

Cayman Islands Monetary Authority

SUMMARY OF PRIVATE SECTOR CONSULTATION AND FEEDBACK STATEMENT



CORPORATE GOVERNANCE FOR INSURERS

Regulatory Measure

Rule: Corporate Governance for Insurers

Section of proposed Rule	Industry Comment	Authority's response	Consequent amendments to the draft Rule
Private Sector Consultation Paper & General Comments			
<p>Part C - Paragraph 12 b) – The new Rule will be applicable to all insurers except for Class A External insurers and proposes ... Clearly defined roles and responsibilities allocated to the board, senior management and key persons in control functions in order to promote an appropriate separation of the oversight function from the management responsibilities (relating to 5.3.1 of Rule on Corporate Governance for Insurers).</p>	<p>Not practical for Class B and C insurers to create separation between Directors and Management, as Boards typically administer management services. Trying to achieve this separation of duties may be too costly and not suitable for the small scale nature of captives.</p>	<p>The Authority acknowledges the varying size, nature and complexity of the different classes of insurers. However, CIMA expects that all licensees, regardless of size, must abide by certain fundamental principles of corporate governance. Additionally, there is a wide range of licensee sizes and risk profiles within the Class B category so a blanket exemption is not desirable. In this regard, the Authority expects that the application of this rule will be done within this context, while maintaining the spirit of the rule's overall objective.</p>	<p>To be amended.</p>
<p>General</p>	<p>Proposed Rule, had application to Class A and D insurers (and in the future certain B (iv)'s) but is too intrusive for Classes B (i), B (ii), B (iii)</p>	<p>See response above.</p>	<p>To be amended.</p>

	and C. Consequently, the majority of the captive industry should be exempt from the bulk of the proposed Rule.		
	The Draft Rule seems to be inappropriate for the small to medium sized captive insurers in the Cayman Islands. If a rule is the only option, we suggest that the Draft Rule be revised to acknowledge the broad range of Cayman insurers instead of imposing a standard rule that applies to all Cayman insurers.	See response above.	To be amended.
	We suggest that CIMA be asked to revisit whether a rule is the only option or whether a statement of guidance would suffice. Of course CIMA would have to consider whether there are any disadvantages in using a statement of guidance in lieu of a rule.	The establishment and implementation of a sound corporate governance framework is absolutely fundamental to the ongoing operations of insurers. Consequently, the chosen measure for addressing this key area must be one which mandates certain licensee undertakings in this regard. Issuing a SOG would not be ideally commensurate with the intended regulatory objective, in light of the significant nature of adequate corporate governance implementation.	None.
3. Scope of Application			
Section 3	Consideration for addition of a paragraph 3.4 which replicates paragraph 1.3 from the SOG – Corporate Governance. New paragraph 3.4 should read “The governance structure of a regulated entity, and the size and composition of the Governing Body should be adequate for the legal and operational structure of the regulated entity and commensurate with the size, nature and complexity of its business.”	See response above.	To be amended.

4. Definitions			
Section 4	Inclusion of definitions as paragraph 4.4 and 4.5: "Insurance Group" has the meaning as defined in the Insurance Law. "Senior Management" refers to senior level employees of the insurer, that actively participate in the daily planning, supervision, administration and execution of insurer's objectives and strategies.	Agreed. The inclusion of definitions for "Insurance Group" and "Senior Management" will be adopted for increased clarity.	To be amended.
Paragraph 4.2 – :Control Functions" mean properly authorized functions, whether in the form of person, unit or department, serving a control or checks and balances function form a governance standpoint and which carry out specific activities including risk management, compliance, actuarial matters, and internal audit, and similar functions. For Class B and Class C insurers, the insurance manager may serve in the capacity of a control function.	Footnote Reference "1" incorrectly stated as "2" in actual footnote.	Agreed	To be amended.
5. Rules			
Paragraph 5.1.1 – An insurer must establish, implement, and maintain a corporate governance framework which provides for sound and prudent management and oversight of insurer's business and adequately recognizes and protects the interests of policyholders.	The statement implies that an insurer must have a comprehensive corporate governance manual. This is an example of a situation where the Draft Rule should be revised to accommodate the broad range of Cayman insurers. We suggest that as drafted, this section would be overkill for many of the small to medium sized insurers and insurers that do not insure third party risk and would not	The Authority acknowledges the uniqueness of different classes of insurers. However, all companies must abide by certain minimum corporate governance standards. In this regard, the Authority expects that the application of this rule will be done within this context, while maintaining the spirit of the rule's overall objective. The referenced	None.

