



INDEPENDENT CONSUMER & COMPETITION COMMISSION

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**REVIEW OF THE GENERAL INSURANCE  
INDUSTRY IN PAPUA NEW GUINEA**

**WORKSHOP BACKGROUND  
PAPER**

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# **1 Background to the Working Paper**

## **1.1 Issues Paper**

The Independent Consumer and Competition Commission (“the Commission”) released an Issues Paper on 27 March 2007 as part of the review of the general insurance industry (“the Review”) in Papua New Guinea (“PNG”).

The Issues Paper sought responses from industry stakeholders in the general insurance market to a series of questions on issues facing the general insurance industry. In particular, the Issues Paper focused upon the current:

- regulation of the industry including the prudential guidelines and requirements;
- composition and structure of the PNG general insurance industry; *and*
- operation of the general insurance industry with particular reference to premium setting, broker fees and other industry charges including the accessibility of insurance products by the consumers.

Submissions to the Issues Paper were received from 16 public and industry stakeholders and their responses have now been reviewed and collated.

## **1.2 Information sought for the Review**

### **1.2.1 Industry Data**

In addition to receiving submissions from industry participant and stakeholder in response to the Issues Paper, the Review has sought industry information and data from the Office of the Insurance Commissioner (OIC). Specifically, the Review has sought:

- Details on progress to date with the Risk Based Capital Project sponsored by the World Bank;
- Data from 1995 to 1999 to build on the aggregated industry data previously provided for the years 2000 to 2005; and
- Other information that may be able to be sourced from the returns and other data collected by the OIC that will assist in the Review.

The Review has been provided with the scoping paper prepared as part of the Risk Based Capital Project sponsored by the World Bank. The OIC has also provided some raw data for the years 2000 to 2005 on top of the aggregate industry data provided. However the OIC has not been able to provide the Review with the requested data from 1995 to 1999. The ICCC understands that these information has been archived or stored somewhere by the OIC but was unable to retrieve it at the date of this Paper. This lack of data has to certain extent hampered the Commission’s ability to undertake the Review.

### **1.2.2 Premium and terms of coverage information**

The Review has also undertaken preliminary work regarding a premium comparison exercise.

A survey of market participants has been discussed as a potential means to obtain general insurance premium and coverage information. Following discussions with some industry participants, the premium comparison exercised has not progressed due to concerns that the premiums and terms of coverage for PNG risks will not be comparable to international benchmarks despite being for the same class of insurance.

### **1.3 Stakeholder Consultation and Workshop**

A Workshop with stakeholders and interested parties is proposed for Wednesday 11 July 2007.

The Workshop will provide the opportunity for stakeholders and interested parties to comment on the Workshop Background Paper and give their views on competition issues and the overall market conduct issues in the PNG general insurance industry. We will also like to discuss the issue of undertaking a premium comparison exercise at the Workshop.

### **1.4 Structure of this paper**

This Workshop Background Paper is structured as follows:

- Section 2 provides a high-level summary of the industry participant and stakeholders responses to the Issues Paper;
- Section 3 provides updated aggregated industry data and high-level comparison with the Australian general insurance industry; and
- Section 4 reviews potential regulatory models for the general insurance industry.

Appendix A outlines the IAIS core principles and criteria and Appendix B outlines a number of questions we would like to discuss at the Workshop.

## **2 Industry responses to the Issues Paper**

The following summarises the key points from the industry participant and stakeholder responses to the Issues Paper.

### **2.1 Effectiveness of the legal and regulatory framework**

#### **2.1.1 Legal and regulatory framework**

Stakeholders commented that the *Insurance Act 1995* (the Act) is broad in scope and lacks clarity in intent, particularly in regards to the delineation between its powers and those under the *Life Insurance Act 2000*. Several stakeholders also noted that earlier practice by the OIC to issue circulars to the industry to provide explanation or intent of the Act has not continued in recent years.

Some stakeholders suggested the Act should be reviewed to address areas where ambiguity, misinterpretation and inconsistency have manifest, in particular the revision of conflicting and grey areas between the Insurance Act 1995 and the Life Insurance Act.

Stakeholders were generally supportive of the proposed establishment of the Insurance Complaints Tribunal and introduction of Insurance Contract Law. However, a number of stakeholders commented that Insurance Contract Law should not be introduced simply on the format of existing legislation in operation in Australia (which is currently being significantly updated and modified) and must be appropriate to the PNG legislative, regulatory and market context.

