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## **Rule**

### **Corporate Governance for Insurers**

#### **1 Statement of Objectives**

- 1.1 To set out the Cayman Islands Monetary Authority's ("Authority's") rule on Corporate Governance for insurers, (each of the sub-paragraphs of section 5 below referred to as a "Rule," and collectively, the "Rules"), pursuant to the Monetary Authority Law ("MAL"), section 8(2)(g) of the Insurance Law, 2010, and section 28(D)(h) of the Insurance (Amendment) Law, 2013.

#### **2 Statutory Authority**

- 2.1 Section 34 of the MAL provides that the Authority may issue rules:

*(1) After private sector consultation and with the approval of the Governor, the Authority may –*

*(a) issue or amend rules or statements of principle or guidance concerning the conduct of licensees and their officers and employees;*

...

- 2.2 This document establishes the Rule on Corporate Governance for Insurers and should be read in conjunction with the Rule on Risk Management for Insurers, Rule on Internal Controls – Insurance, Statement of Guidance ("SOG") on Internal Controls and SOG on Corporate Governance.

#### **3 Scope of Application**

- 3.1 These Rules apply to all insurers regulated, including portfolio insurance companies, by the Authority under the Insurance Law, except for Class "A" External insurers.
- 3.2 Where an insurer is part of a group, it may rely on the Group Corporate Governance framework provided that the insurer's Governing Body is satisfied that the framework is appropriate to the specific circumstances of the insurer, including to the insurer's structure, business, risks and legal requirements in the Cayman Islands. The group corporate governance framework must include policies, processes and controls that address risks across the insurance group.
- 3.3 Certain Rules may only be relevant to the specific type of entity identified.

#### **4 Definitions**

- 4.1 The "Governing Body" of an insurer is the board of Directors where the insurer is a corporate entity.
- 4.2 "Control Functions" mean properly authorized functions, whether in the form of a person, unit or department, serving a control or checks and balances function from a



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governance standpoint and which carry out specific activities including risk management, compliance, actuarial matters, and internal audit, and similar functions.<sup>1</sup> For Class B and Class C insurers, the insurance manager may serve in the capacity of a control function.

- 4.3 "Director" means a member of the Governing Body, and any person who fulfills the function of a Director, by whatever name called.

## **5 Rules**

### **5.1 The Corporate governance framework**

5.1.1 An insurer must establish, implement, and maintain a corporate governance framework which provides for sound and prudent management and oversight of the insurer's business and adequately recognizes and protects the interests of policyholders.

5.1.2 At minimum, the framework must address:

- 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 management

### **5.2 Objectives and strategies of the insurer**

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.

5.2.2 These objectives and strategies must be adequately documented and properly communicated to its senior management, including staff in charge of Control Functions and all other relevant staff of the insurer as appropriate.

### **5.3 Appropriate allocation of oversight and management responsibilities**

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<sup>2</sup> IAIS Glossary



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- 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.
- 5.3.2 The 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.
- 5.3.3 The insurer's Governing Body must provide oversight in respect of the design and implementation of sound risk management and internal control systems and functions. Please refer to the Rule on Risk Management and the SOG on Corporate Governance.

### **5.4 Structure and governance of the Governing Body**

- 5.4.1 The Governing Body must have, on an on-going basis:
  - a) an appropriate number and mix of individuals to ensure that there is an overall adequate level of competence at the Governing Body level;
  - b) appropriate internal governance practices and procedures to support the work of the Governing Body in a manner that promotes the efficient, objective and independent judgment and decision making by the Governing Body;
  - c) adequate powers and resources to be able to discharge its duties fully and effectively;
  - d) 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,
  - e) a requirement to declare any actual or potential conflicts of interests to the Governing Body as and when these arise;
  - f) an appropriate succession plan for Directors and senior management;
  - g) nomination and appointment procedures for Directors; and
  - h) defined and documented responsibilities of committees of the Governing Body to ensure that no single person has unfettered control of the business.

### **5.5 Independence and Objectivity**

- 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 must establish clear and



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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.