	therefore be desirable.	statement does not, by any means, require a comprehensive corporate governance manual. It is the regulatory expectation that the licensee will have in place, and be able to demonstrate, an overarching governance framework, possibly captured through various sources.	
<p>Paragraph 5.1.2 – At minimum, the framework must address:</p> <ul style="list-style-type: none"> a) The objectives and strategies of the insurer b) Appropriate allocation of oversight and management responsibilities c) Structure and governance of the Governing Body d) Independence and Objectivity e) Collective Duties of the Governing Body f) Duties of individual members of the Governing Body g) Appointments of the Governing Body h) Delegation i) Conflicts of Interest j) Risk management and internal control systems and functions k) Remuneration policy and practices l) Reliable and transparent financial reporting m) Transparency and communications n) Duties of senior 	Class B (i), B (ii), B (iii) and C insurers should be exempted from all but “i’ and “j” of the minimum areas to be addressed in an Insurer’s Corporate Governance Framework insofar as the other elements are addressed within their Business Plan and Articles of Association.	The typical inclusion of certain expected framework components, within an insurer’s Business Plan and/or Articles of Association, does not preclude it being stated as a fully applicable minimum framework criterion within the Rule. The Authority does not expect that insurers will necessarily have one framework document outlining all referenced components. All insurers are expected to demonstrate this set of minimum components within an overarching governance framework, possibly captured through various sources.	None.

management			
	Also 5.1.2 j) does not have its own following sub-section which provides additional guidance. Possible need to add at the end of j), "pursuant to the Rule: Risk Management for Insurers"	Agreed	To be amended.
	Inclusion of note at end of section stating "Class B (i) and Class C insurers must have a conflict of interest policy and a Risk Management Framework pursuant to the Rule: Risk Management for Insurers"	Minimum criteria for the governance framework clearly stipulate inclusion of risk management functions and conflict of interest procedures. The suggested reference is not needed.	None.
5.2. Objectives and Strategies of the Insurer			
Paragraph 5.2.1 – The insurer's Governing Body must set and oversee the implementation of the insurer's corporate culture, business objectives and strategies for achieving those objectives, in line with the insurer's long term interests and viability, and the legitimate interests of its stakeholders, including fair treatment of policyholders.	We note that Section 5.2.1 refers to "stakeholders", which appear to include policyholders, and other references in the Draft Rule are to the interests of policyholders. The strict legal position on corporate governance is that the board of directors must act in the best interests of the company, which is generally considered as including its members. Accordingly, we suggest that the references be revised to refer to the members or the shareholders of the Cayman insurer.	The term "stakeholders" adequately captures all parties which have an interest in the going concern of the insurer. This includes, but is not limited to, both members and shareholders. The use of this term does not create any basis for misunderstanding with regard to the intended objectives of a comprehensive corporate governance framework.	None.
5.3. Appropriate Allocation of Oversight and Management Responsibilities			
Paragraph 5.3.1 – An insurer must clearly define and document the roles and responsibilities allocated to the Governing Body, senior management and Control Functions so as to promote an appropriate separation of the oversight function from management responsibilities. Paragraph 5.3.2 – The	In line with comment for exemptions in 5.1.2, Class B & C insurers should be exempt.	The Authority acknowledges the unique nature of Class B & C insurers which is partly characterised by the governing body typically administering management services. Notwithstanding these differences, the basic principles of corporate governance still apply to all types of entities.	To be amended to state that Rule must be applied proportionally to the nature, scale and complexity of and insurer.