#### **2.1.2 Licensing requirements**

Stakeholders believed that admitted market status (where industry participants are subject to an approval and licensing process) strengthens and generates benefits to the PNG insurance industry and the broader economy. A number of stakeholders commented that the current admitted market scenario was the most appropriate for PNG.

However, consideration should be given to revising the annual licensing requirement for existing market participants to introduce multi-year licences or a system in which licences are issued once and only revoked for subsequent breaches, coupled with an ongoing process of monitoring and review.

Several stakeholders noted that extending the period of licensing could reduce or remove the need for the OIC to issue provisional licences, which is currently occurring despite the Act not providing scope for provisional licensing.

Consideration should also be given to reviewing the criteria and process for approving/accepting an insurer's principal officer. One stakeholder suggested the adoption of the criteria utilised by the Australian Prudential Regulation Authority (APRA) which requires that the person exhibits "competence, character, diligence, honesty, integrity and judgement" to properly perform the role, rather than the current focus on formal qualifications in approving appointments.

Stakeholders noted the need for clearer delineation between life and general insurance licence categories, including definition of the types of products a certain category licence is permitted to distribute.

Consideration should be given to reviewing the current licensing arrangements for Lloyd's of London and to ensure consistency with the requirements and entitlements provided for other licensed insurers.

### **2.1.3 Prudential requirements**

Several stakeholders commented that consideration should be given to reviewing the minimum capital requirements and statutory deposits for insurance market participants.

The regular use of actuaries does not appear to be wide spread in the PNG general insurance industry, though this did not seem to be an issue of concern for stakeholders.

Stakeholders commented that the efficiency and effectiveness of the offshore exemption process, including enforcement and imposing penalties for breach of the Act, needs enhancement. Some stakeholders noted that compliance with Section 36 of the Act (whereby insurance is written offshore and does not go through the exemption process) is problematic, though the scale of the problem is hard to quantify.

Stakeholder views were divided on the effectiveness of the 17.5% premium applied to foreign-based insurers. Some stakeholders suggested that the current arrangements are inefficient and lead to higher prices for consumers, whereas others commented on the importance of supporting locally based insurers and enabling them to compete with larger international entities.

The potential introduction of risk based capital requirements should be examined, but stakeholders stressed the importance of considering the size and maturity of the market, along with the current lack of available data to enable detailed evaluation of operational and financial risks to assess the level of capital required.

Stakeholders believed that existing arrangements support the expansion of the market as evidenced by several recent market entrants.

### **2.1.4 Office of the Insurance Commissioner**

The OIC would benefit from having more appropriately skilled resources to enhance prudential regulation and supervision and enforce breaches of the Act.

Stakeholders stressed that improved data collection processes and reporting is required to ensure timely information is provided to meet industry needs, and that greater transparency and accountability of the collection and expenditure of the Insurance Commission's Levy is required.

## **2.2 Market operation and competition**

### **2.2.1 Reinsurance**

Larger, more established insurers generally believed the PNG reinsurance market was working effectively, though some stakeholders did not support this contention and believed that reinsurance market capital was insufficient to accept large risks.

Many industry participants declared that they complied with the requirements of Section 36. However there was acknowledgement by some stakeholders of instances of reinsurance placements being transacted with non-admitted reinsurers.

Some stakeholders noted that treaty arrangements fall outside the scope of Section 36 as the Act was written prior to the formation of a local reinsurance entity (including Pacific Re).

### 2.2.2 Insurance

Many stakeholders believed there was sufficient competition between existing insurers in the PNG insurance market. Stakeholders commented that competition will increase with the entry of two new insurers in the past 12 months, following a period of rationalisation through mergers, acquisitions and market exit that had occurred in previous years.

Some stakeholders noted that competition was reflected in price differentials and the breadth of coverage available to customers, and that considerable customer churn between industry participants is further confirmation of effective competition. However specific information and data was not provided to support this contention.

Others noted concern that whilst competition is reasonably high, a number of existing and new insurers may not currently meet internationally accepted prudential standards.

Areas or products that would benefit from enhanced competition included:

- riots and strikes;
- natural disaster;
- small marine crafts;
- agriculture;
- financial risk products e.g. personal indemnity, directors and officers' liability, medical malpractice;
- stand alone motor;
- resource sector; *and*
- low-end indigenous risks (though these were not specified).

Increasing the capacity of existing insurers to limit premiums being placed offshore was viewed with caution. Stakeholders noted that some classes of insurance may never be placed in PNG due to the size of the industry and a lack of critical mass and technical expertise required to underwrite some classes of insurance. Others noted sound reasons why some business is placed offshore, for example:

- to protect the industry from the adverse impacts of a single large event;
- to benefit from scale pricing and increased breadth of coverage; or
- that particular classes of insurance are usually dealt with in international markets (e.g. aviation).

