going and gone concern insurers will not be available until ORSA implementation is completed.

Table 11 provides a summary of the level of observance.

**Table 11 Guernsey: Summary of Observance Level**

Observed (O)	6
Largely Observed (LO)	14
Partly Observed (PO)	3
Not Observed (NO)	0
<b>Total</b>	<b>23</b>

Table 12 lists suggested steps for improvement of the level of observance. Some of these actions reflect actions that are already in progress but yet to be fully operational.

**Table 12 Guernsey: Recommendations to Improve Observance of ICPs**

Insurance Core Principle	Recommendations
<b>1 - Objectives, Powers and Responsibilities of the Supervisor</b>	<ul style="list-style-type: none"> <li>It is recommended that when the FSC legislation is next reviewed, consideration be given to establishing a more explicit “objectives section” that includes establishing the promotion and maintenance of a fair, safe and stable insurance sector for the benefit and protection of policy holders as a primary objective of insurance supervision.</li> </ul>
<b>2 - Supervisor</b>	<ul style="list-style-type: none"> <li>It is recommended that Guernsey consider strengthening the independence, transparency and accountability of the GFSC by:               <ul style="list-style-type: none"> <li>Allowing the GFSC rather than government set the level of fees on the entities it regulates.</li> <li>Continue to strengthen the accountability framework through initiatives like inclusion of its three-year operational plan as an addendum to the annual report.</li> <li>Clarifying the legislative provisions concerning dismissal of Commissioners to automatically require reasons for dismissal to be publicly reported.</li> </ul> </li> <li>Consideration should be given to increasing supervisory resources to meet workload in the insurance areas.</li> <li>In order to more fully meet the requirements of ICP 2.7, GFSC should publish more information on the insurance sector it regulates in its annual report and elsewhere.</li> <li>Many of GFSC’s regulatory requirements are principle based. Consideration should be given to selectively supplementing these requirements with some more specific rules, procedures or minimum standards to ensure transparent and consistent application.</li> </ul>
<b>3 - Information Exchange and Confidentiality Requirements</b>	<p>No recommendation.</p>
<b>4 - Licensing</b>	<p>No recommendation.</p>
<b>5 - Suitability of Persons</b>	<ul style="list-style-type: none"> <li>It is recommended that consideration be given to developing and publishing more specific minimum competency requirements for people who head control functions (eg compliance, actuarial, internal audit and risk management). Such guidance would increase transparency of requirements and help to ensure that the numerous applications GFSC receives are treated in a consistent manner as well as ensure that candidates have necessary technical competencies.</li> </ul>
<b>6 - Changes in Control and Portfolio Transfers</b>	<ul style="list-style-type: none"> <li>It is recommended that the GFSC review its requirements concerning significant decrease below predetermined shareholder levels to ensure that they comply with ICP 6.3 and that legislative changes be made at the next opportunity to amend the legislation.</li> </ul>
<b>7 - Corporate Governance</b>	<p>It is recommended that:</p>

Insurance Core Principle	Recommendations
	<ul style="list-style-type: none"> <li>• The GFSC continue its work to ensure compliance with ICP 7.8 which requires the insurer’s Board to ensure that there is adequate governance and oversight of the external audit process.</li> <li>• Consideration be given to establishing a requirement for rotation of external audit firms after a number of years (eg five years).</li> <li>• The GFSC consider establishment of some more specific, minimum standards and procedures and guidance related to insurer governance and internal controls to supplement Code requirements. Such works could be used to reinforce minimum governance standards, increase transparency of requirements and help ensure that similar insurance entities are treated in a similar manner.</li> </ul>
<p><b>8 - Risk Management and Internal Controls</b></p>	<ul style="list-style-type: none"> <li>• The GFSC should consider additional guidance and procedures for assessment of risk management and control functions in the various types of institutions it supervises.</li> </ul>
<p><b>9 - Supervisory Review and Reporting</b></p>	<ul style="list-style-type: none"> <li>• The GFSC has made a considerable investment in implementing, adapting and improving the PRISM framework which appears to meet many of the ICP standards. Further improvements should, however, be considered: <ul style="list-style-type: none"> <li>○ The supervisory framework could be strengthened by increasing the frequency of offsite reporting for all insurers rated as having medium low or above impact. Moving from an annual to a six-month cycle (which is currently planned) is encouraged in this regard. Consideration should also be given to regular quarterly reporting for some insurers.</li> <li>○ Continuation and expansion of the programme of thematic reviews would be of value, particularly with respect to the assessment of conduct of business risks and as a check on the large number of low impact insurers who do not receive regular onsite assessment.</li> <li>○ More comprehensive assessment of insurance managers (eg moving all larger ones into medium low impact or above) would be of value given their importance to the market and as a means to enhance supervision for the large number of captive insurers in the low impact category.</li> <li>○ Key risk indicators used as part of the PRISM framework should continue to be refined and supplemented particularly with respect to conduct of business risk and qualitative aspects of insurance supervision.</li> </ul> </li> </ul>
<p><b>10 - Corrective and Preventative Action</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that GFSC implement its new enforcement law as soon as possible.</li> </ul>
<p><b>11 - Enforcement</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that GFSC implement its new enforcement law as soon as possible.</li> </ul>
<p><b>12 - Winding-up and Exit from the Market</b></p>	<ul style="list-style-type: none"> <li>• To safeguard policyholders’ interests, it is recommended that the Bailiwick consider establishing an explicit legal</li> </ul>

Insurance Core Principle	Recommendations
	<p>provision in legislation to ensure that the claims of policyholders and beneficiaries are given high priority in the event of insolvency. The assessor understands that the government is in the process of making this change.</p>
<p><b>13 - Reinsurance and Other Forms of Risk Transfer</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that, while alternative risk transfer is not presently practiced in the market, the GFSC consider developing requirements to ensure appropriate use of such arrangements as the market develops (eg a requirement for prior approval).</li> </ul>
<p><b>14 - Valuation</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that the GFSC develop a plan to incrementally move towards higher level of compliance with the ICP standards over time. Such a plan might include movement to either IFRS or UK accounting standards and specification of more explicit technical provision requirements for supervisory purposes that meet the requirements of the ICP.</li> </ul>
<p><b>15 - Investment</b></p>	<ul style="list-style-type: none"> <li>• No recommendation.</li> </ul>
<p><b>16 - Enterprise Risk Management for Solvency Purposes</b></p>	<ul style="list-style-type: none"> <li>• In future, consideration might be given to expanding ORSA to some of the insurers who currently are only required to complete an OSCA.</li> </ul>
<p><b>17 - Capital Adequacy</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that consideration be given to inclusion of operational risk in the Guernsey standard PCR formula.</li> </ul>
<p><b>18 - Intermediaries</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that an explicit legal requirement be established for intermediaries requiring them to name and disclose their relationship to the insurers they represent to customers.</li> </ul>
<p><b>19 - Conduct of Business</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that the authorities: <ul style="list-style-type: none"> <li>○ Continue to build a strong relationship with the Ombudsman to proactively address conduct of business issues.</li> <li>○ Maintain a strong focus on conduct of business focus towards products sold both in the domestic and international markets.</li> <li>○ Continue to develop its thematic review programme to include product design and other emerging conduct issues.</li> </ul> </li> </ul>
<p><b>20 - Public Disclosure</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that consideration be given to expanding disclosure requirements to address all of the areas described in the ICP and including information on Conduct of Business risk (eg complaint information for insurers with retail clients).</li> </ul>
<p><b>21 - Countering Fraud in Insurance</b></p>	<ul style="list-style-type: none"> <li>• It is recommended that consideration be given to strengthening requirements and providing guidance for assessment of cyber-crime risk and inward facing fraud.</li> </ul>

Insurance Core Principle	Recommendations
22 - Anti-Money Laundering and Combating the Financing of Terrorism	<ul style="list-style-type: none"> <li>• NOT ASSESSED</li> </ul>
23 - Group-wide Supervision	<ul style="list-style-type: none"> <li>• NOT ASSESSED</li> </ul>
24 - Macroprudential Surveillance and Insurance Supervision	<ul style="list-style-type: none"> <li>• NOT ASSESSED</li> </ul>
25 - Supervisory Cooperation and Coordination	<ul style="list-style-type: none"> <li>• No recommendation.</li> </ul>
26 - Cross-border Cooperation and Coordination on Crisis Management	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The GFSC continue to develop and refine and implement its contingency plan for a cross border financial crisis.</li> <li>• The GFSC review and refine contingency plans for going and gone insurers as part of its work on ORSA implementation.</li> </ul>



## 2 Detailed principle-by-principle assessment

**Table 13: Guernsey Detailed Assessment of Observance of the ICPs**

ICP 1	<b>Objectives, Powers and Responsibilities of the Supervisor</b> The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.
Description	<p>The GFSC is the only authority responsible for financial services supervision in the Bailiwick of Guernsey. The GFSC was created by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, (the FSC Law) which came into force on 1 February 1988. Prior to 1988 responsibility for insurance supervision rested with a government department.</p> <p>Regulation is carried out principally through the Insurance Business (Bailiwick of Guernsey) Law, 2002, and subordinate legislation. In addition to the legislation in respect of insurers, the GFSC supervises insurance intermediaries and insurance managers through the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 and subordinate legislation.</p> <p>The insurance legislation does not include an explicit objectives section in primary legislation but the objectives of insurance supervision are indirectly stated in Section 2 of the FSC law which sets out the functions and responsibilities of the GFSC. These include taking such steps as are necessary for the effective supervision of finance business in Guernsey, maintaining confidence in Guernsey's financial services sector and ensuring the safety, soundness and integrity of those parts of Guernsey's financial services sector for which the Commission has supervisory responsibility.</p> <p>Section 2(4) of the FSC law states that in the exercise of its functions the Commission may consider any matter which it considers appropriate, but shall in particular have regard to:</p> <p>(a) the protection of the public interest, including the protection of the public against financial loss due to dishonesty, incompetence or malpractice by persons carrying on finance business, and</p> <p>(b) the protection and enhancement of the reputation of the Bailiwick as a financial centre.</p> <p>The GFSC has the authority to propose changes to law and has frequently used these powers in the past. The Government of the Bailiwick considers such proposals and generally gives them high priority in setting its priorities for legislation but the time required to approve new legislation can sometimes be lengthy.</p>
Assessment	Largely Observed
Comments	ICP 1.3 requires that the principle objectives of supervision promote the maintenance of a fair, safe and stable insurance sector for the benefit and protection of policy holders. The intent of this standard is to establish the critical importance of policyholder protection as an objective for insurance supervision

	<p>and avoid conflicts with other supervisory objectives (eg those associated with economic development or perhaps protecting reputation).</p> <p>The existing legislation appears to broadly include the policyholder protection objective but it could be stated in a more direct and explicit fashion. In addition, given the way the section is drafted, there is the potential for conflict between actions taken to protect the public and actions taken to protect the reputation of the Bailiwick.</p> <p>It is recommended that when the FSC legislation is next subject to review, consideration be given to establishing a more explicit “objectives section“ that includes establishing promotion and maintenance of a fair, safe and stable insurance sector for the benefit and protection of policy holders as a prime objective of insurance supervision. An objectives section of this kind can also help to improve accountability, reinforce the mission and values of a supervisory organisation and help avoid functional organisational culture that confuses supervisory activities with the fundamental purpose of supervision which is to reduce the risk of harm.</p>
<p><b>ICP 2</b></p>	<p><b>Supervisor</b></p> <p>The supervisor, in the exercise of its functions and powers:</p> <ul style="list-style-type: none"> <li>• is operationally independent, accountable and transparent;</li> <li>• protects confidential information;</li> <li>• has appropriate legal protection;</li> <li>• has adequate resources; and</li> <li>• meets high professional standards.</li> </ul>
<p>Description</p>	<p>The GFSC is comprised of a Board of Commissioners and the administrative and operational programmes responsible for financial services supervision in insurance, banking, securities and trust business. Key details of its governance structure are set out in the FSC Law.</p> <p>The Board of Commissioners is responsible for governing the authority and overseeing the activities of its Executive, which manages day to day supervisory programmes. The Board has broad authority to delegate most regulatory decisions, under the FSC Law and the insurance legislation, to staff. Those that it cannot delegate are set out in the FSC Act and largely include decisions to cancel, revoke, suspend or withdraw a licence, consent, registration, permission or authorisation and decisions to wind-up a financial institution.</p> <p>The Commission may appoint staff as it considers necessary for carrying out its responsibilities including a Director General who is the most senior of its executive officers. The organisation of supervisory programmes includes a mix of sectoral and functional departments headed by nine other senior officers.</p> <p>Section 2 of the FSC Law describes the general functions of the Commission. These include:</p> <ul style="list-style-type: none"> <li>• to take such steps as the Commission considers necessary or expedient for the effective supervision of finance business in the Bailiwick,</li> <li>• to provide the Policy and Finance Committee of the States of Alderney or the Policy and Performance Committee of the Chief Pleas of Sark when either of such committees so requests, reports, advice and assistance on any matter connected with finance business,</li> <li>• to prepare and submit to these Committees, either at the request of one of those committees or of its own motion, recommendations and schemes for the statutory regulation of finance business and generally for the revision of</li> </ul>