<p>Governing Body must oversee senior management, including the appointment and dismissal of senior managers, set appropriate performance standards for senior management and ensure that senior management is managing the affairs of the insurer in accordance with the strategies and policies set by the Governing Body.</p>			
<p>Paragraph 5.3.2 – See above</p>	<p>We suggest that Section 5.3.2 should not refer to setting performance standards for senior management. We suggest that the board of directors (defined in the Draft Rule as being included in the “Governing Body”) have a general duty of oversight of management as that allows for more flexibility for the Governing Body.</p>	<p>The paragraph states the overall expectation for the Governing Body to oversee senior management. The reference to setting performance standards only forms a part of this overall oversight function and does not restrict flexibility.</p>	<p>None.</p>
<p>5.4. Structure and Governance of Governing Body</p>			
<p>Section 5.4</p>	<p>Reference should be made that paragraphs in this section will generally be covered by an Insurer’s Memorandum & Articles of Association.</p>	<p>The inclusion of certain on-going expectations, for the structure and governance of the Governing Body, within an insurer’s Memorandum & Articles of Association, does not preclude it being stated as a fully applicable directive within the Rule. All insurers are expected to demonstrate these expectations within an overarching governance framework. The suggested reference is not needed.</p>	<p>None.</p>
<p>Paragraph 5.4.1 – The Governing Body must have, on an on-going basis: ...</p>	<p>Paragraph should read “The Shareholder(s) must ensure that the Governing Body must have, on an on-going basis: ... ”</p>	<p>The responsibility of the Governing Body is to deliver value to shareholders by ensuring the achievement of strategic and performance objectives. Therefore</p>	<p>None.</p>

		the Governing Body is accountable for the safety, prudence and continuity of an insurer, which is the primary concern of the Authority.	
Paragraph 5.4.1 a) – The Governing Body must have, on an on-going basis an appropriate number and mix of individuals to ensure that there is an overall adequate level of competence at the Governing Body level.	Paragraph may lead to confusion as current licensees can request to be established with a Board of two (2) people. Possible need to add “Subject to the size, nature and complexity of the business.”	An insurer which has been established with two (2) Board members does not preclude adherence to this directive.	None.
Paragraph 5.4.1 d) – The Governing Body must have, on an on-going basis high standards of business conduct and ethical behaviour for Directors and senior management, including policies on private transactions, self-dealing and preferential treatment of favoured internal and external entities.	We suggest that having the policies set out in Subsection 5.4.1 d) is not required as they are covered by the fiduciary responsibilities of the Directors.	The establishment of a policy for dealing with conflicts is one of the most fundamental corporate governance principles.	None.
Paragraph 5.4.1 h) – The Governing Body must have, on an on-going basis defined and documented responsibilities of committees of the Governing Body to ensure that no single person has unfettered control of the business.	Paragraph should start with “where applicable, defined and documented ...”	Agree	To be amended.
5.5. Independence and Objectivity			
Paragraph 5.5.1 – With respect all insurers insuring third party risks, with the exception of those holding Class B (i) and Class C licenses, the Governing Body	Based on intended exemption clause provided for in paragraph 5.1.2, “with the exception of those holding Class B (i) and Class C licenses” should be removed. Further should this paragraph be reference to the Conflict	Refer to Authority’s response for 5.1.2. The Authority does not deem a broad exemption, for Class B and C insurers, as desirable. Additionally, conflict of interest represents only a portion	None.

must establish clear and objective independence criteria which should be met by a sufficient number of members of the Governing Body to promote objectivity in decision making by the Governing Body.	of Interest Policy.	of Governing Body independence and objectivity. Consequently, the Authority wants to establish a clear separation between the two concepts captured in the respective sections.	
5.6. Collective Duties of the Governing Body			
Paragraph 5.6.1 – The Governing Body shall regularly ...	The word “regularly” used to describe the frequency of an insurer’s governing body duties should be more clearly defined. A minimum once per annum recommended.	Agreed	To be amended.
	We suggest that the word “regularly” in Section 5.6.1 be deleted and the requirement to “periodically” review, with possibly the requirement that such periodic review not be less than annually, be added only to the subsections in 5.6.1 to which the requirement should apply.	See responses above.	To be amended.
Paragraph 5.6.1 a) – The Governing Body shall regularly review the strategic objectives and policies of the insurer and either amend or readopt them as appropriate.	Possible exemption of Class B Insurers as strategy will be in business plan. “Class B’s are risk management tools not commercial insurers looking to grow business.	The inclusion of the insurer’s strategy within its business plan does not preclude it being a fully applicable directive within the Rule. Also, Class B insurers vary in size and risk exposures and exclusion of this entire license category from the Rule is not desirable. Also, all Class B insurers will have some strategic objectives regardless of whether they are risk management tools or a commercial insurer.	None.
Paragraph 5.6.1 d) – The Governing Body shall regularly review the composition of the Governing Body to ensure that collectively it has	Responsibility of Shareholders and not governing body.	Refer to the Authority’s response for paragraph 5.4.1. Ensuring adequate collective capacity is a crucial consideration, in keeping with the Governing Body’s accountability mentioned.	None.