### **5.6 Collective Duties of the Governing Body**

#### 5.6.1 The Governing Body shall regularly:

- a) review the strategic objectives and policies of the insurer and either amend or readopt them as appropriate;
- b) evaluate the progress made towards achieving the strategic objectives;
- c) enquire into the affairs of the insurer and request information from management or service providers, including their presence at board meetings where necessary.
- d) review the composition of the Governing Body to ensure that collectively it has 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;
- e) undertake self-assessments of its performance and governance practices, and remedy any deficiencies identified;
- f) require the Directors and senior management to declare conflicts of interest annually and any changes during the year;
- g) oversee the design and implementation of the risk assessment and risk management system to ensure that all significant risks are being adequately measured, monitored and controlled;
- h) oversee the design and implementation of internal controls, ensure they are operating effectively and that any deficiencies are adequately addressed;
- i) review the remuneration policy for senior management;
- j) 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;
- k) ensure that regulators are promptly notified of substantive issues affecting the insurer;
- l) with respect to Class B and Class C insurers, appoint a captive manager with appropriate integrity and adequate knowledge, experience, skill and competence for its role; and
- m) 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



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been agreed will and can be outsourced).

## **5.7 Duties of individual Directors of the Governing Body**

- 5.7.1 Each member of the Governing Body shall devote sufficient time to the role of Director and associated 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.
- 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 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.
- 5.7.3 The individual Directors of the Governing Body must act in good faith, honestly and reasonably;
- 5.7.4 The individual Directors of the Governing Body must exercise due care and diligence;
- 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;
- 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.
- 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;
- 5.7.8 Each individual Director of the Governing Body must understand the limitations of services and reports provided by service providers;
- 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; and
- 5.7.10 An individual Director must not use his/her position to gain undue personal advantage or cause any detriment to the insurer.

## **5.8 Appointments of the Governing Body**

- 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.



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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.

### **5.9 Delegation**

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.

### **5.10 Conflicts of Interest**

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.

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.

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.

### **5.11 Remuneration policy and practices**

5.11.1 An insurer's Governing Body 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; and

5.11.2 The remuneration policy, at a minimum, must cover those individuals who are members of the Governing Body, senior management, employees in charge of Control Functions and other employees whose actions may have a material impact on the risk exposures of the insurer (major risk-taking staff).

### **5.12 Reliable and transparent financial reporting**

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.

5.12.2 The Governing Body, or its Audit Committee, must ensure adequate governance and



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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 of the external auditor.

### **5.13 Transparency and communications**

- 5.13.1 The Governing Body must have access to accurate, relevant and timely information regarding the insurer.
- 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.
- 5.13.3 The Governing Body must hold regular board meetings.
- 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.
- 5.13.5 Detailed minutes of all Governing Body meetings shall be prepared with all decisions, discussions and points for further actions 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.
- 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.

### **5.14 Duties of Senior Management**

- 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 insurer.
- 5.14.2 The insurer's Governing Body must approve appropriate policies and procedures to ensure that Senior Management:
  - a) is sufficiently accountable to the Governing Body; and includes a decision-making process and a division of responsibilities that will ensure a balance of power and authority so that no one individual has unfettered powers of decision.
  - b) carries out the day-to-day operations of the insurer effectively and in accordance with the insurer's corporate culture, business objectives, and strategies, in line with the insurer's long term interests and viability;



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- c) promotes sound risk management, compliance and fair treatment of policyholders;
- d) provides the Governing Body adequate and timely information to enable the Governing Body to carry out its duties and functions including the monitoring and review of the performance and risk exposures of the insurer, and the performance of Senior Management; and
- e) maintains adequate and orderly records of the internal organization.

### **5.15 Supervisory review**

5.15.1 The insurer must, as required by the Authority, demonstrate the adequacy and effectiveness of its corporate governance framework.

## **6 Enforcement**

6.1 Whenever there has been a breach of the Rules, the Authority's policies and procedures as contained in its Enforcement Manual will apply, in addition to any other powers provided in the Insurance Law and the MAL.