	<p>legislation appertaining to companies and other forms of business undertakings,</p> <ul style="list-style-type: none"> <li>• the countering of financial crime and of the financing of terrorism;</li> <li>• to take such steps it considers necessary or expedient to maintaining confidence in the Baliwick' s financial services sector, and maintaining its safety, soundness and integrity.</li> <li>• enabling the Office of the Financial Service Ombudsman (established by section 1 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014), to carry out its duties, and</li> <li>• any other functions as the States may by Resolution assign to the Commission.</li> </ul> <p><b>Governance, Independence and Accountability:</b></p> <p>The GFSC was established with substantial independence from government. The FSC Law describes the status of the GFSC as a distinct legal entity, “which is not a servant, officer or committee of the States”. The GFSC has broad powers including the ability do “anything which appears to it to be conducive to the carrying out of its functions or to be incidental to their proper discharge.”</p> <p>Some of these powers include the powers to publish regulations, rules, guidance and codes of conduct; to consult on its own behalf and make public statements; to obtain and publish information relating to the financial sector supervision and to levy financial penalties. It can also enter into contracts, and acquire, use and dispose of property.</p> <p>Pursuant to section 7 of the FSC Law, the Committee (government) may provide written guidance and direction to the GFSC concerning the policies to be followed by the Commission in relation to the supervision of finance business in the Bailiwick and the manner in which any function of the Commission is to be carried out. However, the act requires that any such guidance or direction:</p> <ul style="list-style-type: none"> <li>• be given in the public interest, and not to influence particular cases,</li> <li>• not prejudice the operational independence of the Commission by prescribing the specific manner in which the Commission should carry out its supervisory functions, and</li> <li>• be published.</li> </ul> <p>In practice, the government has rarely, if ever, used this authority. The GFSC has a well-developed publicly available regulatory framework document which outlines its regulatory aims, general approach to supervision and how it makes regulatory decisions.</p> <p>The GSFC is accountable to government through an annual reporting process. Pursuant to Section 6 of the FSC Law, The GFSC must make a report to the Committee on its activities during the preceding year and the Committee submits that report for consideration by the States. The annual report includes some information on the regulated industry but does not include a fulsome market overview and has little information on aggregate profitability, asset composition or solvency.</p> <p>Pursuant to section 18 of the FSC Law, the Commission is also required to satisfy itself each year of:</p> <ul style="list-style-type: none"> <li>• the adequacy and application of the Commission’s systems of internal control;</li> <li>• the selection and application of the Commission’s accounting policies and procedures;</li> <li>• the effective, efficient and economical management of the Commission’s assets and resources; and</li> </ul>
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	<ul style="list-style-type: none"> <li>the Commission’s compliance with such generally accepted principles of good corporate governance as it is reasonable to regard as being applicable to the Commission.</li> </ul> <p>The Commission has a four-member Audit Committee, which is largely charged with the above noted tasks as well as overseeing the external audit and the outsourced internal audit functions. It also reports on these matters through the annual report which is publicly available and published on the GFSC website.</p> <p>The Commission also reviews and assesses its own performance on an annual basis as part of a strategic retreat for commissioners.</p> <p>GFSC maintains, monitors and reports to government on a number of efficiency measures intended to gauge the attainment of operational targets or service standards. These typically extend to various applications for approval, management of complaints, assessment of regulatory breaches, delivery of on-site reports, etc.</p> <p>The GFSC does not currently prepare a publicly available service plan outlining its intended supervisory strategies, operational goals or performance measures for the coming year. It has, however, begun to prepare a three-year operational plan on its proposed activities which is used internally and shared with government. In future, the GFSC plans on including an overview of these plans as an addendum to its annual report to provide additional information and strengthen its accountability framework.</p> <p><b>Appointment and Dismissal Procedures:</b></p> <p>The FSC Law provides for the appointment of at least five Commissioners. Commissioners are nominated by the Policy and Resources Committee of government, based on the candidate’s knowledge, qualifications and experience to supervise financial services business. They are then elected for terms of up to three years by Guernsey’s representative states. Candidates may be re-elected for subsequent terms (subject to a compulsory retirement age of 75 years).</p> <p>Pursuant to section 2 of schedule 1 of the FSC Law, the Chairperson of the Commission is elected from one of the Commissioners by the Policy and Resources Committee of the States. No other explicit procedures regarding the appointment of the Chairperson or Commissioners are provided in the FSC Law.</p> <p>Section 4 of schedule 1 of the FSC Law specifies conditions by which the States (on the recommendation of any Commissioner) in the case of the Chairperson, and the Chairperson (in the case of an ordinary Commissioner) may dismiss a Commissioner. These include where the Commissioner/Chairperson:</p> <ul style="list-style-type: none"> <li>has been absent from 3 consecutive meetings of the Commission without the Commission’s consent;</li> <li>has been declared insolvent;</li> <li>is incapacitated by physical or mental illness; or</li> <li>is otherwise unable or unfit to discharge the functions of a Commissioner.</li> </ul> <p>GFSC internal legal counsel advise that the latter part of this section is sufficient authority to dismiss a commissioner in the event of poor performance of duties.</p> <p>Pursuant to subsection 4(4) of schedule 1 of the FSC Law, public notice is given if the Chairperson is dismissed from office for the reasons noted above. This is not the case for ordinary Commissioners, where notice is at the discretion of the Chairperson pursuant to subsection 4(2) of schedule 1 of the FSC Law.</p>
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	<p>In regard to GFSC management, the Director General is its Chief Executive Officer. The Director General is appointed by the Commission and not by the States of Guernsey, as per the FSC Law. The FSC Law provides for the establishment of a term of appointment (ie five years).</p> <p>Similar to the Commissioners, the criteria for dismissing the Director General include being:</p> <ul style="list-style-type: none"> <li>• absent from three consecutive meetings of the Commission without the Commission’s consent;</li> <li>• declared insolvent;</li> <li>• incapacitated by physical or mental illness; or</li> <li>• otherwise unable or unfit to discharge the functions of a Director General.</li> </ul> <p>Legal counsel advise that these powers are also sufficient to allow dismissal in the event of poor performance.</p> <p>Pursuant to subsection 11(1B) of the FSC Law, should the Director-General be dismissed, public notice of the reason for the dismissal must be given. In practice this is achieved through publication on the Commission’s website.</p> <p>Other Executive Committee members are appointed by the Commission on the recommendation of the Chief Executive. Decision making authority for these positions is also delegated by the Commission and performance is assessed by the Commission based on the recommendation of the Chief Executive. The Commission has a well-developed performance assessment framework for all staff that links the goals and operational objectives of the organisation to the activities and performance of individual staff members.</p> <p><b>Programme Funding:</b></p> <p>Pursuant to section 12 of the FSC Law, the Commission’s funds and resources may include:</p> <ul style="list-style-type: none"> <li>• The fees and charges paid to the Commission (Section 13, FSC Law).</li> <li>• Any grants paid to the Commission by the Policy and Resources Committee from the States general revenue account towards the Commission’s expenses.</li> <li>• Any money borrowed by the Commission (Section 15, FSC Law). This can include advances from the States General Revenue Account and/or other borrowings (up to one third of the Commissions fee income for the preceding year).</li> <li>• Money derived from Commission property.</li> </ul> <p>In practice, GFSC’s funding is derived from fee revenue. No grants or loans from the states are currently provided. Fees levels, funding grants, and advances from the General Revenue account are ultimately set by the government through the Committee process rather than the Commission itself.</p> <p><b>Transparency of Regulatory Requirements, Review and Consultation:</b></p> <p>All laws, regulations, rules, codes, guidance, consultations and other documents are publicly available on the Commission’s website. Those applicable to insurers and intermediaries can be found at <a href="https://www.gfsc.gg/industry-sectors/insurance/legislation-and-guidance">https://www.gfsc.gg/industry-sectors/insurance/legislation-and-guidance</a>.</p> <p>The regulatory requirements for insurers are clearly outlined within the IBL, which provides powers for the Commission to undertake its supervision of licensed insurers. The Commission is able to make rules (pursuant to section</p>
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	<p>38A of the IBL), as well as be empowered to prescribe by regulation anything which may be prescribed by the IBL (pursuant to subsection 85(2) of the IBL).</p> <p>The rules, codes and guidance under the IBL clarify the regulatory requirements of the Commission. The matters that may be prescribed by rules are wide-ranging and detailed in section 38B of the IBL. Similarly, requirements applicable to intermediaries are largely found under the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law and associated regulations.</p> <p>The website also includes a description of the Commission’s overarching risk-based approach to the supervision of its licensed entities including the PRISM methodology and the principles it uses to undertake supervision. The solvency requirements are also described under the IBL Solvency Rules, which are explored in more detail in ICP 17.</p> <p>The Commission also publishes guidance on its approach to decision-making and enforcement on its website. Guidance as to the completion of the regulatory returns of the Commission are included as hyperlinks within the online forms on the Commission’s returns submission portal.</p> <p>Regular reviews of regulatory requirements and supervisory procedures are performed. These reviews may be generated by changes to international standards, changes to industry practice or at the request of industry (and subject to the agreement of the Commission), or as part of ongoing internal review against current procedures and developing standards. This is evidenced by several specific examples undertaken by GFSC in recent years including internal reviews of the consistency of the supervisory approach applied across the Commission, and periodic gap analysis against international standards (such as the ICPs) using independent third party assessors.</p> <p>The GFSC regularly consults on changes to laws regulations, rules and guidance. Section 78 of the IBL details the requirements of the Commission in making rules, codes of conduct. When making rules the Commission must publish them for consultation and consider any representations received. Codes of Practice may be issued after consultation with the political authorities in Guernsey, Sark and Alderney as well as representatives of the local finance industry. The only exception to consultation requirements is where the Commission considers that the delay involved in consulting would be prejudicial to the interests of clients and policyholders, or potential clients or policyholders.</p> <p><b>Appeals of Supervisory Decisions:</b></p> <p>The insurance legislation provides for the appeal of major supervisory decisions. Section 63 of the IBL lists appealable decisions and provides that, where an adverse decision is made by the Commission, an aggrieved person may appeal against that decision to the Royal Court.</p> <p>The grounds for appeal of Commission decisions include that the decision was:</p> <ul style="list-style-type: none"> <li>• beyond the powers of the Commission (ultra vires) or there was another error of law;</li> <li>• unreasonable;</li> <li>• made in bad faith;</li> <li>• lacking in proportionality; or</li> <li>• made with a material error as to the facts or procedure.</li> </ul> <p>Any appeal must generally be instituted within 28 days following the date of the notice of the Commission’s decision by summons served on the Chairperson of the Commission, stating the grounds and material facts on which the appellant</p>
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	<p>relies. This time period may be reduced if considered to be in the interests of the public, clients, policyholders, and potential policyholders of the person concerned or is necessary for the protection of the reputation of the Bailiwick as a finance centre. The Commission may also apply to the Royal Court for any appeal to be dismissed.</p> <p>On an appeal the Royal Court may:</p> <ul style="list-style-type: none"> <li>• set the decision of the Commission aside and, if the Royal Court considers it appropriate to do so, remit the matter to the Commission with such directions as the Royal Court thinks fit; or</li> <li>• confirm the decision, in whole or in part.</li> </ul> <p>An appeal from a decision of the Royal Court made under the IBL shall lie to the Court of Appeal on a question of law. Appeals of supervisory decisions do not stay the decision unless the Court specifically orders otherwise.</p> <p>Appeals of supervisory decisions are infrequent as the legislation has strong notice of decision requirements and the GFSC attempts to work with affected parties to remedy supervisory problems and risks before strong enforcement decisions are taken.</p> <p><b>Confidentiality of Information:</b></p> <p>The GFSC has strong protection for confidential information from regulated entities and individuals. Major provisions include the following:</p> <p>Section 21 of the FSC Law provides that any information from which an individual or body can be identified, which the Commission has acquired while carrying out its functions, shall be regarded as being confidential by the Commission, its members, officers and servants. That information cannot be disclosed without the consent of every individual and body that can be identified from the information, unless it is expressly authorised by an enactment relating to the Commission’s statutory functions.</p> <p>Under section 21(4) of the FSC Law, a person who, without reasonable excuse, discloses confidential information is guilty of an offence and is liable to either imprisonment or a fine or both on conviction on indictment.</p> <p>Sections 79 and 80 of the IBL detail the circumstances under which confidential information received in relation to insurance supervision can be disclosed. This includes the disclosure of information to another supervisor.</p> <p>Section 81 of the IBL provides that information received from an overseas authority may only be used for the purpose for which it was provided and, with the exception of information in relation to the suspicion of money laundering, terrorist financing, or a criminal investigation, can only be disclosed with the consent of that authority.</p> <p>Section 81A of the IBL deals with applications to the court system for confidential information in the possession of the GFSC. The section provides that, where the Commission has received or obtained confidential information for the purposes of the IBL or FSC Law, the Royal Court shall consider the following before directing the commission to disclose to any person that information:</p> <ul style="list-style-type: none"> <li>• any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise to which the Commission is subject in respect of the information;</li> <li>• any undertaking entered into by the Commission in relation to the use, disclosure, safekeeping and return of the information; and</li> </ul>
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	<ul style="list-style-type: none"> <li>any conditions (whether as to the use and disclosure of the information or otherwise) subject to which the information is held or was received or obtained.</li> </ul> <p>Section 81A of the IBL also provides that, where the confidential information obtained or received by the Commission for purposes under the IBL or FSC Law from a relevant supervisory authority in a country outside the Bailiwick, the Royal Court will do the following before directing the Commission to disclose to any person that information:</p> <ul style="list-style-type: none"> <li>give the Commission a reasonable opportunity to consult that authority with a view to obtaining its consent to the disclosure; and</li> <li>where such consent is not forthcoming, or is given subject to conditions, consider the authority’s decision and the reasons for it.</li> </ul> <p>The Data Protection Law also provides that personal data should be protected against unauthorised or unlawful processing. It also provides that personal data shall not be transferred outside Guernsey unless the recipient country ensures an adequate level of protection.</p> <p><b>Code of Conduct and Conflict of Interest:</b></p> <p>The GFSC has conflict of interest requirements and a Code of Conduct Policy that applies to Commissioners and staff. This includes a requirement to disclose financial and non-financial conflicts and potential conflicts of interest and to complete a declaration of compliance with the Code’s provisions. The declaration must be completed annually or earlier if the details of the conflicts and potential conflicts change.</p> <p>Section 9 of the FSC Law requires that Commissioners who have a direct or indirect interest in the outcome of deliberations of the Commission shall disclose the interest and it will be recorded in the minutes. In addition, Commissioners are subject to a specific policy for managing conflicts of interest and this requires that a member will declare the conflict and leave the meeting whilst the matter is discussed.</p> <p><b>Legal Protection:</b></p> <p>The GFSC has strong legal protection for the supervisor and its staff. Section 22 of the FSC Law states that members, officers, or servants of the Commission are not personally liable in civil proceedings in respect of anything done, or omitted to be done, in the discharge of the Commission’s functions unless done in bad faith. Section 11(4) of the FSC Law states that the Commission will take reasonable steps to protect and indemnify its current and former members, officers and servants against costs, claims, liabilities and proceedings arising from the discharge of their functions.</p> <p>Section 93 of the IBL also states that no liability shall be incurred by the Commission, its members, officers, or servants in respect of anything done or omitted to be done in discharging the functions of the Commission under the IBL, unless done in bad faith.</p> <p>Under Section 9(2)(b)(ii) of the FSC Law, the Commission may also enter into insurance contracts on risks relating to claims against the Commission, its officers, servants, or members in the event of claims against the Commission for civil liability in carrying out the Commission’s functions.</p> <p><b>Adequacy of Resources and Outsourcing:</b></p> <p>The GFSC has approximately 11 staff dedicated to insurance supervision and supervises more than 850 insurance entities. Many of the regulated institutions</p>
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	<p>(eg many types of captives) have a narrow risk profile and limited direct impact on the public.</p> <p>The GFSC determines its resource needs through a three-year planning process and an annual budgeting process. As previously mentioned, GFSC has a performance management framework for staff, and maintains a recruitment and retention budget provision allowing merit increases in each division. It maintains a training and development strategy as well as an annual core training plan for staff. The organisation encourages professional development of staff and makes active use of secondment programmes. It can also engage outside specialists as supervisory needs require. Consultants are subject to the same obligations relating to confidential information and conflict of interest as staff.</p> <p>The organisation has also made significant investments in information systems providing for electronic submission of information and financial filings as well automating off-site analysis through key risk indicators as part of PRISM (See ICP 9). The net impact of these investments has been to reduce administrative workload on staff, freeing up time to focus on areas of higher supervisory priority.</p> <p>Nevertheless, the organisation has a substantial institutional workload and is implementing a number of new regulatory requirements that will increase supervisory work further (eg ORSA requirements). Staff to regulated institution ratios are low compared to other jurisdictions (even when captive and specialty insurers are excluded).</p>
<p>Assessment</p>	<p>Largely Observed</p>
<p>Comments</p>	<p>The GFSC meets most of the standards of the ICP. Independence, transparency and accountability of the organisation could be strengthened by:</p> <ul style="list-style-type: none"> <li>• Allowing the GFSC rather than government to set the level of fees for GFSC services.</li> <li>• Continuing to strengthen its accountability framework through initiatives like inclusion of its three-year operational plan as an addendum to the annual report.</li> <li>• Clarifying the legislative provisions concerning dismissal of Commissioners to automatically require the reasons for dismissal of Commissioners to be publicly reported.</li> </ul> <p>In addition, more supervisory resources may be required for insurance supervision as new requirements (eg ORSA) are fully implemented. In order to avoid unnecessary cost, a pragmatic and incremental approach should be taken to meeting increasing resource demands as workload increases.</p> <p>Moreover, in order to more fully meet the requirements of ICP2.7, GFSC should publish more information on the insurance sector it regulates in its annual report and elsewhere.</p> <p>Finally, Many of GFSC’s regulatory requirements are principle based in order to allow it to supervise the broad range of insurance entities within the Bailiwick. Consideration should be given to selectively supplementing these requirements with some more specific rules procedures or minimum standards.</p> <p>For example, Guernsey has a legislative requirement that insurer’s Boards have at least two members. In practice, almost all insurers are required to have a greater number of board members and the supervisor addresses this through consideration of governance at the licencing stage and as part of ongoing supervision.</p>

	<p>Establishment of more minimum rules, procedures standards can enhance the transparency of the regulatory framework and help ensure that similar regulated entities are treated in a similar manner.</p>
<p><b>ICP 3</b></p>	<p><b>Information Exchange and Confidentiality Requirements</b></p> <p>The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose and use requirements.</p>
<p>Description</p>	<p><b>Legislation:</b></p> <p>Section 68 of IBL empowers the Commission to require a licensee or associated party to provide:</p> <ul style="list-style-type: none"> <li>• what information the Commission may reasonably require for the performance of its functions; and/or</li> <li>• a report written by a third party nominated or approved by the Commission on a matter for which the Commission is seeking information.</li> </ul> <p>The Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance, 2008 empowers Commission officers to enter the premises of licensees or their associated parties, copy documents, and require a licensee or its associated parties to answer questions on matters relevant to the Commission’s performance of its functions, the protection of the interests of the public, and the reputation of the Bailiwick.</p> <p>An “Associated Party” in respect of the Site Visit Ordinance is that defined in Section 5 of IBL, as being:</p> <ul style="list-style-type: none"> <li>• any person who is in partnership with that person,</li> <li>• any company of which that person is a controller,</li> <li>• any body of which that person is a director,</li> <li>• where that person is a company –             <ul style="list-style-type: none"> <li>○ a holding company, subsidiary or related company of that person,</li> <li>○ a subsidiary or related company of a holding company of that person,</li> <li>○ a holding company of a subsidiary of that person, or</li> <li>○ a company in the case of which a shareholder controller of that person, alone or with associates, is entitled to exercise, or control the exercise of, more than 50% of the voting power in general meeting, and where, pursuant to the above provisions, any person or body is an associated party in relation to another person or body, then that other person or body is an associated party in relation to that first-mentioned person or body.</li> </ul> </li> </ul> <p>The definition of associate party does not extend to a non-supervised entity which is, or has applied to become, a controller to provide information (such as might occur within a corporate group). In such situations, however the Commission may object to that entity being or continuing as a controller if the failure to provide information causes the Commission to believe that the entity is not fit and proper, or that the interests of policyholders or the reputation of the Bailiwick may be jeopardised (IBL S25 &amp; S26).</p> <p>Under sections 21A and 21B of the FSC Law, the Commission can cooperate with, share information with and undertake investigations in support of a relevant supervisory authority. This includes making site visits, obtaining information and documents and appointing inspectors. Subsection 80(f) of the IBL provides that information can be disclosed for the purpose of enabling or assisting a foreign supervisor to exercise its supervisory functions.</p>

	<p>Under section 81 of the IBL the Commission may seek information from a relevant supervisory authority relating to the business or other affairs of any person for the purposes of carrying out its supervisory functions.</p> <p><b>Supervisory Practice:</b></p> <p>In practice, the Commission exchanges information regularly with other supervisors. This may take place as part of supervisory colleges, routine engagement or ad hoc communications when required.</p> <p>Requests for information from another supervisor are filtered through a specialist team whose role includes assessing and responding to requests. As part of the decision-making process on whether to exchange information, a memorandum is drafted which includes consideration of the requirements of the law. Letters to licensees, serving notice that information is required from them, also includes a statement of the consideration by the Commission of those requirements. The GFSC can also protect confidentiality requirements associated with exchange information by requiring undertakings from foreign supervisors.</p> <p>The GFSC became a signatory of the IAIS Multilateral Memorandum of Understanding (MMoU) in November 2010. As at 31 January 2018, the Commission had entered into 46 general MoUs/MMoUs. The existence of a supervisory agreement is not, however a prerequisite for information exchange.</p> <p>The Commission, as a matter of policy, does not act as a group-wide supervisor. The Commission takes part in supervisory colleges when invited, and exchanges information with home or other host supervisors outside of supervisory colleges.</p>
Assessment	Observed
Comments	None
<b>ICP 4</b>	<p><b>Licensing</b></p> <p>A legal entity which intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. The requirements and procedures for licensing must be clear, objective and public, and be consistently applied.</p>
Description	<p>Guernsey has a strong licensing framework for insurers and others engaged in insurance business.</p> <p><b>Definitions, Prohibitions and Authority:</b></p> <p>Schedule 5 of the IBL and Schedule 3 of the IMIIL contain definitions of the activities subject to licensing including; “insurance business”, “insurance manager” and “insurance intermediary”.</p> <p>Section 1 of the IBL and Section 1 and Section 2 of the IMIIL contain prohibitions against unauthorised insurance activities. These sections also contain details of the restrictions on carrying on insurance business or acting as an insurance manager/insurance intermediary within Guernsey without a licence and make it an offence to do so.</p> <p>Certain exemptions are provided for in legislation, for example the sale of a policy of insurance as part of a contract to provide other goods or services, eg</p>