sufficient knowledge, skills, experience, commitment and independence to oversee the insurer effectively taking into account the size, nature and complexity of the business of the insurer.			
Paragraph 5.6.1 e) – The Governing Body shall regularly undertake self-assessments of its performance and governance practices, and remedy any deficiencies identified.	Responsibility of Shareholders and not governing body.	Refer to the Authority’s response for paragraph 5.4.1.	None.
Paragraph 5.6.1 f) – The Governing Body shall regularly require the Directors and senior management to declare conflicts of interest annually and any changes during the year.	We suggest that Subsection 5.6.1 f) would be unnecessary for a Cayman insurer and would not add any value.	Ongoing declaration of, and changes in, potential conflicts of interest is fundamental and relevant to the corporate governance framework of any institution, including insurers in the Cayman Islands.	None.
Paragraph 5.6.1 h) – The Governing Body shall regularly oversee the design and implementation of internal controls, ensure they are operating effectively and that any deficiencies are adequately addressed.	Not applicable for Class B and C insurers as this function is outsourced. Recommended wording “where the control function of the insurer have not been outsourced, oversee the design and implementation of internal controls, ensure they are operating effectively and that any deficiencies are adequately addressed”	Refer to the Authority’s response for paragraph 5.4.1. Outsourcing internal control functions does not eliminate the Governing Body’s accountability for those functions. The Governing Body is responsible for ensuring that these functions are effectively and appropriately designed and implemented. Refer to Section 5.9 of Rule.	None.
Paragraph 5.6.1 i) – The Governing Body shall regularly review the remuneration policy for senior management.	Not applicable for Class B and C insurers.	Agreed	To be amended.
	Captive insurers rarely have any	See response for paragraph 5.6.1	To be amended.

	employees but outsource the employees' functions to their insurance manager. For this reason, we suggest that Subsection 5.6.1 i) would not be required except for domestic insurers.	h) above.	
Paragraph 5.6.1 j) – The Governing Body shall regularly ensure that the business of the insurer is conducted in compliance with the laws and other requirements in force in the Cayman Islands and in any country in which the insurer does business.	Word “ensure” has strong implications. Suggested rewording “review the business of the Company and obtain assurances that the business of the insurer is conducted in compliance with the laws and other requirements in force in the Cayman Islands.” Note that most if not all Class B, C and maybe all D insurers do not have a license to, nor do they conduct business in any other jurisdiction. The sentence should end after “... Cayman Islands.”	Refer to the Authority’s response for paragraph 5.4.1. Operation in contradiction of governing laws and other requirements is in complete conflict with the accountability of the Governing Body. As such, it is the direct responsibility of the body to ensure that this is not the case and any discovery of such instances is immediately remediated. Additionally, the rule is applicable to all insurers except Class A External Insurers and the paragraph is applicable in current form.	None.
Paragraph 5.6.1 l) – The Governing Body shall regularly with respect to Class B and Class C insurers, appoint a captive manager with appropriate integrity and adequate knowledge, experience, skill and competence for it role.	Unfair to single out the captive manager. Managers, auditors and actuaries that are approved by CIMA should be able to fulfil the role. Though some managers may have more experience with a particular industry, unless their license is qualified to state that they cannot act for a particular type of captive, then it should just be ‘licensed’. Suggested rewording for paragraph is as follows “with respect to insurers without employees, appoint a licensed captive manager”.	This paragraph was drafted in recognition of the critical and central role which captive managers occupy within Class B and C insurers. Though important, auditors and actuaries are relatively external to the insurer and will have less of a direct impact on operations. Though the Authority’s licencing and fitness & propriety assessment framework will provide some degree of assurance, it is essential that the Governing Body ensures the captive manager engaged is capable in every aspect and suits the particular needs of each individual insurer. This will provide even greater assurance	None.