	<p>a travel insurance policy sold by a travel agent or an extended warranty product provided at the point of purchase of goods.</p> <p>Section 3 of the FSC Law gives the GFSC the authority to register insurers, authorise insurance managers and intermediaries and regulate insurance business. Section 7 of the IBL and Section 4 of the IMIL set out the circumstances in which the Commission may or may not grant a licence.</p> <p><b>Authorised Insurers:</b></p> <p>All insurers operating in Guernsey must be licensed. Domestic and most foreign insurers must meet the full licensing requirements laid out in the IBL. If, however, the foreign insurer is carrying on insurance business by way of a branch in Guernsey, Section 38 of the IBL allows for exemption of certain requirements, including capital and solvency requirements, relying on requirements in the insurer’s home jurisdiction.</p> <p>Guernsey also “recognises” certain other foreign insurers when insurance is placed through licensed intermediaries under Section 17 of the IMIL. Recognised insurers include insurers on a specified insurers list maintained by the GFSC. The list includes all European Union, Jersey and Isle of Man insurers. In addition, other insurers may apply to the GFSC for recognition and be added to the list where it is in the public interest. These recognised insurers are overseas insurers who Guernsey licensed insurance intermediaries may use to underwrite Bailiwick of Guernsey risks but who do not otherwise carry on business as an insurer in the Bailiwick and are not licensed by the Commission.</p> <p>Any recognised insurer wishing to provide Compulsory Third-Party Motor insurance must receive special authorisation from the GFSC.</p> <p><b>Licensing Process and Licensing Criteria:</b></p> <p>The IBL does not permit composite insurers or reinsurers; however, the GFSC will consider applications from unincorporated entities and all types of companies. This includes Protected Cell Companies and Incorporated Cell Companies where long-term and general business may be written through separate cells in the same company, provided there is no reliance on common capital (eg they need to either be separately capitalised or an approved recourse agreement needs to be in place before cells can have access to core capital).</p> <p>Licensing requirements are publicly available as they are established in legislation. Section 7 and Schedule 7 the IBL specify the criteria for the Commission to grant an insurance licence.</p> <p>The licensing regulations set out the information that an applicant must submit with the application, including:</p> <ul style="list-style-type: none"> <li>• a business plan;</li> <li>• financial projections covering the first three years of operations;</li> <li>• an organisation chart and sufficient information to confirm the ultimate ownership of the applicant;</li> <li>• financial statements of the applicant and its parent;</li> <li>• personal questionnaires for all directors, controllers and individuals in prescribed positions (see response to ICP 5 for further information on the assessment of suitability)</li> <li>• details of third-party service providers; and</li> <li>• method of capitalisation and forecast solvency statement.</li> </ul> <p>In addition, a copy of the applicant’s operating policies and procedures, financial crime business risk assessment and AML/CFT manual must be submitted. The GFSC Authorisations unit publishes information on the GFSC website which provides guidance on the purpose and use of the required information.</p>
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	<p>Applications are assessed and decided based on minimum criteria set out under Section 7 of the IBL and Schedule 7 of the Act. These criteria meet the requirements of ICP 4.3. Appropriate applications generally receive approval in principle within 28 calendar days of submitting complete applications under GFSC service level standards. Section 12 of the IBL allows the Commission to attach conditions to licences as it sees fit. Applications that are rejected must receive written notice including the reasons for the Commission’s decision. Licencing decisions are not appealable.</p> <p>A branch or subsidiary of a foreign insurer is subject to the same licensing requirements and processes as any other applicant. The Commission’s internal processes ensure that the relevant home supervisor is consulted as necessary on such applications as well as on applications from recognised insurers. The exchange of such information is covered by law and regulation (see ICP3).</p> <p>Each licensee is provided with a hard copy of its insurance licence. All insurance licences clearly state whether the licence is for general insurance or long-term insurance and whether domestic insurance is permitted. A licence also refers to the relevant section of the law under which the licence has been granted. There is a requirement under S11 of IBL for an insurer to operate within its current business plan as filed with the Commission. A replacement licence may be issued in the event that the Commission agrees to a change of business plan which changes the category of licence. Licence information is recorded on the Commission’s CRM system and is publicly available on the GFSC website.</p>
Assessment	Observed
Comments	None
<b>ICP 5</b>	<p><b>Suitability of Persons</b></p> <p>The supervisor requires Board Members, Senior Management, Key Persons in Control Functions and Significant Owners of an insurer to be and remain suitable to fulfil their respective roles.</p>
Description	<p>Schedule 7 of the IBL sets out the Minimum Criteria for Licensing (MCL) and specifies that the following persons must meet fit and proper requirements described under Section 3 of the schedule:</p> <ul style="list-style-type: none"> <li>• Directors – including all Board Members;</li> <li>• Controllers – this includes shareholder controllers and indirect controllers and therefore captures significant owners;</li> <li>• Partners – in the case of Limited Partnerships;</li> <li>• Managers – this includes anyone under the immediate authority of a director or chief executive and would therefore capture senior management and other key persons in control functions such as compliance officer, chief risk officer, head of internal audit and appointed actuary; and</li> <li>• General Representatives – the IBL requires every insurer to appoint a General Representative who must be either a Guernsey resident executive director or a licensed insurance manager.</li> </ul> <p>GFSC requires these persons to complete an Online Personal Questionnaire (OPQ) which includes information needed to assess suitability. This is then</p>

	<p>supplemented by additional due diligence and, when necessary, the Commission will interview prospective appointees.</p> <p>The OPQ requires information on employment history and professional qualifications which is used when assessing competence for a role. There is also a section intended to assess probity, judgement, diligence and integrity in which the person must answer questions related to criminal convictions, any action taken by professional bodies, disciplinary issues related to employment, personal solvency and that of any entities with which they have been involved. The OPQ process also requires a declaration from the applicant that they undertake to inform the Commission, without delay, of any material changes to the information supplied in the form.</p> <p>Whilst the Commission does not prescribe specific qualifications or experience, in assessing the individual's competency, consideration of these areas will be given when assessing specific requirements of the role in the context of the nature, scale and complexity of the firm.</p> <p>The MCL does not specify the financial soundness criteria of significant owners, however, the licensing regulations require that the controller provide their latest financial statements or statement of personal wealth and these are regarded by the Commission as a key consideration at the application stage. The financial soundness of significant owners will be evaluated in conjunction with the application as a whole, having regard to the proposed business plan and level of capital to be injected.</p> <p>At the application stage and upon any new appointment the Commission will consider the MCL, which also apply on an ongoing basis. The suitability requirements and the extent of ongoing review required are determined by the impact assessment of the firm under the Commission's risk-based approach to supervision. (PRISM).</p> <p>The Principles of Conduct of Finance Business include a requirement for insurers to deal with the Commission in an open and cooperative manner and keep the Commission promptly informed of anything that might reasonably be expected to be disclosed. The MCL refers specifically to these Principles.</p> <p>It is an offence for a licensee, or any director, controller, partner, manager, employee or general representative of a licensee, to fail to provide information in their possession that is relevant to the exercise of the Commission's functions and where the withholding of such information is likely to lead to the Commission being misled.</p> <p>Where board members, senior management or key persons in control functions no longer meet suitability requirements there are a range of options open to the GFSC.</p> <p>In the event that the GFSC believes the board or an individual can be brought up to suitable skills standards then it will agree a risk mitigation programme, such as a training or qualification requirement to be completed within an agreed timeframe.</p> <p>The Commission may also impose conditions on the insurance licence, such as stopping new business from being written or restricting the dispersal of assets until such time as the issue is rectified to the Commission's satisfaction.</p> <p>In more serious circumstances, especially those involving integrity, the Commission may make a prohibition order to prevent an individual performing functions in relation to an insurer or other licensed entity. The prohibition order may specify certain functions, certain companies or more generally to any function.</p>
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	<p>In extreme circumstances, the Commission has the power to apply for a disqualification order prohibiting a person from being a director, secretary or other officer of any company or participating in, or being in any way concerned in, the management, formation or promotion of any company.</p> <p>In cases where a significant owner, ie a controller, no longer meets suitability requirements, the Commission may issue a notice of objection to existing controllers under section 26 of the IBL. Contravention of such a notice is an offence under section 27 of the IBL. Following the issuance of such a notice, the Commission may impose restrictions on the sale of shares and may apply to the courts for an order relating to the sale or transfer of shares.</p> <p>The GFSC frequently exchanges information with other authorities to check the suitability of Board Members, Senior Management, Key Persons in Control Functions and Significant Owners of an insurer. Other checks include Worldcheck screening and enhanced Due Diligence reports.</p>
<p>Assessment</p>	<p>Largely Observed</p>
<p>Comments</p>	<p>It is recommended that consideration be given to developing and publishing more specific minimum competency requirements for people who head control functions (eg compliance and risk management). Such guidance would increase transparency of requirements and help to ensure that the numerous applications GFSC receives are treated in a consistent manner as well as ensure that candidates have necessary technical competencies.</p>
<p><b>ICP 6</b></p>	<p><b>Changes in Control and Portfolio Transfers</b></p> <p>Supervisory approval is required for proposals to acquire significant ownership or an interest in an insurer that results in that person (legal or natural), directly or indirectly, alone or with an associate, exercising control over the insurer. The same applies to portfolio transfers or mergers of insurers.</p>
<p>Description</p>	<p><b>Legislative Authority Regarding Changes in Control:</b></p> <p>The requirements to approve significant ownership or control proposals for an insurer are found in the IBL law.</p> <ul style="list-style-type: none"> <li>• Subsection 11(3) of the IBL requires current Online Personal Questionnaires to be lodged with the Commission in respect of all directors and controllers of the insurer who are individuals.</li> <li>• Subsection 11(6) of the IBL requires licensees to notify the Commission and obtain prior written approval from the Commission before effecting any change of controller.</li> <li>• Section 25 of the IBL states that no person shall become a controller of a licensee unless he has notified the Commission and obtained a 'no objection' in writing.</li> <li>• Section 49 of IBL requires a person who becomes a significant shareholder to give notice to the Commission within 14 days.</li> <li>• Section 49A of the IBL requires the Commission's prior written approval where: a person who alone, or with associates, becomes entitled to exercise, or control the exercise of, 15% or more of the voting power of a licensee or its parent and if that person then becomes entitled to exercise, or control the exercise of, a further 5% or more of that voting power.</li> </ul>

	<p>The Commission also has strong powers to obtain additional information from shareholders and controlling beneficiaries under Section 25 and under the Insurance Business Licencing Regulation (IBL regulation).</p> <p>In cases where a proposed controller or shareholder does not meet the Commission’s requirements, the Commission may issue a notice of objection. Contravention of such a notice is an offence under Section 27 of the IBL.</p> <p><b>Definition of Control:</b></p> <p>ICP 6.1 requires the term “control” to address at a minimum:</p> <ul style="list-style-type: none"> <li>• Holding a defined number or percentage of issued shares or financial instruments (such as compulsory convertible debentures);</li> <li>• Voting rights attached to the aforementioned shares or financial instruments;</li> <li>• Power to appoint directors to the board and other executive committees or remove them.</li> <li>•</li> </ul> <p>Schedule 5 of the IBL contains the following relevant definitions:</p> <ul style="list-style-type: none"> <li>• “controller” in relation to a company means: a managing director or chief executive of that company or of any other company of which that company is a subsidiary; a shareholder controller or an indirect controller; or any person who has the power, alone or with another, to appoint or remove a director of a board or an executive committee.</li> <li>• “shareholder controller” as a person who, alone or with associates, controls 15% or more of the voting power of a company or of any other company of which that company is a subsidiary.</li> <li>• “significant shareholder” as a person who, alone or with associates, controls between 5% and 15% of the voting power of a company or of any other company of which that company is a subsidiary.</li> <li>• “indirect controller” as a person in accordance with whose directions or instructions any director of that company or of any other company of which that company is a subsidiary, or any controller of that company, is accustomed to act.</li> </ul> <p>These definitions appear to cover and exceed the required elements of the ICP as a change in managing director or a change in chief executive would trigger requirements respecting a change in control.</p> <p><b>Notification and Approval of Changes in Control:</b></p> <p>The legislation described above requires prior notification for share purchases and changes in control and requires the supervisor to approve any significant increase from predetermined shareholder control levels. Separate sections of the law put the onus respectively on the licensee and the controller to provide notifications in relation to changes in control.</p> <p>The legislative powers apply irrespective of whether the parties involved are located in Guernsey or outside it and the Supervisor has the ability to consult with other supervisors with respect to these matters when needed.</p> <p>The IBL Licensing Regulations require that an application include the latest audited financial statements of the applicant and the ultimate holding company and controller. The IBL Licensing Regulations also require that an application include details on non-financial resources such as information in respect of personnel and third-party service providers.</p> <p>Criteria for existing companies experiencing changes in control are very similar to those for a new licensee.</p> <p>In the case of significant decreases in control, however, ICP 6.3 requires that the supervisor require appropriate notification from insurers in the case of a</p>
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	<p>significant <b>decrease below predetermined shareholder levels</b>. GFSC suggests that under subsection 11(6) such changes would be captured but it appears that some changes (eg a reduction in an individual's shareholdings from 20 percent to 15 percent) would not be captured under this section.</p> <p><b>Authority to Reject Applications of Proposed Owners:</b></p> <p>Section 25 of the IBL gives the Commission the power to issue a notice of objection to a potential controller on the grounds that the interests of the insurer's policyholders etc would be jeopardised by that person becoming such a controller. Contravention of such a notice is an offence under section 27 of the IBL.</p> <p>Subsection 1.2 of the IBL Licensing Regulations requires sufficient information to confirm the ultimate ownership of the proposed applicant to be submitted to the Commission as part of the application process. In addition, a Guernsey entity is subject to a requirement to report their beneficial owners to the Guernsey Registry.</p> <p><b>Demutualization and Conversion of Companies:</b></p> <p>While the law does not specifically deal with demutualisation and conversion, such changes would be captured under Section 11(6) of the IBL which requires licensees to notify the Commission and obtain prior written approval from the Commission before effecting any change of controller. The Commission would consider all relevant documents before giving approval for such a change.</p> <p><b>Portfolio Transfers:</b></p> <p>Section 11(2A) of the IBL requires insurers to obtain the Commission's written approval before effecting any portfolio transfer. The Commission would consider the financial position of the transferee before approving such a transfer.</p> <p>The transfer of long-term business is also subject to a court process. Sections 44 to 48 of the IBL require the Royal Court to sanction any transfer of long-term business. Under these sections, both the Commission and policyholders have the right to make representations to the Court.</p> <p>An application to the Royal Court for the transfer of long-term insurance business must be accompanied by a report from an independent actuary on the terms of the scheme.</p>
Assessment	Largely Observed
Comments	It is recommended that GFSC review its requirements concerning significant <b>decrease below predetermined shareholder levels</b> to ensure that they comply with ICP 6.3 and that legislative changes be made at the next opportunity to amend the legislation.
<b>ICP 7</b>	<p><b>Corporate Governance</b></p> <p>The supervisor requires insurers to establish and implement a corporate governance framework which provides for sound and prudent management and oversight of the insurer's business and adequately recognises and protects the interests of policyholders.</p>
Description	<b>Legal Framework:</b>

	<p>Expectations regarding the governance of most licenced insurers are established in the Financial Sector Code of Corporate Governance (CCG).</p> <p>The CCG's stated purpose is to provide boards and individual directors with "a framework for sound systems of company governance". The Corporate Governance Code covers the following areas:</p> <ul style="list-style-type: none"> <li>• The Board.</li> <li>• Director Responsibilities.</li> <li>• Business Conduct and Ethics.</li> <li>• Accountability.</li> <li>• Risk Management.</li> <li>• Disclosure and Reporting.</li> <li>• Remuneration.</li> <li>• Shareholder Relations</li> </ul> <p>Appendix 3 of the document provides some more specific principles that are intended to apply to most insurers. They do not apply to branches of institutions incorporated in other jurisdictions. The principles closely mirror the wording of most of the standards set out under ICP 7 and 8 (except ICP7.8 dealing with governance and oversight of the external audit process).</p> <p>The requirements of the Code are principle based and expressed in general terms. They are not prescriptive because of the need to apply across the range of different insurance entities in the Bailiwick. The Board of an insurer has discretion to implement the CGC in a way that it sees as commensurate with the nature, scale and complexity of its business. Licensed insurers are required to confirm within their annual return submitted to the Commission that they have complied with the CCG. Where the insurer has not complied, the insurer is required to explain the rationale behind non-compliance.</p> <p><b>Supervisory Practice:</b></p> <p>The GFSC reviews the above noted submissions to assess whether the licensee has complied with its requirements. Under the PRISM supervisory Framework (see ICP 9), governance risk of licensed insurers is assessed at the licensing stage and on an ongoing basis.</p> <p>All insurance entities that provide retail insurance to consumers in Guernsey or to expatriates in other jurisdictions are rated medium low and above under PRISM and are therefore subject to periodic on-site review. For low impact, low risk insurers, detailed governance review may occur as part of a thematic review or when key risk indicators for governance are triggered as part of the annual filing and code reporting exercise. Key risk indicators include things like: stated non-compliance with the code, director resignations, the percentage of the board changing in a given year, and issues arising in the vetting of officers, directors, and heads of control functions for the insurance entity.</p> <p>GFSC has some guidance for staff in assessing governance and internal controls but there are few specific rules or procedures that set and ensure minimum standards for insurance entities or ensure consistency of application across institutions. For example, under the law the minimum number of Board directors is two members (one of whom must be independent). This is despite the fact that almost all insurers are required to have more than two members. Some areas for possible attention for minimum standards and procedures include, size and minimum acceptable skill composition and mix for insurers' boards, the role of executive members on boards, models of acceptable control</p>
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	<p>function structure and reporting and procedures for ensuring acceptable control functions are in place.</p> <p>This concern is mitigated by the quality of supervisory staff and the fact that GFSC has relatively recently increased its focus on governance and many assessments have yet been updated.</p>
Assessment	Largely Observed
Comments	<p>It is recommended that;</p> <ul style="list-style-type: none"> <li>• GFSC continue its work to ensure compliance with ICP 7.8 which requires the insurer's Board to ensure that there is adequate governance and oversight of the external audit process.</li> <li>• Consideration be given to establishing a requirement for rotation of external audit firms after a number of years (eg five years).</li> <li>• GFSC consider establishment of some, more specific, minimum standards and procedures related to insurer governance and internal controls to supplement Code requirements. Such works could be used to reinforce minimum governance standards, increase transparency of requirements and help ensure that similar insurance entities are treated in a similar manner.</li> </ul>
<b>ICP 8</b>	<p><b>Risk Management and Internal Controls</b></p> <p>The supervisor requires an insurer to have, as part of its overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial matters, and internal audit.</p>
Description	<p><b>Legal Framework:</b></p> <p>Similar to ICP 7, expectations regarding risk management and control of licenced insurers are established in the Financial Sector Code of Corporate Governance (CCG).</p> <p>Appendix 3 of the document provides the specific principles that are intended to apply to most insurers. They do not apply to branches of institutions incorporated in other jurisdictions. Principles A10 – A17 closely mirror the wording of the standards set out under ICP 8.</p> <p>In addition to the above, pursuant to subsection 6(2) (d)(ii) of schedule 7 of the IBL a licensed insurer must maintain adequate accounting and other records of his business and adequate systems of control of his business and records.</p> <p><b>Risk Management System:</b></p> <p>Paragraph 194 of Part 8 of the IBL Solvency Rules requires a licensed insurer to establish and maintain a risk management framework that is appropriate for the nature, scale and complexity of the insurer.</p> <p>The risk management framework is the totality of the systems, structures, policies, processes and people that identify, assess, mitigate and monitor all internal and external sources of risk that could have a material impact on the licensed insurer.</p> <p>Pursuant to paragraph 195 of the IBL Solvency Rules the framework is required to:</p>

- Provide for the identification and quantification of material risks under a sufficiently wide range of outcomes using techniques which are appropriate to the nature, scale and complexity of the risks it bears;
- Include a risk management policy;
- Be supported by accurate documentation;
- Be responsive to changes in its risk profile; and
- Incorporate a feedback loop, based on appropriate and good quality information, management processes and objective assessment, which enables it to take the necessary action in a timely manner in response to changes in its risk profile.

Pursuant to paragraph 197 of the IBL Solvency Rules, the risk management policy of a licensed insurer is required to include at a minimum:

- A description of how all relevant and material categories of risk are managed in the insurer's business strategy and day-to-day operations;
- A description of the relationship between the insurer's tolerance limits, regulatory capital requirements, economic capital and the processes and methods for monitoring risk; and
- Explicit policies in relation to:
  - Underwriting risk;
  - Investment; and
  - Asset-liability management.

Pursuant to paragraph 196 of the IBL Solvency Rules, the licensed insurer is also required to maintain a risk tolerance statement. This is required to set out its overall risk tolerance levels and define its risk tolerance limits. This has to take account of all relevant and material categories of risk and the relationships between them.

Principle A12 of Appendix 3 of the CCG requires an insurer to have an effective risk management function but there are few other specific requirements on the nature of this function in the regulatory framework.

#### **System of Internal Controls and Internal Control Function:**

A control system must include a set of processes, policies and activities governing the insurers' organisational and operational structure including reporting and the control function.

Other than Principle A10 of Appendix 3 of the CCG which requires an effective control system and the reference in schedule 7 of the IBL noted above, the legal framework provides little specific direction on the structure of the internal control system.

Principle A13 of Appendix 3 of the CCG requires an effective compliance (or control) function but does not describe any other specific requirements of this function.

#### **Actuarial Function:**

The CCG requires the insurer have access to an actuary for all categories of licensed insurer that operate within Guernsey, with the exception of captive (re)insurers (classified as Category 5 for the purposes of the IBL Solvency Rules).

	<p>Section 40 of the IBL requires that all insurers licensed to write long-term business appoint an actuary from the date they commence long-term business. This actuary is defined within the IBL as a fellow of the Institute of Actuaries in England and Wales or the Faculty of Actuaries in Scotland or any other deemed appropriate by the Commission. Actuaries in practice are predominately those that are fellows of the Institute of Actuaries in England and Wales, with no other actuarial organisations having been defined by the Commission in practice to those above.</p> <p>Pursuant to section 41 of the IBL, the appointed actuary of a long-term insurer is required to assess the financial condition of the insurer, including its technical provisions and capital adequacy, under actuarial standards as approved by the Commission. These are outlined in the Actuarial Valuation Guidance Note and the Actuarial Requirements and Standards Guidance Note. The actuarial report is required to be submitted as part of the annual return of the insurer to the Commission.</p> <p>Other than these requirements and Principle A:14 of Appendix 3 of the CCG there appear to be few specific requirements in the regulatory framework regarding the nature of actuarial control function.</p> <p><b>Internal Audit Function:</b></p> <p>Principle A:15 of Appendix 3 of the CCG establishes a requirement that an insurer have or have access to an appropriate and effective internal audit function capable of providing the Board with independent assurance in respect of the insurer’s governance, including its risk management and internal controls.</p> <p>Internal guidance forming part of the PRISM framework describes the Commission’s approach to the assessment of the quality of internal audit as part of governance risks. This includes assessing whether:</p> <ul style="list-style-type: none"> <li>• Internal audit is independent of senior management;</li> <li>• Internal audit has the authority and resources to carry out its responsibilities;</li> <li>• Internal audit has direct access to the Board; and</li> <li>• Findings from the internal audit process are appropriately communicated to the Board and acted upon in a timely manner.</li> </ul> <p><b>Outsourcing</b></p> <p>Outsourcing of control functions occurs commonly within the insurance industry in Guernsey particularly. This is due to most insurers being either managed entities (eg captives) or subsidiaries of larger international groups.</p> <p>Where there are outsourced functions, the focus of the supervisory team is to assess the extent of oversight and control exercised by the Board of Directors of the insurer.</p>
<p>Assessment</p>	<p>Largely Observed</p>
<p>Comments</p>	<p>GFSC should consider additional guidance and procedures for assessment of risk management and control functions in the various types of institutions it supervises.</p>

<p><b>ICP 9</b></p>	<p><b>Supervisory Review and Reporting</b></p> <p>The supervisor has an integrated, risk-based system of supervision that uses both offsite monitoring and onsite inspections to examine the business of each insurer, evaluate its condition, the quality and effectiveness of its Board and Senior Management and compliance with legislation and requirements. The supervisor obtains the necessary supervisory information to conduct effective supervision of insurers and evaluate the insurance market.</p>
<p>Description</p>	<p><b>Legal Authority and Regulatory Reporting:</b></p> <p>The FCS Law, the IBL, and the Site Visit Ordinance, along with the regulations, rules, codes and guidance issued under them provide the GFSC with the legal authority and powers to perform off-site monitoring and on-site inspections of insurers licenced in Guernsey.</p> <p>Section 37 of IBL requires licensed insurers to submit an annual return, audited financial statements and, for insurers of long-term business, an actuarial report within 4 months of the insurer’s year end.</p> <p>The Annual Return Regulations, made under sections 33 and 37 of IBL require an insurer’s annual return to include the following:</p> <ul style="list-style-type: none"> <li>• an up-to-date business plan which includes both quantitative and qualitative information regarding the insurer’s proposed activities over the next 12 months for non-life firms and over the next 3 years for life firms, or confirmation that the business plan has not changed,</li> <li>• a completed solvency workbook,</li> <li>• details of the insurer’s reinsurance programme,</li> <li>• a copy of the auditor’s management letter or confirmation that no letter has been issued,</li> <li>• a summary of the extent of the insurer’s adherence to the Licensed Insurers’ Corporate Governance Code, and</li> <li>• a note explaining how the insurer’s reserves are calculated.</li> </ul> <p>The annual return and financial statements are submitted through the Commission’s online portal. The submission also includes some data taken from the financial statements. This data, along with certain data from the solvency workbook, are analysed by the Commission’s software system which provides alerts if certain key risk indicators breach specified thresholds.</p> <p>In addition to these requirements, trustees that hold life company assets for locally licensed insurers are required to report the value of assets held in trust to the Commission on a quarterly basis.</p> <p>Off balance sheet exposures are included within the GFSC solvency workbook requirements which all licensed insurers must submit at least annually. Any changes to outsourcing are reported in the insurers’ business plan. The GFSC has authority to review its reporting requirements as required and regularly does so.</p> <p>The GFSC also has the power under section 68 and 69 of IBL to request and obtain additional information and documents under a written notice as well as require present or past directors, controllers or employees of the licensee provide an explanation of this information or documents. This power also applies to associated parties of a licensee. (In practice the Commission has rarely been required to use this power outside of enforcement action).</p>

	<p>The Site Visit Ordinance, issued under section 21C of the FSC Law, gives the Commission the power to carry out site visits to the offices of a licensee or to any associated party thereof (or any person acting for or on behalf of the licensee or associated party). Site visits under the ordinance can be carried out with notice to and the agreement of the licensee, with notice but without agreement or without notice or agreement, although the latter can only be undertaken when the Commission suspects notice would result in the removal, destruction, tampering with or falsification of documents.</p> <p>While carrying out a site visit under the ordinance, the GSFC can require the officers, servants or agents of the licensee (or associated party thereof) to provide documents, copies of documents to be taken away by the Commission and to answer questions. Failure to comply with the above is an offence.</p> <p>The above noted powers extend to examination of outsourced functions of insurers and give the Commission the power to require the submission of information from and carry out site visits on insurer groups.</p> <p><b>Supervisory Framework:</b></p> <p>The GFSC uses a risk-based approach to supervising licensees, referred to as PRISM (Probability Risk and Impact System). PRISM is both an approach to supervision and a supporting software application. It was originally developed by the Central Bank of Ireland following the financial crisis. General documentation of the framework is available on GFSC's Website. Further detailed internal documentation is also available to guide supervision. The GFSC has a set of internal guidance notes in place (including sample questions), organised by type of task and risk category, to assist supervisors with planning and carrying out their work. These are accessible to staff on the Commission's SharePoint site.</p> <p>A major premise behind PRISM, is that greater supervisory resources should be focused on insurers that could cause the most harm, or impact, should they fail. The Commission defines "impact" as "The degree of damage that a licensee, fund, registered entity or group, could cause to its consumers, the financial system in the Bailiwick and elsewhere, the Bailiwick economy and the public were it to (a) fail; or (b) fail to observe proper standards of conduct."</p> <p>PRISM segments all the firms regulated by the GFSC into four impact categories on the basis of quantitative data. The categories are high, medium high, medium low and low. A firm's rating is revised as its quantitative metrics change over time. The metrics are taken from electronic returns submitted by firms and automatically updated whenever returns are submitted. In the case of large changes, supervisors review the data before accepting it and the associated impact change. There is also scope for a manual override of an impact rating where a particular firm is an outlier and the metrics used does not accurately capture the impact of the firm. To date, all insurers who provide retail insurance to the public, either in Guernsey or other jurisdictions have been classified as medium low or above ensuring that they receive periodic onsite examination as well as offsite supervision.</p> <p>To match the four impact categories, there are four supervisory engagement models, or supervisory plans. Higher impact firms are assigned dedicated supervisors who follow a pro-active programme of active supervision. This is intended to ensure that the GFSC always has a good knowledge of a firm's strategy and business model. For these insurers the focus is on business models, financial risk analysis and governance. High impact firms will also have a high level of supervisory engagement no matter how well the organisation appears to be operating.</p>
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	<p>The GFSC’s assessment of these insurers includes 11 risk categories (several including a number of sub-risk categories):</p> <ul style="list-style-type: none"> <li>• Strategy/Business Model Risk;</li> <li>• Governance Risk;</li> <li>• Conduct Risk;</li> <li>• Operational Risk;</li> <li>• Financial Crime Risk;</li> <li>• Credit Risk;</li> <li>• Market Risk;</li> <li>• Liquidity Risk;</li> <li>• Insurance Risk; and</li> <li>• Environmental Risk.</li> </ul> <p>Each risk category is assessed on a scale of Low, Medium-Low, Medium-High and High.</p> <p>An assessment of a risk as Low or Medium-Low is within the Commission’s risk appetite. When a risk category is assessed as Medium-High or High the Commission will seek to put in place remedial actions designed to bring the level of risk down to Medium-Low or Low.</p> <p>The Environmental risk category helps capture various external factors likely to impact on insurers business and helps reflect the evolving nature, scale and complexity of the risks they face that are not captured in other categories.</p> <p>For medium-low impact insurers, supervisors are only required to assess Insurance, Capital, Governance, Strategy/Business Model and Financial Crime risks. In practice, supervisors may assess other risks when they believe they are relevant such as conduct of business.</p> <p>The relationship with medium high impact and medium low impact insurers is also managed by a named supervisor who will meet with key management and regularly review financial returns for that insurer. The GFSC conducts full risk assessments (FRA) of all medium high impact firms on a two to four year rolling cycle. For medium low impact firms, FRAs are conducted every five years.</p> <p>The FRA is a detailed review of the firm’s business including on-site inspection, file reviews and meetings with the Board and senior management. An FRA will usually require between 1-2 weeks of on-site work preceded by several weeks of off-site document review and preparation. Following the FRA, the supervisor prepares a report detailing their assessment of the various probability risk categories and where necessary, proposes remedial actions. Further interim meetings are also held between full risk assessments with senior management, non-executive directors and Compliance or Chief Risk Officers.</p> <p>The Commission’s engagement cycle with a Medium High or Medium Low impact firm will typically consist of the following:</p> <ul style="list-style-type: none"> <li>• The supervisor will carry out various tasks, including off-site monitoring and interim meetings, which culminates in a full risk assessment (FRA).</li> <li>• This is then presented to and reviewed by a panel of experienced supervisors (a Risk Governance Panel) from across the Commission to provide internal challenge and consistency. It should be noted that the panel is advisory in nature and the final decision is made by the Divisional Director.</li> </ul>
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	<ul style="list-style-type: none"> <li>• The supervisor will also then consider the plan for the next engagement cycle, including whether the intensity of supervision needs to be increased as a result of the assessment and what areas should be focused on.</li> <li>• The panel and the supervisor will agree to a Risk Mitigation Programme (RMP) that the licensee will be required to carry out. RMPs are implemented when an insurer's probability risk is no longer within the GFSC's risk tolerance levels. RMPs specify the outcome the Commission is seeking and the actions the firm will take to reach said outcome by particular deadlines.</li> <li>• The Board of the licensee will then be asked to agree to the RMP. Licensees will then generally respond to the Commission in advance of an agreed deadline having taken steps to implement the agreed actions. If the supervisor considers that these actions have addressed the issue satisfactorily, the supervisor will record his judgement, reassessing and lowering the probability risk. If the supervisor does not consider sufficient steps have been taken to mitigate the risk, further actions or a replacement RMP may be required by the licensee. In addition the supervisor will consider whether it is appropriate to escalate the matter through a referral to the Enforcement Division.</li> <li>• The supervisor will then monitor the completion by the insurer of the RMP and check that the actions have appropriately mitigated the risks. Where they have been mitigated, the risk assessment will be revised down. When the risks have not been mitigated the supervisor will consider what further actions need to be taken.</li> </ul> <p>For the low impact insurers, which make up the majority of the licensees, supervision is on a reactive basis with the main tools being quantitative and some qualitative key risk indicators based on returns made by the insurers, actions taken to remedy previous contraventions and thematic reviews. For reference, there are 58 low impact commercial insurers. The Commission carries out at least one insurance focused thematic review each year.</p> <p><b>Offsite Analysis:</b></p> <p>The Commission conducts off-site monitoring of insurers consistent with the framework described above. The types of routine off-site monitoring the Commission carries out includes:</p> <ul style="list-style-type: none"> <li>• Review of annual returns – This includes analysis of financial statements and solvency calculations. As noted above the Commission's approach is risk based, only returns from medium low impact and above insurers are subject to manual review, data from low impact firms is analysed automatically, with manual review carried out only if critical risk indicators are triggered.</li> <li>• Quarterly Reports of assets held in trust. Life insurers and their trustees are required to provide the Commission with a summary of the assets held in trust for the benefit of policy holders on a quarterly basis.</li> <li>• Review of changes in business plans.</li> <li>• Review and approval and consent to appointments. The Commission's consent is required for the appointment of individuals to certain positions including, director, compliance officer, MLRO, General Rep and senior manager. Insurers are also required to notify the Commission of changes to their auditor and actuary.</li> </ul>
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	<p>This is supplemented by any special information requests of insurers associated with its supervisory plan.</p> <p>Issues that arise from off-site monitoring are often recorded in PRISIM as “trriages”. This record includes a description of the issue including its source and nature, what requirement it is a breach of and the rationale for the steps the supervisor will take to resolve it. Triages can be closed without further action if the supervisor concludes that the issue is already resolved or that further action would not be appropriate,</p> <p><b>Onsite Examination:</b></p> <p>As previously mentioned, the frequency and scope of the Commission’s programme of on-site inspections is determined by the Commission’s assessment of individual insurer’s impact.</p> <p>A high impact insurer is subject to ongoing, detailed review with multiple on-site examinations scheduled through the year. As part of this annual process, the supervisory team will propose a particular area of increased focus for the following year’s review with the Commission’s senior management. .For medium-high and medium-low impact insurers, on-site inspection is less frequent. Medium high impact insurers are subject to a full FRA every 2 to 4 years, while medium-low impact insurers are subject to a FRA at least every 5 years.</p> <p>Low impact insurers are not subject to a mandatory level of on-site engagement. Instead, in addition to off-site monitoring, they may be subject to an on-site inspection as part of a thematic review. The Commission carries out at least one insurance focused thematic review each year.</p> <p>The Commission sets annual internal targets for the number of on-site inspections to be carried out in a particular year based on the number of licensed insurers and their respective impact ratings. This is combined with the number of onsites required to complete FRA targets for various impact categories referenced above.</p> <p>Once the schedule has been determined individual supervisors will set up onsites with the licensee. The Commission will then issue a formal letter under the Site Visit Ordinance setting out the dates and scope of the visit along with a list of documents and information to be submitted by the licensee ahead of the visit.</p> <p>In the Guernsey market there are broadly speaking three forms of outsourcing; captive insurers outsourcing the majority of their operations to locally licensed and regulated insurance managers, insurers outsourcing some of their compliance and AML/CFT functions to local firms of compliance consultants, IT support and insurers outsourcing certain parts of their operations to group service companies.</p> <p>When carrying out an onsite inspection, the Commission would request details of any outsourcing and review copies of the outsourcing agreements and interview the Board regarding their oversight of the outsourced functions. The Commission would also inspect the output of those service providers (management information, compliance monitoring programmes and the like) and seek to interview the providers of said outsourced services, when appropriate.</p>
<p>Assessment</p>	<p>LARGELY OBSERVED</p>

<p>Comments</p>	<p>GFSC has made a considerable investment in implementing, adapting and improving the PRISM framework which appears to meet many of the ICP standards. Further improvements should, however, be considered:</p> <ul style="list-style-type: none"> <li>• The supervisory framework could be strengthened by increasing the frequency of offsite reporting for all insurers rated as having medium low or above impact. Moving from an annual to a six-month cycle (which is currently planned) is encouraged in this regard. Consideration should also be given to regular quarterly reporting for some insurers.</li> <li>• Continuation and expansion the programme of thematic reviews would be of value particularly with respect to assessment of conduct of business risks and as a check on the large number of low impact insurers who do not receive regular onsite assessment.</li> <li>• More comprehensive assessment of insurance managers (eg moving all larger ones into medium low impact or above) would be of value given their importance to the market and as a means to enhance supervision for the large number of captive insurers in the low impact category (ie assessment of insurance managers provides insight into the insurers they manage).</li> <li>• Key risk indicators used as part of the PRISM framework should be refined and supplemented particularly with respect to conduct of business risk and qualitative aspects of insurance supervision.</li> </ul>
<p><b>ICP 10</b></p>	<p><b>Preventive and Corrective Measures</b></p> <p>The supervisor takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.</p>
<p>Description</p>	<p><b>Unauthorised Insurance Activities:</b></p> <p>Under section 1 of the IBL, it is an offence for a person to carry on, or hold themselves out as carrying on, insurance business in or from within the Bailiwick unless they are licensed by the Commission or are exempt under section 5 of IBL. The Commission is not a prosecuting authority and would refer such breaches of the law to prosecutorial authorities who would be responsible for deciding whether to bring charges.</p> <p>Under section 10 of IBL, the Commission has the power to impose a license on a person it has grounds to believe is carrying on insurance business without a license. Following the imposition of a license the GFSC would be able to make use of its supervisory and enforcement powers which are discussed below. The decision to impose a licence can be appealed to the Court system.</p> <p>The Commission also has broad powers under section 70 of IBL to investigate offences and require information and documents. The Commission may also make public announcements to ensure the public are aware of unlicensed entities purporting to provide insurance services.</p> <p>Section 76 of IBL enables the Commission to apply to the Court to obtain an injunction against a person suspected of carrying on business without a licence. The Commission can also apply to the Court to force the repayment of monies accepted in the course of carrying out unauthorised or unlawful business.</p> <p><b>Power to Take Corrective and Preventive Measures;</b></p> <p>As part of the supervisory process, remedial action is first dealt with through agreements with insurers (RMPs and triages). These are largely instruments of moral suasion where the supervisor seeks to obtain the voluntary agreement of the insurer to address perceived deficiencies in a required manner.</p>