		for the going concern of insurers.	
	We suggest that there needs to be some qualification to Subsection 5.6.1 l) such as taking all reasonable steps to ensure that the captive manager has the appropriate attributes. It should not be an absolute requirement.	See responses above.	None.
Paragraph 5.6.1 m) – The Governing Body shall regularly design and approve the policy on outsourcing (this could be as simple as stating that the policy is that no functions will be outsourced, or listing the functions that have been agreed will and can be outsourced).	Suggestion made for further direction to be given here, especially for Class B (i)'s and Class C's giving allowance that their outsourcing policy can be included within their business plan.	This stated directive is straight forward and does not provide any basis for misunderstanding. The paragraph does not preclude inclusion of an outsourcing policy within an insurer's business plan.	None.
	For the same reason mentioned above with respect to Subsection 5.6.1 i), we suggest that Section 5.6.1 m) would not have any application except to domestic insurers. In this regard, we note that any outsourcing would be done by the captive manager, not the Cayman insurer itself.	The captive manager is a representative of the insurer and a delegate of the Governing Body. The paragraph does not preclude the captive manager from handling outsourcing matters.	None.
5.7. Duties of Individual Directors of the Governing Body			
Section 5.7	Reference should be made that paragraphs in this section will generally be covered by an Insurer's Memorandum & Articles of Association.	The inclusion, of the duties of individual directors of the Governing Body in an insurer's Memorandum & Articles of Association, does not impede it being a fully applicable directive within the Rule. The suggested reference is not necessary.	None.
Paragraph 5.7.1 – Each member of the Governing Body shall devote sufficient time to the role of Director and associated	It is very difficult, in practicality, writing a statement about who shall set the terms of appointment. This has been re-written to state that the Directors as a whole will agree upon	Sufficient time commitment by Directors, both group and non-group, is essential for the adequate oversight and management of insurers. The	None

<p>responsibilities. The Governing Body shall indicate a time commitment expected from non-group Directors in letters of appointment. The Governing Body shall confirm to the non-group on an annual basis at the beginning of each financial year the on-going time commitment expected from that Director.</p>	<p>their time commitment - which is inherently conflicted.</p> <p>The paragraph should read "... The Governing Body shall consider whether to indicate a time commitment expected from each group and non-group Directors in their terms of appointment. The Governing Body shall consider whether to confirm to the group and non-group Directors during each financial year the on-going time commitment expected from each Director."</p>	<p>Governing Body should be able to reasonably decide on the minimum time required for fulfilment of its duties, both on an individual and collective basis. This is particularly important for non-executive directors. Consequently, the current wording will be maintained based on the greater inherent need to establish time dedicated by non-group directors.</p>	
	<p>Also, "non-group" needs to be defined. Assumption is that a "non-group" Director is one that is not employed by an insured of the insurer.</p>	<p>Agreed.</p>	<p>To be amended.</p>
	<p>The word "Director" should be inserted after the word "non-group" in the fourth line of Section 5.7.1.</p>	<p>Agreed.</p>	<p>To be amended.</p>
	<p>The use of the term "non-group" should probably be replaced by a reference to any independent or professional directors as it is confusing at best to use different descriptions in the same document.</p>	<p>No prior reference to independent or professional directors is made within the rule. The Authority will, however, provide a definition for "Non-executive Directors" as outlined above.</p>	<p>To be amended.</p>
<p>Paragraph 5.7.2 – In the case of a Portfolio Insurance Company, the Governing Body must assess, on a regular basis, whether its relationship with the Segregated Portfolio Company, including in relation to the insurance manager, management structure or governance, is in the best interests of the policyholders of the Portfolio Insurance Company. If the</p>	<p>Purpose of written assessment portion of paragraph, relating to Director and Senior Manager being a part of both PIC and Segregated Portfolio Company, not very clear. Open to questions of a potential conflict.</p>	<p>Where the majority of Directors and senior managers of the PIC and Segregated Portfolio Company are the same, conflicts of interest are more likely to arise. As such, it is important that a deliberate and transparent effort is made to ensure that such potential conflicts, and possible negative impacts, are identified and managed. There should be clear and accessible reference of this assessment. This will provide an assurance that no likely</p>	<p>None.</p>