	<p>The types of actions agreed will be specific to the particular insurer and issues to be remediated but may include:</p> <ul style="list-style-type: none"> <li>• enhancing the insurer’s controls, policies and procedures in specific areas,</li> <li>• enhancing or changing their board or governance structure or</li> <li>• reviewing a particular part of their business and remediating any issues found.</li> </ul> <p>If the Commission is not confident that the licensee can or will remediate the issues themselves it may require them to appoint a third party, at their expense, to carry out a review and then implement any recommendations.</p> <p>If the insurer is unwilling to agree to carry out the remedial actions proposed by the Commission there are a number of enforcement powers the Commission can use to compel the insurer to act (see ICP 11). These include the imposition of conditions on the insurer’s licence, requiring them to take, or stop taking, certain actions including not taking on new business.</p> <p>In the event of serious failings, or when a licensee fails to remediate an issue, the Commission has the power to issue fines, prohibit individuals from working in the finance industry, remove licences and publish public statements.</p> <p>Where there are issues regarding an insurer’s solvency the Commission also has developed and published a “Ladder of Intervention” that sets out the kind of actions the Commission may take at particular solvency trigger points, defined in relation to the Prescribed Capital Requirement and Minimum Capital Requirement. These are discussed under ICP 17.</p> <p>Risk mitigation plans are agreed to between the supervisor and an insurer’s Board and senior management. Lesser issues are usually dealt with by the supervisor and senior management. All measures are included in PRISIM and there are regular follow-up processes. Enforcement actions are also dealt with at Board and senior management levels and depending on the type of action taken.</p> <p><b>Supervisory Practice:</b></p> <p>Unauthorised activity contraventions are infrequent in Guernsey and are usually dealt with through voluntary agreement. While unauthorised activity is an offence under the IBL, there have been no successful prosecutions in recent memory.</p> <p>Similarly, the majority of issues with licensees are dealt with through supervisory means rather than enforcement powers. Where enforcement is required, the GFSC has options to escalate actions or remedial measures.</p>
<p>Assessment</p>	<p>Observed</p>
<p>Comments</p>	<p>The GFSC has the power to act against unauthorised insurance activities and pre-emptively act against licensees, but the process for dealing with serious contraventions appears to be convoluted.</p> <p>GFSC does not presently have the ability to directly order people engaged in such activities to cease and desist from undertaking them. Instead, it may impose a license on the unauthorised persons and attach conditions on the licensee that restricts it from carrying on business. It can also apply to the court for an injunction. Similarly, GFSC has wide-ranging powers to impose restrictions and conditions on licensees, should circumstances warrant, and to enforce those conditions.</p>

	<p>GFSC also does not presently have a specific authority to enter into legally enforceable undertaking agreements, though it relies heavily on voluntary agreements to remedy supervisory concerns.</p> <p>Nevertheless, GFSC legal counsel advises that, the current system has worked well and in the insurance sector has not been an impediment to taking timely pre-emptive and enforcement action. Licenses and license condition powers offer great flexibility and can be applied within a few days. These powers can be used to address inappropriate activity and to establish legally enforceable agreements. In addition, access to court is also very quick and easy, relative to many other jurisdictions and the court provides considerable deference to applications from the Supervisor.</p> <p>GFSC also advises that it is developing a new enforcement law to address enforcement issues in other regulated sectors. The new law, which will give the supervisory organisation an even broader range of enforcement tools that can be applied to insurance including:</p> <ul style="list-style-type: none"> <li>• the power to directly order people who in its opinion are committing unauthorised activity to cease and desist in that activity or to do anything that the commission considers to be necessary to remedy the situation;</li> <li>• establishing a power for the commission to enter into legally enforceable undertakings and agreements to remedy problems associated with unauthorised activity and other contraventions.</li> </ul>
<p><b>ICP 11</b></p>	<p><b>Enforcement</b></p> <p>The Supervisor enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>
<p>Description</p>	<p><b>Legal Authority:</b></p> <p>As described under ICP 10, the GFSC will generally try to address contraventions or misconduct through ordinary supervisory processes. They will endeavour to agree with the licensee to implement a remedial action plan to restore compliance as soon as possible. However, that approach is not always possible and the GFSC has a range of investigative and enforcement powers that it uses, particularly for serious or repeated breaches of the law.</p> <p>These include the following:</p> <ul style="list-style-type: none"> <li>• <i>IBL Section 12 – Conditions of insurance licensees:</i> gives the commission a broad-based authority to attach conditions to licenses when issued or any time thereafter. These include prohibiting or imposing limitations on insurance business, prohibiting the solicitation of new business, requiring the removal of an owner, officer, director, or person heading a control function.</li> <li>• <i>IBL Section 14 – Revocation of insurance Licence:</i> provides authority for the Commission to revoke a licence if licencing criteria are not being fulfilled or if the insurer director, controller, partner, manager, general representative or employee of the licensed insurer, are contravening the law.</li> <li>• <i>IBL Section 16 – Directions to licensed insurers:</i> provides an authority to the Commission to issue direction to licensees in circumstances related to license revocation, expiry or surrender of a licence.</li> <li>• <i>IBL Section 26 – Objection to existing controllers:</i> provides an authority for the Commission to object to the appointment of a controller, director, or</li> </ul>

	<p>partner or to the continuance of a controller, director or partner if they are not fit and proper.</p> <ul style="list-style-type: none"> <li>• <i>IBL Section 28A – Prohibition orders</i>: provides authority to prohibit a person who in the Commission’s opinion is not fit and proper from performing a specified function.</li> <li>• <i>IBL Section 30 – Capital resources of licensed Insurer</i>: provides authority for the Commission to prohibit, restrict or establish requirements related to the capital of an insurer.</li> <li>• <i>IBL Solvency Rules S2.1 (15) – General rules</i>: The Commission may at any time by notice in writing served on a licensed insurer, a class of licensed insurers or licensed insurers generally, modify the requirements to be used for computations of solvency;</li> <li>• <i>IBL Section 68 – Power to request and obtain information and documents</i>: Broad based authority to obtain information from licensees.</li> <li>• <i>IBL Section 69 – Investigations by Inspectors</i>: authority to appoint inspectors and conduct investigations.</li> <li>• <i>IBL Section 75</i> – The Commission can apply to court to require a person knowingly involved in a contravention to repay moneys (eg to a policyholder).</li> <li>• <i>IBL Section 76</i> – The commission can apply to court for an injunction to restrain unlawful business if there is a likelihood that a contravention will continue of be repeated.</li> <li>• <i>IBL Section 87 – Offences as to false or misleading information</i>: makes it an offence to provide false or misleading information.</li> <li>• <i>FSC Law Section 11C – Public statements</i>: provides authority for the Commission to make a public statement when it is satisfied that a licensee, former licensee or relevant officer has contravened the law or minimum criteria for licensing.</li> <li>• <i>FSC Law Section 11D – Discretionary Financial Penalties</i>: establishes the authority to impose financial penalties in respect contraventions or non-fulfilment of obligations (up to £4,000,000 for licensees or former licensees or £400,000 for personal fiduciaries).</li> <li>• <i>FSC Law Section 11I – Administrative Financial Penalties</i>: Establishes authority to issue administrative penalties for late fee payments, late financial filings and other matters specified in regulation.</li> </ul> <p>The Commission may also apply to the Royal Court for the appointment of administrators under Section 375 of the Companies Law where a licensee does not or is likely to become unable to satisfy the solvency test.</p> <p><b>Enforcement Process:</b></p> <p>GFSC has had an Enforcement Division since 2013 and has a well-developed decision-making process related to the use of enforcement powers. The process helps to ensure consistency in the way insurers and individuals are sanctioned. It also uses expert panels and individual decision makers to make enforcement decisions.</p> <p>In assessing the level of financial penalties, the Commission takes into account the public interest and the reputation of the Bailiwick as a financial centre. In addition, section 11D(2) of “The Financial Services Commission (Bailiwick of Guernsey) Law, 1987” sets out factors which the Commission must also take</p>
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	<p>into account in deciding whether or not to impose a financial penalty and the amount of such penalty including:</p> <ul style="list-style-type: none"> <li>• whether the contravention or non-fulfilment was brought to the attention of the Commission by the person concerned;</li> <li>• the seriousness of the contravention or non-fulfilment;</li> <li>• whether or not the contravention or non-fulfilment was inadvertent;</li> <li>• what efforts, if any, have been made to rectify the contravention or non-fulfilment and to prevent a recurrence;</li> <li>• the potential financial consequences to the person concerned, and to third parties including customers and creditors of that person, of imposing a penalty; and</li> <li>• the penalties imposed by the Commission in other cases.</li> </ul> <p>The forthcoming Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2017 will enable the Commission to apply to the Royal Court for an administration management order if a regulated entity is engaged in undue risk to customers or potential customers. This will add to existing powers to appoint an administrator in solvency situations.</p> <p><b>Appeal Process:</b></p> <p>Statutory rights of appeal exist where the Commission does not act reasonably, proportionately and within its powers.</p> <p><b>Enforcement follow-up:</b></p> <p>Where conditions have been imposed on a licensee, the supervisory team will monitor them in a manner similar to RMP requirements to ensure that the insurer complies with the conditions and any deadlines that are imposed. If sanctions, such as a financial penalty or prohibition have been imposed they would be also be monitored by the enforcement division in a similar manner.</p>
Assessment	Largely Observed
Comments	<p>Although the GFSC has the authority to deal with many contraventions, consideration should be given to increasing the range of legislative tools available for enforcement to ensure that the interests of policy holders and beneficiaries can be protected in a more timely and expeditious manner.</p> <p>It is particularly important that the supervisor have the power to appoint an administrator in situations where a licensee is pursuing an inappropriately risky course of conduct as well as in solvency situations. GFSC is encouraged to complete its work on a new enforcement law as soon as possible.</p>
ICP 12	<p><b>Winding-up and Exit from the Market</b></p> <p>The legislation defines a range of options for the exit of insurance legal entities from the market. It defines insolvency and establishes the criteria and procedure for dealing with insolvency of insurance legal entities. In the event of winding-up proceedings of insurance legal entities, the legal framework gives priority to the protection of policyholders and aims at minimising disruption to provision of benefits to policyholders.</p>

<p>Description</p>	<p>Guernsey’s legislative regime includes a number of ways by which an insurer may exit the market. The main ones are:</p> <ul style="list-style-type: none"> <li>• Surrender of Licence</li> <li>• Transfer of Business</li> <li>• Administration</li> <li>• Voluntary Winding-Up</li> <li>• Compulsory Winding-Up</li> </ul> <p>As part of an orderly exit from the market, insurers are required pursuant to the IBL to ensure that all insurance liabilities are extinguished prior to surrendering their insurance licence. The Commission must be notified when a licensed insurer elects to be voluntarily wound-up. The IBL also provides that the Commission may apply for the compulsory winding-up of an insurer in accordance with Companies Law under a number of circumstances.</p> <p><b>Legal Framework:</b></p> <p>The procedures for insolvency, namely voluntary and compulsory wind-up, and administration are included within Companies Law. Transfer of business and insurance-specific matters are included within the IBL. These provisions also apply to the cells of Protected Cell Companies and the incorporated cells of Incorporated Cell Companies, where assets are separated within legally distinct cells.</p> <p>Insurers carrying on long-term business are subject to some specific requirements contained within the IBL. Insurers carrying out long term business are not able to voluntarily wind-up with the aim of transferring the business as a going concern. They are also required to ring-fence assets attributable to their long-term business in a separate fund, which is held segregated under a trust arrangement and must at all times contain assets representing at least 90% of policyholder liabilities. This is intended to insulate assets associated with the majority of policyholder liabilities of long-term business from the claims of other creditors.</p> <p>Insolvency is defined within the law, with Companies Law outlining a general solvency test. The IBL provides more specific solvency requirements relating to insurers, which are in turn further detailed within The IBL Solvency Rules.</p> <p><b>Priority of Policyholders:</b></p> <p>The legal priority to policyholders is a key element of ICP 12.</p> <p>Guernsey legislation does not contain an explicit legal provision to ensure that policyholders and beneficiaries are given high priority in the event of an insurer insolvency.</p> <p>While long term insurers are required to ring-fence assets in a separate fund held in a trust arrangement, in the event of an insolvency the IBL is silent on how policyholders and beneficiaries would rank higher relative to other unsecured creditors if assets of a segregated fund are insufficient to meet all the liabilities of an insurer.</p> <p>Similarly, the policy holders of general insurers, who are not protected by similar arrangements, are not given high legal priority.</p> <p><b>Specification of a Winding-Up Point:</b></p> <p>The determination of the point of insolvency is outlined in general terms in the Companies Law, where section 407 of that law states a company is considered insolvent where it fails to satisfy the solvency test as set out in the law.</p> <p>Pursuant to section 527 of Companies Law, the solvency test is satisfied where:</p>
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	<ul style="list-style-type: none"> <li>• The company is able to pay its debts as they become due;</li> <li>• The value of the company's assets are greater than the value of its liabilities; and</li> <li>• In the case of a supervised company, that the company satisfies any other solvency requirements imposed in relation to it.</li> </ul> <p>In the case of insurance, specific solvency requirements are established in the IBL and the IBL solvency rules. Pursuant to section 51 of the IBL, a licensed insurer carrying on general business that is a Guernsey company shall be deemed unable to pay its debts for the purposes of Companies Law, if it at any time it does not comply with the capital resource requirements applicable to it by virtue of rules of the Commission.</p> <p>Nevertheless, while the point of insolvency may be defined, it is less clear that this is the determination point where an insurer is no longer permitted to carry on business as required under ICP12.2.</p> <p>Pursuant to subsection 51(3) of the IBL the Royal Court may, whether to protect the interests of the public, policyholders or potential policyholders, decline to make a winding-up order where a company does not meet the capital resource requirements of the Commission's rules if it is satisfied it would not be reasonable or expedient to make such an order, and may instead make an alternative order.</p> <p>GFSC officials advise that while the court may be the final decision maker regarding the decision to liquidate an insurer, no insurer would be allowed to continue to in business once it falls below the MCR. In such circumstances the licence would be amended to ensure no further business would be permitted without GFSC approval</p>
<p>Assessment</p>	<p>Partly Observed</p>
<p>Comments</p>	<p>To safeguard policyholders' interests, Government should consider establishing an explicit legal provision in legislation to ensure that retail policyholders and beneficiaries are given high priority in the event of insolvency.</p>
<p><b>ICP 13</b></p>	<p><b>Reinsurance and Other Forms of Risk Transfer</b></p> <p>The supervisor sets standards for the use of reinsurance and other forms of risk transfer, ensuring that insurers adequately control and transparently report their risk transfer programmes. The supervisor considers the nature of reinsurance business when supervising reinsurers based in its jurisdiction.</p>
<p>Description</p>	<p><b>General Approach</b></p> <p>Section 1.3 of The Insurance Business (Licensing) Regulations require insurers who apply for licenses to submit a business plan. As part of the business plan the applicant must include:</p> <ul style="list-style-type: none"> <li>• A description of the nature of the risks which the applicant intends to write (S.1.3.2).</li> <li>• An explanation of the applicant's strategy for managing risks associated with carrying on insurance business, particularly in relation to reinsurance (S.1.3.3).</li> <li>• A narrative, consistent with the business plan, outlining exposures to be underwritten, reinsurance to be obtained and the dividend policy to be pursued (S.1.3.9).</li> </ul>

	<ul style="list-style-type: none"> <li>• A summary of the reinsurance programme detailing:             <ul style="list-style-type: none"> <li>○ 1.3.10.1 - reinsurers;</li> <li>○ 1.3.10.2 - security ratings;</li> <li>○ 1.3.10.3 - attachment points.</li> </ul> </li> </ul> <p>This information is considered by GFSC Authorisations Unit as part of the insurers overall business model and strategy at the application stage.</p> <p>GFSC's expectations regarding reinsurance are set out in a guidance note entitled Guidance Note for Licenced Insurers on Reinsurance and Other Forms of Risk Transfer. Schedule 7 of the IBL (Minimum Criteria for Licencing) requires that applicants and licensees act in accordance with any rules, codes, guidance, principles and instructions issued under the law.</p> <p>If the application is approved, insurers are required to update their business plan, including details of reinsurance on an annual basis. The Annual Return Regulation contains reporting requirements for the reinsurance programme including the extent to which insurers are reliant upon reinsurers. These include:</p> <ul style="list-style-type: none"> <li>• a summary of the reinsurance programme detailing the reinsurers' security ratings and attachment points, and</li> <li>• a declaration of reliance on reinsurers form - this is a form completed and signed by insurers with reinsurance arrangements in place or where receivables from previous reinsurance arrangements remain outstanding. Where the aggregate receivable from a reinsurer at the licensee's financial year end, exceeds 10% of shareholders' funds, then the details of that reinsurer must be provided.</li> </ul> <p>GFSC's Supervision team reviews the insurer's business model and strategy, including the use of reinsurance, when assessing the overall risk profile of the insurer. This will be done as part of the Full Risk Assessment performed periodically for actively supervised firms. For other insurers a significant change in the reinsurance programme would constitute a change of business plan which is required to be notified to the Commission and would be reviewed by the supervisory team at that time.</p> <p><b>Reinsurance Strategy:</b></p> <p>The framework outlined above requires cedants to have a clear and detailed reinsurance strategy which is endorsed by the Board as part of the insurer's overall strategic and capital management plan. The primary responsibility for adhering to it rests with the insurance company's Board but GFSC monitors the strategy through its supervisory programmes including the impact of planned risk transfers.</p> <p><b>Effective Internal Controls:</b></p> <p>The Corporate Governance Code requires the insurer's board to have appropriate policies and procedures, as well as oversight of effective risk management and internal control systems. It is required that their effectiveness be reviewed annually. This includes controls over the reinsurance programme.</p> <p>As noted above, the Commission has issued guidance on its expectations for the oversight of reinsurance programmes. The guidance is moderately detailed and extends from the establishment of objectives to ensuring adequate controls over documentation of coverage terms and conditions of reinsurance contracts. It also includes expectations regarding the impact of the reinsurance programme on liquidity management.</p> <p><b>Consideration of Reinsurer's Home Supervisors:</b></p>
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Assessment	Observed
Comments	It is recommended that while alternative risk transfer is not presently utilised by Guernsey insurers to access reinsurance, GFSC consider developing requirements to ensure appropriate use of such arrangements as the market develops (eg requirement for prior approval).
<b>ICP 14</b>	<p><b>Valuation</b></p> <p>The supervisor establishes requirements for the valuation of assets and liabilities for solvency purposes.</p>
Description	<p><b>Current Valuation Requirements:</b></p> <p>Pursuant to paragraph 182, Part 6 of the IBL Solvency Rules, licensed insurers, in preparing the regulatory balance sheet, are required to value assets and liabilities using recognised accounting standards approved by the Commission.</p> <p>Guernsey does not have its own Accounting standards. Schedule 1 of the IBL Solvency Rules states that the following accounting standards are approved by the Commission:</p> <ul style="list-style-type: none"> <li>• International Financial Reporting Standards (“IFRS”);</li> <li>• United Kingdom Generally Accepted Accounting Practice (“UK GAAP”), including Financial Reporting Standard 102, the financial reporting standard applicable in the UK and Republic of Ireland (“FRS 102”) and Financial Reporting Standard 103, Insurance Contracts (“FRS 103”); and</li> <li>• United States Generally Accepted Accounting Practice (“US GAAP”).</li> </ul> <p><b>Valuation of Assets and Liabilities:</b></p>

	<p>The Commission has not explicitly specified criteria for the recognition, derecognition and measurement of assets and liabilities. The recognition and measurement criteria for assets and liabilities must, however, be in accordance with the accounting standards chosen by the insurer from the options specified under the IBL Solvency Rules (schedule 1).</p> <p>IFRS, FRS 102 and US GAAP all address recognition, derecognition and measurement for assets and liabilities. Other assets and liabilities, including financial instruments, are also accounted for on a consistent basis.</p> <p>Similarly, there is consistency in approach where insurers stick with the same recognised accounting standard over time. There is also some transparency as financial statements are required to be publicly available and must specify the valuation basis used in their preparation. In addition, financial statements are subject to an independent external audit, pursuant to Section 36 and Schedule 3 of the IBL. Nevertheless, to the extent that different licensed insurers use different recognised accounting standards, comparability between insurers may be impaired.</p> <p>Insurers are required to apply “basis adjustments” to try and ensure that the valuation of assets and liabilities (for both on and off-balance sheet items) is an economic valuation for regulatory purposes. These adjustments are described in Part 6 of the IBL Solvency Rules. Paragraph 184 of Part 6 of the IBL Solvency rules defines an “economic valuation” as one where the resulting assessment of the insurer’s financial position is not obscured by hidden or inherent conservatism or optimism.</p> <p>There is no requirement that valuation of assets and liabilities reflect the risk adjusted present value of their cash flows. For some insurers, particularly those from Europe who apply the Solvency II standard formula, this will be the case. For others, many insurance captives with short tail general insurance exposure, for example, it will not.</p> <p><b>Technical Provision Requirements:</b></p> <p>Consistent with ICP 14.6, Section 185 (d) of the IBL Solvency Rules require that financial liabilities not be adjusted in value to take account of the own credit standing of the licensed insurer.</p> <p>There is no similar requirement, however, that technical provisions include a Margin Over Current Estimate (MOCE) and the IBL Solvency Rules currently do not include any explicit requirement related to the calculation of a current estimate for insurance provisions (ICP 14.7, 14.8 and 14.9).</p> <p>Moreover, the IBL Solvency Rules currently do not specify that technical provisions take account of the time value of money, nor the discount rate that should be used to calculate the present value of future cash flows for insurance obligations.</p> <p>The requirements also do not currently specify that technical provisions include an explicit requirement with respect to embedded options and guarantees. The recognised accounting standards do, however, specify requirements for the accounting treatment to be applied to embedded options, guarantees and discretionary participation features in the calculation of technical provisions. Also, section 40 of the IBL requires insurers carrying out long term business to appoint an actuary. Section 41 of the IBL requires that a report into the financial condition of the long-term insurer in accordance with the Actuarial Valuation Guidance Note published by the Commission. The actuarial valuation would take reserving for embedded options and guarantees into account.</p>
Assessment	Partly Observed

Comments	It is recommended that GFSC develop a plan to incrementally move towards higher level of compliance with the ICP standards over time. Such a plan might include movement to either IFRS, US GAPP or UK accounting standards and specification of more explicit technical provision requirements for supervisory purposes.
ICP 15	<p><b>Investment</b></p> <p>The supervisor establishes requirements for solvency purposes on the investment activities of insurers in order to address the risks faced by insurers.</p>
Description	<p>The IBL Solvency Rules establish requirements applicable to the investment activities of licensed insurers. These rules require a licensed insurer to put in place an investment policy and establish risk management procedures for investments. A number of specific requirements are established in relation to the risk profile of the investment portfolio and the appropriateness of the investment strategy to the insurance business. Specific restrictions are also placed on certain higher risk investments.</p> <ul style="list-style-type: none"> <li>• Under section 190, an insurer must establish an investment policy which specifies the nature, role and extent of its investment activities, establishes explicit risk management procedures with regard to more complex and less transparent classes of asset and investment in markets or instruments that are subject to less governance or regulation. It must also specify how the insurer will comply with other requirements set out in Part 7.</li> <li>• Investment objectives and requirements are open and transparent. They are published in the IBL Solvency Rules and are publicly available. They include requirements that insurers:             <ul style="list-style-type: none"> <li>○ hold assets securely (section 187);</li> <li>○ maintain adequate liquidity (section 187);</li> <li>○ sufficiently diversify (section 187);</li> <li>○ only invest in assets whose risks it can properly assess and manage (section 189); and</li> <li>○ invest in a manner appropriate to the nature of the insurer’s liabilities (section 188).</li> </ul> </li> <li>• Section 11 of the IBL places a general restriction on trading in derivatives by licensed insurers, without the prior written consent of the Commission, except in accordance with relevant provisions of rules of the Commission. Moreover, the IBL Solvency Rules prohibit investment in the following classes of instrument, without the Commission’s formal consent:             <ul style="list-style-type: none"> <li>○ derivative contracts, or schemes resulting in an equivalent arrangement, in whatever form they take, other than certain exchange traded derivative contracts and forward foreign exchange hedging transactions; and</li> <li>○ any asset under lien securing any derivative contract or other such encumbrance (except to the extent that it is securing an obligation of the licensed insurer under an insurance contract).</li> </ul> </li> </ul> <p>In practice, most Guernsey general insurers are conservatively invested in cash and other highly liquid investments. Similarly, long-term insurers retain a limited amount of market risk on their balance sheets with investment portfolios primarily matched to policy liabilities.</p> <p>The Commission generally assesses the risks associated with an individual insurer’s investment strategy through its Full Risk Assessment process, which</p>

	<p>includes assessment of asset quality as part of the Financial Risk Review, and through regulatory return analysis.</p> <p>Regulatory return analysis is conducted for all insurers with impact rating of Medium Low and higher. Low impact insurer return analysis is prompted by Key Risk Indicator movement triggers eg if the PCR falls below the relevant trigger point (which may be as a result of a change in market risk) then an automatic alert will be raised.</p>
Assessment	Observed
Comments	None
<b>ICP 16</b>	<p><b>Enterprise Risk Management for Solvency Purposes</b></p> <p>The supervisor establishes enterprise risk management requirements for solvency purposes that require insurers to address all relevant and material risks.</p>
Description	<p><b>Regulatory Framework:</b></p> <p>GFSC has established enterprise risk management requirements for solvency purposes in Part 8 of the IBL Solvency Rules. The Solvency Rules were brought into force in 2015. Schedule 7 of the IBL (Minimum Criteria for Licencing) requires that applicants and licensees act in accordance with any rules, codes, guidance, principles and instructions issued under the law.</p> <p>Section 194 requires a licensed insurer to establish and maintain a risk management framework that is appropriate to the nature, scale and complexity of the business. The risk management framework is defined as the totality of the systems, structures, policies, processes and people that identify, assess, mitigate and monitor all internal and external sources of risk that could have a material impact on the insurer.</p> <p>Section 195 requires an insurer’s risk management framework to:</p> <ul style="list-style-type: none"> <li>• provide for the identification and quantification of material risks under a sufficiently wide range of outcomes using techniques which are appropriate to the nature, scale and complexity of the risks it bears;</li> <li>• include a risk management policy;</li> <li>• be supported by accurate documentation;</li> <li>• be responsive to changes in its risk profile; and</li> <li>• incorporate a feedback loop, based on appropriate and good quality information, management processes and objective assessment, which enables it to take the necessary action in a timely manner in response to changes in its risk profile.</li> </ul> <p>Section 196 requires a licensed insurer to establish and maintain a risk tolerance statement. The statement sets out its overall quantitative and qualitative risk tolerance levels and defines its risk tolerance limits considering all relevant and material categories of risk and the relationships between them.</p> <p>Section 197 requires that a licensed insurer’s risk management policy:</p> <ul style="list-style-type: none"> <li>• describe how all relevant and material categories of risk are managed, both in the licensed insurer’s business strategy and its day-to-day operations;</li> </ul>

	<ul style="list-style-type: none"> <li>• describe the relationship between the licensed insurer’s tolerance limits, regulatory capital requirements, economic capital and the processes and methods for monitoring risk; and</li> <li>• include explicit policies in relation to underwriting risk, investment and asset liability management.</li> </ul> <p>These sections appear to be consistent with the requirements of ICP 16.1-16.10.</p> <p><b>Own Risk Solvency Assessment:</b></p> <p>The IBL Solvency rules also address requirements for an insurer to perform an Own Risk and Solvency Assessment. Section 198 defines an ORSA as being comprised of:</p> <ul style="list-style-type: none"> <li>• the licensed insurer’s own assessment and calculation of its solvency requirements (an Own Solvency Capital Assessment or OSCA);</li> <li>• the licensed insurer’s assessment of risk management; and</li> <li>• the licensed insurer’s assessment of the adequacy of capital resources to meet future capital requirements.</li> </ul> <p>Pursuant to Section 200 some insurers are not required to prepare an ORSA. These include:</p> <ul style="list-style-type: none"> <li>• Special purpose insurer (these are specifically defined under the regulations. They are fully funded entities that are at all times able to pay any amounts they are liable for as they fall due);</li> <li>• A dormant insurer with no outstanding liabilities;</li> <li>• Other insurers specifically notified by the GFSC.</li> </ul> <p>Pursuant Section 201, some insurers are only required to perform an OSCA (a limited scope ORSA). These include:</p> <ul style="list-style-type: none"> <li>• Smaller Commercial Life Insurers (eg those writing less than £25 million in gross premiums);</li> <li>• Commercial Life Reinsurers;</li> <li>• Commercial General Insurers writing solely domestic business with annual gross written premium income below £5 million;</li> <li>• Commercial General Reinsurers;</li> <li>• Captive Reinsurers; and</li> <li>• Protected Cell Companies engaged in insurance business.</li> </ul> <p>Section 203 of the IBL Solvency Rules requires a licensed insurer to consider all reasonably foreseeable and relevant material risks including underwriting risk, credit risk, market risk, operational risk, liquidity risk, and additional risks arising from being a member of a group.</p> <p>Section 204 requires the ORSA to be properly documented and Section 205 requires that as part of its ORSA, a licensed insurer is required to:</p> <ul style="list-style-type: none"> <li>• identify the relationship between its risk management and the level and quality of financial resources needed and available;</li> <li>• determine the overall financial resources it needs to manage its business given its own risk tolerance and business plans, and to demonstrate that supervisory requirements are met;</li> <li>• base its risk management actions on consideration of its ORSA;</li> <li>• assess the quality and adequacy of its capital resources to meet its future regulatory capital requirements and any additional capital needs; and</li> </ul>
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	<ul style="list-style-type: none"> <li>analyse its ability to continue in business, and the risk management and financial resources required to do so over its planning horizon, which is expected to exceed one-year.</li> </ul> <p>GFSC has prepared a Guidance note on ORSA. The note requires the ORSA to be approved by the insurers Board on at least an Annual Basis and to be submitted as part of the insurer’s annual filings.</p> <p><b>Supervisory Practice:</b></p> <p>The Commission receives the ORSA as part of the Annual Return filing process and analyses the ORSA as part of the PRISM full risk assessment process.</p> <p>In total, approximately 18 insurers are required to complete a full ORSA each year. Approximately 280 are required to complete an OSCA and 60 licensed insurers are exempt from the ORSA requirements.</p> <p>Insurers who are required to prepare an OSCA need not relate capital adequacy to the risk management framework or include a continuity analysis considering the ability to meet capital requirements over the medium to long term. As a result, these insurers cannot be seen as fully meeting the requirements of ICP 16.11, 16.14, 16.15.</p>
Assessment	Largely Observed
Comments	<p>The ORSA framework is relatively new and its requirements are currently being implemented. It will be at least 2019 before GFSC can fully determine whether implementation is successful.</p> <p>In future, consideration should be given to expanding ORSA to some of the insurers who currently are only required to complete an OSCA.</p>
<b>ICP 17</b>	<p><b>Capital Adequacy</b></p> <p>The supervisor establishes capital adequacy requirements for solvency purposes so that insurers can absorb significant unforeseen losses and to provide for degrees of supervisory intervention.</p>
Description	<p>Schedule 7 of the IBL establishes prudent conduct of business as a minimum criterion for licensing. Schedule 7 states that a licensee shall not be regarded as conducting its business in a prudent manner unless it maintains a capital base of an amount which the Commission considers appropriate.</p> <p>Section 30 of the IBL places a requirement on licensed insurers to maintain capital resources in accordance with Commission rules established under Sections 38A to 38C of the IBL. The IBL Solvency rules establish the detailed capital adequacy requirements for licensed insurers, including the calculation of a Prescribed Capital Requirement (“PCR”) and a Minimum Capital Requirement (“MCR”).</p> <p><b>Prescribed Capital Requirement:</b></p> <p>The IBL Solvency Rules require a licensed insurer to hold regulatory capital equal to or greater than its PCR. The PCR is the estimated capital required to ensure that a licensed insurer can meet its obligations over the next 12 months with a high level of probability. The level of probability depends on the class of insurer with Commercial insurers required to meet the highest level of</p>

	<p>probability (99.5 percent), and captive insurers required to meet the lowest level of probability (90 percent).</p> <p>The PCR may be calculated either by:</p> <ul style="list-style-type: none"> <li>• applying the ‘Guernsey standard formula’; or</li> <li>• applying a ‘recognised standard formula’; or</li> <li>• using an approved internal model developed by the insurer to reflect the circumstances of its business; or</li> <li>• using an approved partial internal model in combination with the first two methods noted above.</li> </ul> <p><b>Guernsey Standard Formula:</b> The formula for the PCR is described in Section 57 -114 of the IBL Solvency Rules. It is a risk-based solvency calculation that recognises many relevant material risks on an insurer’s overall financial position. The standard formula for general business considers market risk, counterparty default risk, premium risk and reserve risk. The standard formula for life business considers market risk, counterparty default risk and underwriting risk.</p> <p>The Guernsey PCR standard formula makes allowance for the risk mitigating effect of reinsurance but there is corresponding recognition of counterparty default risk arising from such arrangements.</p> <p>The standard formula does not address operational risk or liquidity risk. There is an expectation that these, and additional risks which may be difficult to quantify, will be addressed in the insurer’s ORSA.</p> <p>Capital available for the PCR includes:</p> <ul style="list-style-type: none"> <li>• the difference between assets and liabilities on the basis of their determination in accordance with Recognised Accounting Standards chosen by the insurer; plus</li> <li>• the value of any basis adjustment; less</li> <li>• the value of any regulatory adjustment determined by the Commission.</li> </ul> <p>Basis adjustments are described in Section 185 and include recognition of off-balance sheet derivative asset and liability exposures; contingent liabilities; adjustments to ensure that financial liabilities do not reflect own credit standing and reduction of the value of intangible assets to zero. The Commission has authority to make further adjustments should circumstances warrant.</p> <p><b>Recognised Standard Formula:</b> A licensed insurer may use the standard solvency formula from some other countries to calculate its PCR instead of the Guernsey standard formula without the prior written approval of the Commission. A list of countries with recognised standard formula is provided in Schedule 4 of the IBL Solvency Rules. These countries include: Canada, Australia, EU countries, Japan, Switzerland and Bermuda. A licensed insurer may use a standard formula from another country with the prior written approval of the Commission.</p> <p><b>Internal Models:</b> The PCR may be calculated using either a partial or full internal model subject to the prior written approval of the Commission. To obtain prior written approval the Commission must be satisfied that the model is well designed, the analysis and assumptions used are sound, and that the results of applying the model are reasonable from a prudential viewpoint. The criteria to obtain and retain Commission approval are described in detail in the IBL Solvency Rules.</p>
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	<p><b>Minimum Capital Requirement:</b></p> <p>The IBL Solvency rules also establish the MCR. The MCR is intended to ensure that the licensed insurer is able to meet its obligations over the next 12 months with an 85% probability. For general insurers the MCR is similar to a Solvency I style formula. Insurers must hold the higher of:</p> <ul style="list-style-type: none"> <li>• 12% of gross written premiums during the previous financial year, net of premium taxes, rebates, refunds, and commissions accrued by the licensed insurer, and gross reinsurance premiums;</li> <li>• 12% of the value of claims reserves and premium reserves, net of reinsurance and amounts reserved to maximum; and</li> <li>• the Capital Floor.(The Capital Floor is a nominal minimum bound equal to £100,000 for a licensed insurer carrying on general business and at £250,000 for a licensed insurer carrying on long term business).</li> </ul> <p>The MCR of a licensed insurer writing life business is the higher of:</p> <ul style="list-style-type: none"> <li>• 2.5% of total reserves, net of reinsurance; and</li> <li>• The Capital Floor.</li> </ul> <p>The IBL Solvency rules define the capital resources available to meet the MCR as the sum of the regulatory capital resources available to meet the PCR with further adjustments including deduction of:</p> <ul style="list-style-type: none"> <li>• the value of revocable 2 letters of credit;</li> <li>• the value of issued but uncalled capital;</li> <li>• the value of any other off-balance sheet assets; and</li> <li>• the value of any regulatory adjustment determined by the Commission.</li> </ul> <p>Under no circumstances can an insurers PCR be lower than its MCR.</p> <p><b>Ladder of Intervention:</b></p> <p>A Ladder of Intervention Guidance note outlines the level of supervisory intervention that can be expected as solvency levels in an insurer deteriorate:</p> <ul style="list-style-type: none"> <li>• Guernsey’s classifies insurers having “Normal Operations”, as those where capital resources are greater than 105% of the PCR. These insurers are subject to standard supervision. (Although where the Commission becomes aware that an insurer is likely to fall below the 105% PCR level earlier action could be taken).</li> <li>• Where an insurer’s capital resources are between 100% and 105% of the PCR they are regarded as being in an “Early Warning” state. During this state the Commission will discuss the concerns with the insurer, request measures to rectify the situation and monitor remedial actions.</li> <li>• Where capital resources fall below 100% of the PCR, a risk to financial viability or solvency is identified and the Commission will take stronger intervention action. The Commission will increase risk dialogue with the insurer with the objective of mitigating the increased risk, the insurer will be formally notified of concerns and will be required to submit and implement a recovery plan.</li> <li>• Other actions will also be considered including:             <ul style="list-style-type: none"> <li>○ The scope of on-site examination and/or frequency of on-site examinations may be enlarged or increased.</li> <li>○ An external party (inspector) or actuary may be required to perform a particular examination at the insurer’s expense.</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>○ The Commission may require adjustments to the Licensee's actuarial methods and assumptions.</li> <li>○ Business restrictions may be imposed or conditions imposed on the insurer's licence such as restrictions on new business or investments.</li> <li>○ The status of the insurer may be discussed with other relevant regulatory bodies.</li> </ul> <ul style="list-style-type: none"> <li>● The GFSC maintains a regulatory "watchlist" to closely monitor such companies until they have been rehabilitated.</li> </ul> <p>Where the capital resources are between the MCR and 50% of the PCR the future financial viability of the insurer is deemed to be in serious doubt. The Commission may enhance measures previously taken where applicable and/or initiate further actions including removal and replacement of Directors, Officers or Controllers. The Commission will also develop a contingency plan for liquidation of the institution if necessary.</p>
<p>Assessment</p>	<p>Largely Observed</p>
<p>Comments</p>	<p>The Guernsey Framework reflects a high level of adherence to ICP 17 standards; however, there are a few perceived differences including:</p> <ul style="list-style-type: none"> <li>● The capital adequacy requirements outlined in the PCR address a great many relevant risks but do not address all the major risks that are likely to affect the value of assets and liabilities (ie operational risk).</li> <li>● The approach to determining capital resources eligible to meet regulatory requirements is not totally consistent with requirements that the supervisor establish criteria for assessing the quality and suitability of capital resources having regard to their ability to absorb losses on both a going concern and wind-up basis. No distinction is made in the calculation of regulatory capital with respect to going and gone concern capital.</li> <li>● While the IBL Solvency Rules establish requirements for acceptance of internal models, these requirements remain untested as to date, no insurer has sought or received the approval of the Commission for the use of such models.</li> </ul> <p>It is recommended that consideration be given to inclusion of operational risk in the Guernsey standard PCR formula.</p>
<p><b>ICP 18</b></p>	<p><b>Intermediaries</b></p> <p>The supervisor sets and enforces requirements for the conduct of insurance intermediaries, to ensure that they conduct business in a professional and transparent manner.</p>
<p>Description</p>	<p><b>Licensing Requirements and Ongoing Supervisory Review:</b></p> <p>Section 2 of the Insurance Managers and Intermediaries Law (IMIL) prohibits a person from acting as an intermediary or professing to carry on the business of an intermediary unless the person is licensed.</p> <p>An insurance intermediary is defined under Section 2(4) as a person other than an insurance representative who by way of business:</p> <ul style="list-style-type: none"> <li>● advises clients on their insurance requirements, and/or</li> </ul>