majority of Directors and senior managers of the PIC are the same as those of the Segregated Portfolio Company, this assessment must be carried out in writing on an annual basis.		contravention of policyholders' interests exists.	
Paragraph 5.7.5 – Each Director of the Governing Body should maintain a thorough knowledge and understanding of the licensee's business and update his / her knowledge periodically, consistent with changes in industry, regulatory landscape or business of the licensee.	Would this wording be added to a potential Director's PQ application? If so – it may deter applicants as they may require definition / expansion upon what "update" means. If not added to the PQ – when is the potential Director to learn about this requirement? This is a 'common sense' requisite for a Director, however, many proposed Directors are not from the insurance industry and this requirement may seem too onerous.	This requirement is inherent in the current regulatory fitness and propriety framework. Explicit inclusion of this requirement is not intended or deemed to impose any additional obligation.	None.
	Suggestion made for word "thorough" to be changed to "working" and consideration given for exemption of Class B and C insurers.	The words "a thorough" will be removed.	To be amended.
Paragraph 5.7.6 – Each Director must make enquiries where issues are raised and satisfy him or herself that an appropriate and timely course of action is taken to address the concern.	The wording in Section 5.7.6 is vague and unclear. It is arguable that this requirement is already encompassed in the fiduciary duties of directors of Cayman companies so it would not be required and should be deleted.	The Section seeks to thoroughly address the duties of individual Directors of the Governing Body. The inclusion of the referenced paragraph is one such specific duty.	None.
Paragraph 5.7.7 – The Directors of the Governing Body must act in the best interests of the insurer and policyholders, putting those interests of the insurer and policyholders ahead of his/her own interests.	Consider adding to paragraph, "except for Class B and Class C", as the majority of Directors will be conflicted. Also, the paragraph does not recognise that the interests of the Insurer and Policyholders may conflict, for example in the case of a disputed claim. The directors' fiduciary duties are to the Company.	It is a well-established principle that all Directors must act in the best interest of the company. This should be the primary focus of Directors as the directive indicates. In addition, Directors must put policyholders and insurer interests over personal interests.	None.

<p>Paragraph 5.7.8 – Each individual Director of the Governing Body must understand the limitations of services and reports provided by service providers.</p>	<p>Suggested rewording to “Each individual Director of the Governing Body should understand the services and reports provided by each service provider and the scope of their service and the expertise that each service provider delivers for their respective control function of the insurer.”</p>	<p>Suggested rewording not substantially different from current wording. Fundamentally, Directors should understand services and reports provided by service providers, in support of effective insurer operations.</p>	<p>None.</p>
	<p>The provision in Section 5.7.8 seems to be directed at companies other than insurers (e.g., mutual funds, perhaps?). We suggest that this provision is not relevant to Cayman insurers and should be deleted.</p>	<p>Insurers, like other companies such as mutual funds, do engage with service providers. Consequently, this paragraph is relevant to the operations of insurers.</p>	<p>None.</p>
<p>Paragraph 5.7.9 – An individual Director must exercise independent judgment and objectivity in decision making, taking due account of the interests of the insurer and policyholders.</p>	<p>Paragraph should possibly be rewritten and combined with paragraph 5.7.7 above.</p>	<p>The notion of independent judgement and objectivity is more specific than the more general, and broader, fiduciary responsibilities of Directors.</p>	<p>None.</p>
<p>5.8. Appointments of the Governing Body</p>			
<p>Paragraph 5.8.1 – The Governing Body must ensure that an actuary appointed under the Insurance Law is granted direct access to the Governing Body and to all relevant information.</p>	<p>Paragraph should read “The Governing Body, or a party delegated by them, must ensure ... ”.</p>	<p>Refer to the Authority’s response for paragraph 5.4.1. The Governing Body holds final accountability for insurer operations. Actuary access to the Governing Body and to all relevant information should be done through the oversight of that body, even if access is procedurally granted through delegation. Explicitly inserting reference for such delegation may distort the matter of accountability. However, this occurrence is not prohibited as long as the Governing body has full oversight and awareness. Refer to Section 5.9 of Rule.</p>	<p>None.</p>

	Why does paragraph single out actuary? Reference should also be made to auditor and manager.	The role of an Actuary is more central to the business model of any insurer (underwriting risk and pricing products). Alternatively, auditors are primarily responsible for verification of reported financial information. Consequently, access of an appointed actuary to the Governing Body and all relevant information is crucial to the ongoing operations of the insurer while access to information needed by an auditor is more needs based. Additionally, it is given that an insurance manager will need to have complete access to all aspects of the insurer and the specific inclusion of this role is not necessary.	None.
	There is a need to detail how a particular actuary will be granted access. Would the actuary 'have' to appear before the board in person at meetings or would a written report to the Board suffice?	The Authority does not deem it necessary to stipulate particular means of access for auditors (or Managers and Auditors). This will be left to the Governing Body of each insurer but should adequately support the respective functions and allow full oversight.	None.
	The word "an" before the word "actuary" in the first line of Section 5.8.1 should be replaced with the word "any" as only life insurance companies are required to appoint an actuary.	Suggested rewording not substantively different from current wording.	None.
Paragraph 5.8.2 – The Governing Body must have in place an appropriate compliance committee or person who should report directly and regularly to the Governing Body on all compliance matters.	Insert "Where not outsourced" at beginning of paragraph or exempt Class B and C insurers.	Reporting to the Governing Body on compliance matters is crucial, even in instances where this function is outsourced. Paragraph will be reworded accordingly. It is expected that an individual and not a committee would facilitate this communication for Class B	To be amended.