	<ul style="list-style-type: none"> <li>• arranges contracts of insurance between insurers and clients.</li> </ul> <p>An insurance representative is defined as an individual who acts on behalf of, and under a contract of agency or employment with, an insurer or insurance intermediary, for the purpose of arranging contracts of insurance for clients and giving advice to those clients. Under Section 15 of the IMIL, Insurance Representatives must be authorised by an intermediary, an insurer or a licensed insurance manager.</p> <p>Section 2(4) provides for certain exemptions to the licensing requirements including:</p> <ul style="list-style-type: none"> <li>• a person whose business as an insurance intermediary is incidental to some other business and is confined to the insurance of goods or services sold by that person;</li> <li>• the sale of a policy of insurance as part of a contract to provide goods or services; and</li> <li>• such other activities as may be specified by the Commission by regulations.</li> </ul> <p>The IMIL Licencing regulation specifically exempts persons engaged in the following activities from licensing:</p> <ul style="list-style-type: none"> <li>• those selling extended warranty insurance product where that product is sold as part of an exclusive arrangement originated by the product manufacturer and in conjunction with the purchase by the insured of goods;</li> <li>• those selling of a travel insurance product where that product is sold as part of an exclusive arrangement originated by the tour operator and in conjunction with the purchase by the insured of a holiday package arrangement, either directly or through a travel agent; and</li> <li>• Those selling credit protection insurance where such insurance is sold unconditionally as part of an agreement when providing loan or overdraft facilities, other than mortgage protection, where the provider is not promoting any other insurance service to its customer base.</li> </ul> <p>Intermediary licences have perpetual terms and may be revoked by the GFSC or surrendered by the licensee. The minimum criteria for licensing are set out in Schedule 4 to the IMIL. In addition, a Code of Practice for Insurance Intermediary Applicants and Licensees Conducting Business from within the Bailiwick of Guernsey, identifies factors which are taken into account by the Commission in respect of the licensing decisions and ongoing responsibilities of insurance intermediaries.</p> <p>The minimum criteria for licensing are set out in Schedule 4 of the IMIL. They include requirements for prudence and integrity as well as professional skill. Licensee and applicants must also be fit and proper and adhere to any codes, rules and guidance issued by the GFSC. Licensees must maintain professional indemnity cover and Intermediary businesses must also meet minimum governance requirements and file an annual return.</p> <p>The annual return document must include:</p> <ul style="list-style-type: none"> <li>• audited financial statements and an auditors letter and an internal audit report;</li> <li>• an up-to-date list of all authorised insurance representatives working for the intermediary, together with details of current qualifications;</li> <li>• a copy of the cover note evidencing renewal of professional indemnity;</li> <li>• a statement of all insurers with whom the intermediary has placed business in the financial year in question;</li> <li>• an up-to-date business plan including both financial projections (eg cash-flow forecast) and narrative explanation;</li> </ul>
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	<ul style="list-style-type: none"> <li>• confirmation that all material changes to personal questionnaire forms have been notified to the Commission;</li> <li>• details of all overseas regulatory licenses, authorisations or permissions indicating the issuing authority and the date of issuance;</li> <li>• details of any third-party arrangements entered into for the outsourcing of business or the administration of activities;</li> <li>• details of premium and turnover split by product type and geographical location of clients;</li> <li>• confirmation of compliance throughout the period covered by the annual return with the Law and any subordinate. Legislation made under it, all applicable Conduct of Business Rules and Codes issued under the Law, and with any condition placed on the intermediary's license.</li> </ul> <p>Annual returns are submitted by licensees using the Commission's online portal, with supervisors receiving alerts on items which may be of concern to the Commission, for example, if the licensee's financial statements contain a qualified audit report, if it is failing to meet its capital requirement, or if the declaration indicates non-compliance. Supervisors will consider each alert and engage with the licensee where appropriate. The supervisor will record how each alert has been addressed via a triage. This information can then be extracted on a licensee, sector or commission-wide basis to aid supervision.</p> <p>GFSC supervisory framework in this respect is largely reactive but includes the use of thematic reviews to examine areas of particular concern across licensees.</p> <p><b>Levels of Professional Knowledge and Experience:</b></p> <p>Section 3(1) of Schedule 4 to the IMIL requires every person who is, or is to be, a director, controller, partner, manager or 'authorised insurance representative' of the applicant for a licence or a licensee to be a fit and proper person. Section 3(2) specifies that in determining if a person is fit and proper, regard shall be had, amongst other items, to that person's probity, competence, experience, educational and professional qualifications, membership of professional bodies and any evidence of continuing professional education or development.</p> <p>The Code of Practice clarifies the Commission's interpretation that "fit and proper" embraces honesty, competency and solvency and its expectation that directors and employees meet a high rather than a minimum standard. Rule 3.5 of the Insurance Intermediaries (Conduct of Business) Rules 2014 require a licensee to create and implement a training and competency scheme for all authorised insurance representatives and financial advisers appropriate to the nature and scale of the licensee's business. In meeting the requirements of this rule the licensees adhere to a Guidance Note on Training and Competency Schemes issued by the Commission.</p> <p><b>Intermediary Governance:</b></p> <p>Licensees are required to act in accordance with the Principles of Conduct of Finance Business and any guidance or standards issued by a body recognised by the Commission relating to insurance and regulation. In addition, the Commission has issued the Finance Sector Code of Corporate Governance (see ICP 7) which is applicable to insurance intermediaries under Section 55 of the IMIL. Although appendix 3 of this code is specific to licensed insurers, insurance intermediaries are subject to the body of the Code as well.</p> <p><b>Disclosure of Information to Customers:</b></p> <p>Requirements for disclosure of information to customers are set out in the Insurance Intermediaries (Code of Business) Rules 2014. The rules require that before a licensee provides insurance intermediary services to a client, it must</p>
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	<p>disclose to him in writing the services, products offered and the expertise of the licensee. The rules also require that a licensee must not recommend a transaction to a client unless it has taken reasonable steps to make him aware of the risks involved, including conflicts of interest.</p> <p>With respect to fees, before entering into an agreement to provide investment services to a client, a licensee must disclose in writing all fees and charges for providing those services, together with the basis of their calculation. If the amounts are not known, then the basis of calculation must be provided.</p> <p><b>Handling of Client Moneys:</b></p> <p>The Insurance Manager and Insurance Intermediary (Client Money) Regulations establish requirements regarding handling of funds by intermediaries. The regulations require an insurance intermediary licensee to open and maintain a separate bank account (a “client account”) for client money and to ensure that this account is clearly separate and distinguishable from its own bank account. Premiums, refunded premiums and claims are all referenced as client money within the regulations.</p> <p>The regulations also include requirements that:</p> <ul style="list-style-type: none"> <li>• client money must be paid into the client account no later than the next business day after receipt and consequential actions to be taken if not;</li> <li>• The licensee’s terms of business must set out the terms and conditions relating to the handling of money contained in the client account, including the treatment of any interest; and</li> <li>• reconciliations of the client money account are carried out at least every 25 business days.</li> </ul> <p><b>Supervisory Measures and Enforcement:</b></p> <p>Similar to insurers, GFSC can take a range of supervisory or enforcement actions to intervene in the operations of an intermediary. The Commission may:</p> <ul style="list-style-type: none"> <li>• engage with a licensee to query or address a concern;</li> <li>• negotiate a voluntary agreement (RMP) with an intermediary to take a particular action which would achieve a given outcome to address an issue;</li> <li>• impose conditions on the licence to address a problem;</li> <li>• refer an issue to the Enforcement Division for more serious enforcement action including fines, suspension or revocation of the license.</li> </ul> <p>The PRISM system (see ICP 9) is used to record intervention and ensure appropriate follow-up and escalate actions if a licensee fails to properly address contraventions and concerns.</p> <p>At present the GFSC does not have the authority to require licensees to compensate policyholders. However, a proposed new Enforcement Law will provide for the Commission to apply to the Court for the recovery, from a licensee, of any loss incurred by a customer as a result of that licensee carrying on business in contravention of the law.</p>
<p>Assessment</p>	<p>Largely Observed</p>
<p>Comments</p>	<p>Largely observed is based on the observation that there does not appear to be an explicit requirement on intermediaries to name and disclose their relationship to the insurers they represent.</p>

<p><b>ICP 19</b></p>	<p><b>Conduct of Business</b></p> <p>The supervisor sets requirements for the conduct of the business of insurance to ensure customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.</p>
<p>Description</p>	<p>Guernsey appears to have a strong framework of requirements for the management of conduct of business risk:</p> <p><b>Requirements to Act with Due Skill, Care and Diligence and to Have Policies and Procedures for Fair Treatment of Consumers:</b></p> <p>Section 1 of The Licensed Insurer’s (Conduct of Business) Rules, 2018, require an insurer to act with due skill, care and diligence when dealing with customers. Section 2 requires that an insurer implement policies and procedures on the fair treatment of customers as an integral part of its business culture. Section 4.1 requires insurers to have in place arrangements in dealing with intermediaries to ensure the fair treatment of customers.</p> <p>In addition, The Code of Corporate Governance (Appendix 3, Principle 8) requires the insurer’s board to have policies and procedures to ensure that Senior Management promotes a culture of sound risk management, compliance and fair treatment of customers.</p> <p>Similarly, Section 2 of The Intermediaries (Conduct of Business) Rules, 2014, requires intermediaries to act with due skill, care and diligence as does the Code of Conduct for Financial Advisers and the Code of Conduct for Authorised Insurance Representatives. The rules do not, however, establish an explicit requirement that intermediaries establish policies and procedures on fair treatment of consumers as an integral part of their business culture. The rules do however indirectly address fair treatment by establishing requirements in many pertinent areas including:</p> <ul style="list-style-type: none"> <li>• the provision of information and advice to clients;</li> <li>• ensuring the suitability of intermediary services to clients;</li> <li>• the characteristics of products offered and the expertise of the licensee;</li> <li>• explanation of product risks and addressing intermediary conflicts of interest;</li> <li>• fees, charges and remuneration;</li> <li>• the handling of complaints.</li> </ul> <p>As part of the annual return declaration, insurer licensees are required to confirm that they have complied with the requirements of the Finance Sector Code of Corporate Governance, and any other relevant legislation, rules or codes.</p> <p>Similarly, a declaration is required as part of an insurance intermediary’s annual return, to help confirm that they have complied with the Finance Sector Code of Corporate Governance, and any rules, codes, guidance, principles, ordinances and instructions enabled by the IMIL.</p> <p><b>Development, Promotion and Distribution of Insurance Products:</b></p> <p>Section 5 of the Licenced Insurers (Conduct of Business) Rules requires insurers to consider the interests of different types of consumers when developing and distributing insurance products:</p> <ul style="list-style-type: none"> <li>• Development of products and distribution strategies should include the use of adequate information to assess the needs of different consumer groups.</li> </ul>

	<ul style="list-style-type: none"> <li>• Product development should provide for a thorough assessment of the main characteristics of a new product and of the related disclosure documents by every appropriate department of the licensed insurer.</li> <li>• Before bringing a product or service to the market, the licensed insurer should carry out a diligent review and testing of the product.</li> <li>• A licensed insurer should provide relevant information to its intermediaries to ensure that they understand the target market (and thus reduce the risk of mis-selling), such as information related to the target market itself, as well as the characteristics of the product.</li> <li>• A licensed insurer should seek information from its intermediaries on the types of customers to whom the product is sold and whether the product meets the needs of that target market, in order to enable the licensed insurer to assess whether its target market is appropriate and to revise its distribution strategy for the product, or the product itself, when needed.</li> </ul> <p>Section 6 of the rules also require that insurers promote products and services in a manner that is clear, fair and not misleading. This includes detailed content requirements for materials promoting or advertising its products and a requirement for an independent review of promotional material intended for customers, including promotional material developed by an intermediary on behalf of a licensed insurer.</p> <p>In addition, Section 5.4.1 of the Insurance Intermediaries (Conduct of Business) Rules 2014 requires an insurance intermediary, if responsible for promotion and advertising, to ensure that materials issued are clear, fair and not misleading. Moreover, Section 5.4.3 of these rules require a licensee to take all reasonable steps to ensure that any form of promotion or advertising in a country or territory outside of the Bailiwick of Guernsey is in accordance with the laws and regulations in force in that country or territory.</p> <p><b>Timely Clear and Adequate Pre-contractual and Contractual Information:</b></p> <p>Section 7 of The Licensed Insurer’s (Conduct of Business) Rules, 2018 requires insurers to provide timely, clear and adequate pre-contractual and contractual information to customers.</p> <p>Rule 5.2.3 of the Insurance Intermediaries (Conduct of Business) Rules 2014 requires that an insurance intermediary:</p> <ul style="list-style-type: none"> <li>• before providing insurance intermediary services to a client, disclose in writing the services, products offered and the expertise of the licensee; and</li> <li>• not recommend a transaction to a client unless it has taken reasonable steps to make him aware of the risks involved, including conflicts of interest.</li> </ul> <p>Similarly, Section 8 of the Code of Conduct for Authorised Insurance Representatives sets out detailed minimum standards for provision of information to customers. These requirements are divided into four categories:</p> <ul style="list-style-type: none"> <li>• prior to providing services;</li> <li>• pre-inception standards;</li> <li>• post-inception standards; and</li> <li>• renewals.</li> </ul> <p>In addition, Authorised Insurance Representatives who advise on insurance-based investment products (termed “Financial Advisers” in the Conduct of Business Rules) are required in to act in accordance with the Code of Conduct for Financial Advisers. This code sets out specific requirements prior to the inception or material change to a long-term insurance contract.</p>
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	<p>Finally, Section 9 of the Licensed Insurer’s (Conduct of Business) Rules, 2018 requires the insurer to service policies appropriately, disclosing to the policyholder information on contractual changes and other relevant information.</p> <p><b>Customers Receive Appropriate Advice Considering Disclosed Circumstances:</b></p> <p>Section 8 of the Licensed Insurer’s (Conduct of Business) Rules, require insurers providing advice to consider the customer’s disclosed circumstances.</p> <p>Rule 5.2.2 of the Insurance Intermediaries (Conduct of Business) Rules 2014 also sets requirements in respect of suitability of services. In particular, rule 5.2.2(a) requires a licensee at the outset of its provision of insurance intermediary services to a client, to ensure that it has obtained sufficient knowledge of the client to ensure that any advice is suitable to the requirements of the client.</p> <p>Furthermore, rule 5.2.2(c) requires the licensee to take reasonable steps to ensure that it does not, in the course of its insurance intermediary business, recommend a policy to a client unless the recommendation or transaction is suitable for him having regard to:</p> <ul style="list-style-type: none"> <li>• the facts obtained by the licensee;</li> <li>• the terms of any agreement with that client; and</li> <li>• other relevant facts about the client of which the licensee is, or reasonably should be, aware.</li> </ul> <p>Section 4.1(a) of the Code of Conduct for Financial Advisers requires that prior to recommending a long-term insurance product (or any material change to an existing long term insurance product), the adviser must obtain and record sufficient knowledge of the client’s personal and financial circumstances and understanding of their objectives to ensure that any advice is suitable to the needs, wishes and financial position of the client.</p> <p>In addition, the adviser must assess the client’s knowledge and experience in relation to financial matters to ensure the client is afforded appropriate protections.</p> <p>Section 7 of the Code of Conduct for Authorised Insurance Representatives on Gathering Information from Customers sets a minimum standard including to:</p> <ul style="list-style-type: none"> <li>• pay due regard to the duties of disclosure, reasonable search and fair presentation of risk as it relates to the customer and themselves and reasonably seek to gather sufficient information so that adequate disclosure, or where appropriate, a fair presentation of risk can be made to insurers and/or underwriters;</li> <li>• gather sufficient information to give suitable advice and/or arrange an insurance policy to meet the customer’s demands and needs; and</li> <li>• take reasonable steps to identify the knowledge of the customer when gathering information and deciding what information to gather, in the absence of which, the customer should be considered a layman for insurance purposes.</li> </ul> <p><b>Conflict of Interest:</b></p> <p>Guernsey requires insurers and intermediaries to avoid or manage conflicts of interest. Major provisions include:</p> <ul style="list-style-type: none"> <li>• Principle 3 of the Principles of Conduct of Finance Business requires a licensee to either avoid any conflict of interest and, where a conflict arises, to ensure fair treatment to its customers.</li> </ul>
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	<ul style="list-style-type: none"> <li>• Section 3 of the Licensed Insurer’s (Conduct of Business) Rules, 2018 also requires a licensed insurer to avoid or properly manage any potential conflicts of interest.</li> <li>• Section 10 of the Insurance Intermediaries (Conduct of Business) Rules, 2014 requires a licensee to have a conflicts of interest policy and to identify where circumstances may create a conflict of interest entailing a material risk of damage to the interests of one or more clients.</li> </ul> <p>Where the licensee’s procedures are not sufficient to prevent the risk, this must be disclosed to the client in sufficient detail to enable the client to make an informed decision about the insurance services.</p> <p>Licensees are also required to ensure that neither its directors, employees nor agents offer or give, or solicit or accept gifts or other benefits, which would conflict significantly with the duties owed to a client.</p> <p><b>Claims Handling, Complaint Handling and Dispute Resolution:</b></p> <p>Section 10 of the Licensed Insurer’s (Conduct of Business) Rules, 2018, requires an insurer to handle claims in a timely, fair and transparent manner. This section also requires dispute resolution policies and procedures and written documentation on claims handling procedures.</p> <p>Section 11 of The Licensed Insurer’s (Conduct of Business) Rules, 2018, requires an insurer to handle complaints in a timely and fair manner. Written procedures are required and information on complaints handling is also required to be available to customers. There is also a requirement that the person handling the complaint be from a separate department than the person that is subject of the complaint.</p> <p>Principle 8 of the Insurance Intermediaries (Conduct of Business) Rules 2014 sets requirements for insurance intermediaries to have complaints procedures, make notification of certain complaints to the Commission and keep proper records of these complaints. This rule requires that the licensee has a written procedure for the effective consideration and fair and proper handling of any complaints relating to the licensee’s insurance intermediary business, howsoever received.</p> <p><b>Privacy Protection:</b></p> <p>All licensees are required to comply with the Data Protection (Bailiwick of Guernsey) Law, 2017 which came into force on 25 May 2018 and is line with the EU’s General Data Protection Regulation (GDPR).</p> <p>Principle 6 of the Principles of Conduct of Finance Business requires insurers and insurance intermediaries to safeguard customer assets, arranging proper segregation and protection for them. This principle extends to information regarding the customers themselves.</p> <p>Section 6 of the Insurance Intermediaries (Conduct of Business) Rules, 2014 also establishes proper record keeping requirements including records regarding customer information.</p> <p><b>Supervision of Conduct of Business:</b></p> <p>All insurers who deal with retail clients in Guernsey and those who sell products offshore to expatriates are subject to offsite reporting and onsite examination requirements as they are assessed as having medium low or above impact rating under PRISM. Both offsite and onsite procedures address conduct of business. Annual filings by insurers include information on complaints received by insurers and there is a requirement to identify complaints that have been outstanding for more than three months. In addition, GFSC has instituted a programme of thematic reviews to address conduct issues.</p>
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	<p>GFSC receives and investigates consumer complaints it receives and receives referrals from the Channel Islands Financial Ombudsman (CIFO). The CIFO and the GFSC have an MOU that requires quarterly meetings and enables the exchange of relevant information. Since the framework is relatively new, further proactive engagement in development of the two agencies programmes is continuing.</p> <p>Guernsey has a number of insurers who provide products to expatriates working in foreign jurisdictions. Some of these products have been the subject of numerous consumer complaints. In these areas Guernsey has focused on ensuring that the insurer has adequate controls over its distribution network to address issues like poor product design or product mis-selling of products by foreign intermediaries. Actions to address some of these problems are still ongoing.</p> <p>GFSC can take a range of supervisory or enforcement actions to intervene in the operations of an intermediary. The Commission may:</p> <ul style="list-style-type: none"> <li>• engage with a licensee to query or address a concern;</li> <li>• negotiate a voluntary agreement (RMP) with a licensee to take a particular action which would achieve a given outcome to address an issue;</li> <li>• impose conditions on the licence to address a problem;</li> </ul> <p>refer an issue to the Enforcement Division for more serious enforcement action including fines, suspension or revocation of the license.</p>
<p>Assessment</p>	<p>Largely Observed</p>
<p>Comments</p>	<p>Largely Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The Licensed Insurer’s (Conduct of Business) Rules, 2018, are new and assessment of implementation is just beginning.</li> <li>• Expansion of the thematic review programme is relatively recent.</li> <li>• There is no direct overarching requirement for intermediaries to implement policies and procedures on the fair treatment of customers as an integral part of their business culture as there is for insurers.</li> </ul> <p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> <li>• Continue to build a strong relationship with the CIFO to proactively address conduct of business issues.</li> <li>• Maintain a strong conduct of business focus towards products sold both in the domestic and international markets.</li> </ul> <p>Continue to develop its thematic review programme to include product design and other emerging conduct issues.</p>
<p><b>ICP 20</b></p>	<p><b>Public Disclosure</b></p> <p>The supervisor requires insurers to disclose relevant, comprehensive and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities, performance and financial position. This is expected to enhance market discipline and understanding of the risks to which an insurer is exposed and the manner in which those risks are managed.</p>
<p>Description</p>	<p><b>Scope of Application:</b></p>