		and C insurers. Refer to Section 5.9.	
5.9. Delegation			
Paragraph 5.9.1 – The Governing Body may delegate authority to sub-committees to act on behalf of the Governing Body in respect of certain matters but, where the Governing Body does so, it shall have mechanisms in place for documenting the delegation and monitoring the exercise of delegated functions. The Governing Body cannot abrogate its responsibility for functions delegated - in particular it must retain overall responsibility for internal control, internal audit and risk management, actuarial matters.	Grammatical change, “,” and “and” relocated for intended separation of delegated functions.	Agreed	To be amended.
5.10. Conflicts of Interest			
Paragraph 5.10.1 – Directors shall declare a conflict of interests and not participate in any decision making/discussion where a reasonably perceived or potential conflict of interest exists.	Understanding from Insurer Counsel is that under current law, a Director of a Cayman company may declare a conflict and vote.	CIMA acknowledges the legal basis for the association’s argument and will make the necessary change to the Rule to allow an insurer’s Director to declare a conflict of interest and vote. However, it must be emphasised that Directors must maintain, at all times, its fiduciary duty to place the interests of the company and policyholders above their own.	To be amended.
	The provision in Section 5.10.1 requiring a Director to recuse himself or herself in the case of a conflict is not practicable for small Cayman insurers as the Board may consist of a	See response above.	

	small number of Directors and the Director with the conflict may have to be involved in making the decision, having, of course, fully disclosed his or her conflict of interest.		
Paragraph 5.10.2 – The Governing Body shall establish a documented ‘conflict of interest’ policy for its members and where conflicts of interest arise, the Governing Body shall ensure that they are noted in the minutes of the meeting to which the subject matter of the conflict relates.	Second “Governing Body” replaced with “Directors”.	Suggested rewording not fundamentally different from current wording.	None.
Paragraph 5.10.3 – Directors and senior management must confirm to the Governing Body in writing via an annual declaration that any conflicts of interest have been declared throughout the year.	Word “must” replaced with “should”.	This paragraph outlines a clear Rule directive and the use of the word “must” is standard practice to demonstrate the obligations of applicable licensees.	None.
5.11. Remuneration Policy and Practices			
Section 5.11	Not applicable to Class B and C insurers.	The Authority acknowledges the varying size, nature and complexity of the different classes of insurers and expects that this will be the premise for application of the Rule.	None.
	As mentioned above with respect to Subsections 5.6.1 i) and 5.6.1 m), Section 5.11 should be deleted as it would not have any relevance for Cayman insurers other than domestic insurers.	See response above.	None.
Paragraph 5.11.1 – An insurer’s Governing Body	Paragraph rarely applies to captives, but, in the commercial insurance	See response above.	None.

<p>must adopt and oversee the effective implementation of a written remuneration policy, which does not induce excessive or inappropriate risk taking, is in line with corporate culture, objective, strategies, the identified risk appetite and long term interests of the insurer, and has proper regard to the interests of its policyholders and other stakeholders.</p>	<p>world, Directors get paid to perform and probably don't give too much concern about policyholders – other than to the extent of the policy wording.</p>		
<p>5.12. Reliable and Transparent Financial Reporting</p>			
<p>Paragraph 5.12.1 – The Governing Body must ensure there is a reliable financial reporting process for both public and supervisory purposes that is supported by clearly defined roles and responsibilities of the Governing Body, senior management and the external auditor.</p>	<p>Need to insert “where applicable” after “public”.</p>	<p>See response above.</p>	<p>None.</p>
<p>Paragraph 5.12.2 – The Governing Body, or its Audit Committee, must ensure adequate governance and oversight of the external audit process. This oversight includes approving the appointment of the external auditor, monitoring the expertise and independence of the auditor, monitoring the effectiveness of the external audit process and investigating the circumstances surrounding the removal or resignation</p>	<p>Removal of “approving the appointment of the external auditor” and insertion of “external” before “auditor”. Is this appointment a shareholder or Director function?</p>	<p>The Governing Body is responsible for all the outlined steps in the oversight of the external process, including approving the appointment of the external auditor.</p> <p>“External” will be inserted before “auditor”.</p>	<p>To be amended.</p>