	<p>The GFSC has recently implemented the Insurance Business (Public Disclosure of Information) Rules, 2018. The disclosure requirements apply to many insurers operating in the Guernsey market but specifically do not apply to the following groups of insurers:</p> <ul style="list-style-type: none"> <li>• Category 5 licensed insurers as categorised under the Insurance Business (Solvency) Rules 2015- these are captive insurers and reinsurers;</li> <li>• Category 6 licensed insurers as categorised under the Insurance Business (Solvency) Rules 2015 – these are special purpose insurers and protected cell companies without a relationship with the public. They are fully funded and involve transactions between sophisticated parties;</li> <li>• licensed insurers not incorporated in the Bailiwick – these are presumed to rely on disclosure requirements in home jurisdictions;</li> <li>• very small insurers writing less than £500,000 of premium or with less than £2.5m of gross assets. Similarly, insurers with only a few commercial policyholders are also exempt as their policyholders are assumed to be sophisticated and have access to relevant information.</li> <li>• a licensed insurer that has reinsured 75% or more of its insurance risk with a group insurer and where that insurance group makes public disclosures equivalent to those required under these Rules;</li> <li>• a Category 2 licensed insurer or a Category 4 licensed insurer as categorised under the Insurance Business (Solvency) Rules 2015 writing reinsurance for related group insurers only;</li> <li>• a Category 2 licensed insurer or a Category 4 licensed insurer as categorised under the Insurance Business (Solvency) Rules 2015 writing a single class of reinsurance for one fronting insurer in relation to a specific product or arrangement; or</li> <li>• a licensed insurer with a small number of commercial policyholders only.</li> </ul> <p>The rationale for these exclusions is that the type of disclosure contemplated by the ICP is not of great relevance to these types of insurance businesses.</p> <p><b>Disclosure Requirements:</b></p> <p>Under the Insurance Business (Public Disclosure of Information) Rules, 2018, an insurer with a website must publish its annual audited financial statements together with information in the following areas:</p> <ul style="list-style-type: none"> <li>• <b>Profile of the Insurer:</b> Disclosures should include appropriately detailed information about the company profile, including the nature of its business, a general description of its key products, the external environment in which it operates and information on the relevant insurer’s objectives and the strategies in place to achieve them.</li> <li>• <b>Corporate Governance:</b> Disclosures should include the key features of the relevant insurer’s corporate governance framework, management controls and risk management framework including how these are implemented.</li> <li>• <b>Technical reserves:</b> Detailed quantitative and qualitative information about the determination of technical provisions should be disclosed.</li> <li>• <b>Insurance Risk:</b> Appropriately detailed quantitative and qualitative information on all reasonably foreseeable and relevant material insurance risk exposures and their management should be disclosed including the use of reinsurance.</li> <li>• <b>Financial performance:</b> Disclosure should include appropriately detailed quantitative and qualitative information on financial performance in total and by segmented financial performance. Where relevant, disclosures must include a quantitative source of earnings analysis, claims statistics including claims development, pricing adequacy, information regarding returns on investment assets and components of such returns.</li> </ul>
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	<ul style="list-style-type: none"> <li>• <b>Capital Adequacy:</b> Disclosure about the financial position of the insurer should include appropriately detailed quantitative and qualitative information about capital adequacy. A licensed insurer should disclose information that enables users to evaluate the insurer’s objectives, policies and processes for managing capital and to assess its capital adequacy. This information encompasses the Prescribed Capital Requirement and the Minimum Capital Requirement. If an internal model is used to determine capital resources and requirements, information about the model must be provided, having due regard to proprietary or confidential information.</li> <li>• <b>Financial instruments:</b> Disclosure about the financial position of the relevant insurer should include appropriately detailed quantitative and qualitative information about financial instruments and other investments by class.</li> <li>• <b>ERM and ALM:</b> Disclosure about the financial position of the insurer should include appropriately detailed quantitative and qualitative information about enterprise risk management (ERM) including asset-liability management (ALM) in total and, where appropriate, at a segmented level.</li> </ul> <p>Insurers are required to file the information with the Commission within 6 months of the relevant financial year end and to publish within 14 days of filing with the Commission. In the event that the insurer does not have a website on which to publish the information, the information is also made available on the Commission’s website.</p> <p>The information to be disclosed includes information which should be decision useful to market participants who choose to use it. The information is as timely as is reasonable in that it must be published within 6 months of the period to which it relates. The information appears to be comprehensive and meaningful, however it does not cover all of the areas and risks covered by the ICP (eg investment policies and objectives, Conduct of Business risks and policies) and as the rules have only just been introduced, actual application by insurers remains to be seen.</p> <p>There is limited scope to compare different insurers operating in Guernsey as the nature of the market means that there is a diverse mix of firms serving different markets and such firms are not directly comparable to each other. In addition, as different insurers can follow different accounting standards comparability can be impaired.</p> <p>The rules also provide for an insurer to withhold, redact or summarise information noted above for protection of proprietary information or specific confidentiality reasons. In such cases the relevant insurer must on or before the filing date provide the Commission with a written notification, explicitly approved by the relevant insurer’s board of directors, of the information to be withheld, redacted or summarised and the reason why this has been done.</p>
<p>Assessment</p>	<p>Partly Observed</p>
<p>Comments</p>	<p>Partly Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The framework for disclosure is new and has not yet been fully implemented.</li> <li>• The redaction requirements have not yet been tested.</li> <li>• Some items described in the ICP, such as investment objectives and policies and are not required to be disclosed.</li> <li>• The requirements do not appear to include information on conduct of business risk and policies.</li> </ul>

	<p>It is recommended that: Disclosure requirements be expanded to address the above noted deficiencies.</p>
<p><b>ICP 21</b></p>	<p><b>Countering Fraud in Insurance</b> The supervisor requires that insurers and intermediaries take effective measures to deter, prevent, detect, report and remedy fraud in insurance.</p>
<p>Description</p>	<p>Fraud committed against insurers has not historically been a significant problem for Guernsey insurers. There have been instances of fraud committed by insurance intermediaries against their clients and these have been dealt with by law enforcement.</p> <p>Fraud is a criminal offence and as such would be dealt with by the Financial Investigation Unit within the Guernsey Border Agency.</p> <p><b>Legal Framework:</b></p> <p>Systemic fraud by an insurer against its policyholders would also be dealt with by the Fraud (Bailiwick of Guernsey) Law, 2009. Fraud is defined under the law into three categories:</p> <ul style="list-style-type: none"> <li>• Fraud by False Representation,</li> <li>• Fraud by Failing to Disclose Information, and</li> <li>• Fraud by Abuse of Position</li> </ul> <p>The law also covers aiding and abetting fraud in another jurisdiction. An offence committed by a body corporate can also lead to the punishment of directors and officers of that body corporate.</p> <p>Penalties for conviction of fraud include:</p> <ul style="list-style-type: none"> <li>• on summary conviction: imprisonment for a term not exceeding 2 years, or to a fine not exceeding twice level 5 on the uniform scale ( £10,000) or to both, or</li> <li>• on conviction on indictment: imprisonment for a term not exceeding 12 years, or to a fine, or to both.</li> </ul> <p>GFSC has recently published a Guidance Note on Insurance Fraud. The note deals with preventing, detecting and remedying insurance fraud and documents the Commission’s understanding of the types of fraud risk to which Guernsey insurers and intermediaries are exposed.</p> <p>Principle A12 of the Corporate Governance Code requires licensed insurers to have an effective risk management function to deal with key risks which would include fraud. In addition, both licensed insurers and insurance intermediaries are required to maintain adequate systems of control of their business, which includes controls for deterring fraud, in accordance with the minimum criteria for licensing.</p> <p><b>Supervisory Practice:</b></p> <p>Risk of fraud and fraud controls are assessed through the regular supervisory framework and particularly on-site review as part of a full risk assessment. GFSC regularly reviews its assessment practices and updates them. GFSC is concerned about emerging cyber fraud risk which has been the subject of specific training for supervisors.</p> <p>The Commission can cooperate with other supervisory authorities and is able to exchange supervisory information in accordance with section 80 of the IBL.</p>

	<p>The FSC Law also contains provisions that allow the Commission to cooperate with any person or body for the purposes of the investigation, prevention or detection of a crime. The Commission has cooperated with other supervisory authorities in the investigation of crimes.</p> <p>Guernsey law enforcement agencies also have appropriate powers to cooperate and exchange information with other agencies.</p>
Assessment	Largely Observed
Comments	<p>Largely observed is based on the observation that guidance and operational assessment of controls for inward facing fraud could be improved. Cybercrime is also an area where requirements and assessment could be strengthened.</p> <p>It is recommended that consideration be given to strengthening requirements and providing guidance for assessment of cyber-crime risk and inward facing fraud.</p>
<b>ICP 22</b>	<p><b>Anti-Money Laundering and Combating the Financing of Terrorism</b></p> <p>The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and the financing of terrorism. In addition, the supervisor takes effective measures to combat money laundering financing of terrorism.</p>
Description	<b>NOT ASSESSED</b>
Assessment	
Comments	
<b>ICP 23</b>	<p><b>Group-wide Supervision</b></p> <p>The supervisor supervises insurers on a legal entity and group-wide basis.</p>
Description	<b>NOT ASSESSED</b>
Assessment	
Comments	
<b>ICP 24</b>	<p><b>Macroprudential Surveillance and Insurance Supervision</b></p> <p>The supervisor identifies, monitors and analyses market and financial developments and other environmental factors that may impact insurers and insurance markets and uses this information in the supervision of individual</p>

	insurers. Such tasks should, where appropriate, utilise information from, and insights gained by, other national authorities.
Description	<b>NOT ASSESSED</b>
Assessment	
Comments	
<b>ICP 25</b>	<b>Supervisory Cooperation and Coordination</b> The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements.
Description	<p>The GFSC is not currently a group-wide supervisor for any insurance groups nor does it seek to become one in the future. While it is not a group-wide supervisor, it always takes steps to identify the group-wide supervisor when an insurer it supervises is part of a group and to engage in supervisory cooperation and coordination as required.</p> <p>Were a Guernsey insurer aim to become the head of a group, then this would constitute a material change in its business plan and might include a merger or take-over of some kind. As such, it would be subject to agreement from the Commission. The Commission has never been a group-wide supervisor and has issued a public policy explaining that it is a host supervisor only. The Commission therefore would not permit such an action.</p> <p>GFSC engages in two types of coordination agreements; Memoranda of Understanding, either with individual supervisors or groups of supervisors, and supervisory college cooperation arrangements.</p> <p>GFSC takes steps to put in place MoUs with relevant supervisors in other jurisdictions where no supervisory college exists or where it has not been invited to participate. The Commission will seek to put in place MoUs with supervisors that are responsible for financial services businesses that provide services into Guernsey on a cross-border basis or where they supervise entities of which local financial services businesses are subsidiaries.</p> <p>GFSC is able to share information with other supervisors even if a MoU is not in place, subject to them demonstrating that they have a suitable confidentiality regime. GFSC routinely shares information with other regulators, either following a request or the discovery of an issue.</p> <p>As part of its risk assessment process, GFSC is required to assess an insurer's ownership structure along with functioning of the group and the insurer's role within it. GFSC also considers the roles of other involved supervisors and may seek input from them where relevant. GFSC also assesses the influence and role of parent entities, group committees and other governance structures on local insurers, along with any intra-group outsourcing arrangements and the level of financial dependence between the insurer and the group.</p> <p>As the GFSC is not a group supervisor, it would generally not seek to instigate the formation of a supervisory college. However, it is the Commission's policy to participate in all supervisory colleges to which it is invited and to seek invites to the colleges of insurers with significant positions in the local market.</p>

	<p>The Commission is also a signatory to the IAIS MMoU. The decision of whether to seek a MoU is made using a risk-based approach bearing in mind the significance of the Guernsey entity to the local market.</p> <p>The GFSC is a unitary supervisor and is responsible for the supervision of all licenced financial service businesses in Guernsey. The GFSC is organised into divisions based on type of licence or sector, such as the Investment division and the insurance division. Where a company holds multiple types of licence or is part of a group of companies with multiple types of licence the Commission has policies and procedures for the divisions to coordinate their supervision of these companies or groups. These procedures include coordinating the GFSC's on-site inspection and risk assessment process and holding internal "colleges" for the group either every 6 months or every 18 months, depending on the impact of the group.</p> <p>The only insurer on Guernsey with overseas branches has branches in Jersey, the Cayman Islands, the Bahamas, the British Virgin Islands, Hong Kong, and Singapore. The Commission has MoUs in place with the supervisors in those jurisdictions, either bilaterally or through the IAIS MMoU, and communicates and shares information with them on a regular basis. This includes an annual letter and ad hoc information sharing as required.</p>
Assessment	Observed
Comments	None
<b>ICP 26</b>	<p><b>Cross-border Cooperation and Coordination on Crisis Management</b></p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities such that a cross-border crisis involving a specific insurer can be managed effectively.</p>
Description	<p>As noted under ICP 3 and 25, GFSC exchanges information, regularly cooperates and coordinates with other supervisors, actively participates in supervisory colleges, participates in international regulatory forums, and has a network of MOUs in place with various foreign supervisors to deal with supervisory issues.</p> <p>GFSC has been engaged in some crisis planning exercises as part of supervisory college exercises. It also maintains contact lists of key industry officers and supervisory staff in other jurisdictions to help it deal with cross border issues.</p> <p>GFSC is completing an internal procedure manual for a cross border crisis which should be implemented shortly.</p> <p>In addition, when its ORSA requirements are fully implemented, large insurers with cross border or sectoral linkages will be required to establish contingency plans and procedures for use in in a going and gone concern situations.</p>
Assessment	Largely Observed
Comments	It is recommended that:

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	<ul style="list-style-type: none"><li>• The GFSC continue to develop refine and implement its contingency plan for a cross border financial crisis.</li></ul> <p>The GFSC review and refine contingency plans for going and gone insurers as part of its work on ORSA implementation.</p>
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### **3 The Authorities' response to the assessment**

The Guernsey Financial Services Commission welcomes this report and would like to thank the IAIS team for their courtesy and professionalism throughout the assessment. The Commission is a strong supporter of the member assessment programme and is pleased to take part in the first assessment under the new IAIS framework.

The Commission is committed to establishing and maintaining high standards of insurance supervision. This assessment has been an opportunity for Guernsey to benchmark itself against current international standards as well as to identify opportunities to develop our supervisory processes; we are indebted to the assessment team for their helpful input in this respect.

The Commission is pleased to have been assessed as Observed or Largely Observed for the majority of ICPs, and we will consider in detail all the recommendations to ensure that we continue to maintain high supervisory standards.

## References

IAIS, 2012, *Insurance Core Principles and Methodology*, available at the IAIS web site: [www.iaisweb.org](http://www.iaisweb.org).