of the external auditor.			
5.13 Transparency and Communications			
Paragraph 5.13.2 – The Governing Body must approve systems and controls to ensure the promotion of appropriate, timely and effective communications with the supervisor on the governance of the insurer.	Is the role of supervisor defined in the Rule?	This refers to the Authority.	To be amended.
	The word “supervisor” appears in Section 5.13.2 and it is not clear to whom the term refers.	The term “supervisor” refers to the Authority and will be changed for clarity.	To be amended.
Paragraph 5.13.3 – The Governing Body must hold regular board meetings.	Insert “the frequency of which will be commensurate with the size, nature and complexity of the insurers business and operating cycle.”	The scope of application of the Rule, in line with the size, nature and complexity of the insurers business, will be clarified in Section 3.	See amendment below.
	As noted above in our comment on Section 5.6.1, the word “regular” in Section 5.13.3 is vague. We suggest that the phrase “periodic and not less than annually” would be clearer and would provide the flexibility needed for small Cayman insurers.	Agreed.	Amend paragraph to read “The Governing Body must hold periodic board meetings, not less than annually.”
Paragraph 5.13.4 – A detailed agenda should be circulated sufficiently in advance of any meeting of the Governing Body to allow each Director to apprise him or herself of the matters to be discussed. Paragraph 5.13.5 – Detailed minutes of all Governing Body meetings shall be prepared with all decisions, discussions and points for further actions	In our view, Sections 5.13.4 and 5.13.5 impose unreasonably onerous standards on the boards of Directors of Cayman insurers. Whilst these standards might apply to mutual funds, for example, they go well beyond what is customary for a captive insurer.	Both paragraphs are fundamentally, and comparably, applicable to captive insurers. Essentially, the Governing Body of captives should be prepared for planned discussions and material outcomes of such discussions should be recorded for future reference and action.	None

being documented. The minutes should include: a. Attendance of each member; b. Dissensions or negative votes; c. Conflicts of interests declared; and d. The substance of matters considered.			
Paragraph 5.13.5 – See above.	Insert “at a minimum” at the end of opening statement.	Agreed.	To be amended.
	Also, insert “Details of those in” at the beginning and remove “of each member” from the end of part a.	Suggested rewording not fundamentally different from current wording.	None
Paragraph 5.13.6 – The minutes of meetings shall provide sufficient detail to evidence appropriate Governing Body attention, the substance of discussions and their outcome and shall be approved at the subsequent Governing Body meeting.	Remove “the substance of discussions and their outcome”. The content of minutes differs by entity. Arguments will be made that only resolutions are required to be documented. “Confidential” discussions will not be recorded. “Sufficient Detail” is adequate to guide the Governing Body.	The Authority acknowledges the comments made and will amend the reference to include, “where appropriate”.	To be amended.
5.14 Duties of Senior Management			
Section 5.14	Section not applicable to Class B and C insurers.	The scope of application of the Rule, in line with the size, nature and complexity of the insurers business, will be specified in Section 3.	None
Section 5.14.1 – The Governing Body must ensure it is not subject to undue influence from Senior Management or other parties and that it has access to all relevant information about the	The requirement in Section 5.14.1 to ensuring that the Governing Body is not subject to “undue influence” is odd and, in our opinion, is not required in the context of the management of a captive insurer.	This paragraph is application to all governance structures, including those of captives. Maintenance of Governing Body independence and objectivity is vital.	None

insurer.			
<p>Section 5.14.2 e) – The insurer’s Governing Body must approve appropriate policies and procedures to ensure that Senior Management maintains adequate and orderly records of the internal organization.</p>	<p>We suggest that the words “and orderly” in Section 5.14.2 e) are not required and should be deleted.</p>	<p>The paragraph, with the use of “orderly” creates the requirement for organisational records to not only be sufficient but also easily accessed.</p>	<p>To be amended.</p>