One stakeholder recommended caution when considering artificial ways to increase the capacity of the local market, but did note that limiting the amount of risk/premium that can be ceded to reinsurers, including parent companies, could be considered.

### **2.2.3 Brokers and loss adjustors**

Stakeholders generally believed the existing insurance brokers and loss adjustors are adequately skilled and experience to meet the needs of the PNG market. However, some noted that offshore expertise is occasionally required to be brought in for larger or more technical claims.

Most stakeholders believed there is sufficient competition in the PNG insurance market for brokers and loss adjustors. However some stakeholders did not support this contention and identified examples of anti-competitive practices existing in PNG market such as:

- an ‘understanding’ not to tender a client’s business to the market on a renewal against the underwriters presently on the slip for renewal;
- marking up ‘differential’ commissions between insurers’ proposals so that the broker’s favourite insurer’s rates appear the most competitive;
- taking rebates from insurers without disclosing this remuneration to the insured customers;
- insurers refusing to quote business directly to insured customers and requiring customers to engage a broker; *and*
- brokers bullying underwriters by threatening to send certain business elsewhere if underwriters quote direct to the customer or propose to provide reinsurance support to another insurer who may be prepared to write the business directly to the end customer.

### **2.2.4 Premiums and terms of coverage**

Stakeholders varied considerably in their responses to whether premiums reflect risk or market concentration, and were comparable in terms of price to other markets. However stakeholders have not provided specific information on premium levels and terms of coverage to support these claims.

Stakeholders noted a number of risks that are not insured by the PNG general insurance industry, and largely reflected the areas identified that would benefit from enhanced competition (refer above to section).

### **2.2.5 Market transparency**

Stakeholders generally believed that fees and brokerage for similar services were comparable to other markets, though specific information to support this has not been provided.

Consideration should be given to reviewing the requirements for disclosure of broker’s fees and commissions and improving the availability of customer and market information for general insurance products.

### 3 Industry data and regional comparisons

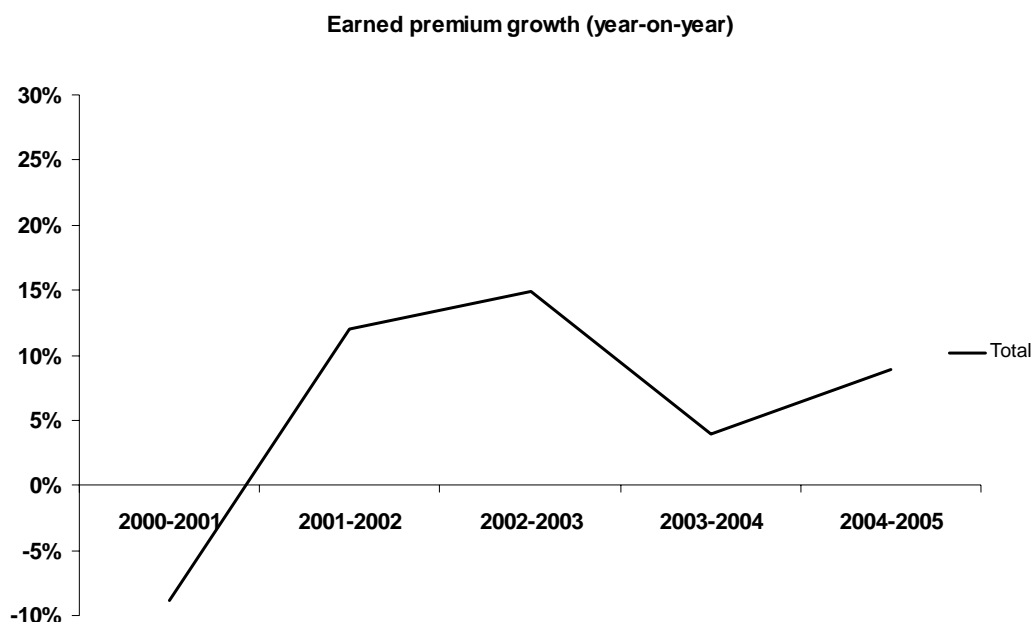
The following graphs provide a snapshot of PNG general insurance industry based on data provided by the OIC, along with some high level comparisons with the Australian, New Zealand and Fijian industries.

While a number of respondents to the Issues Paper pointed to the need to view industry performance over a period of at least ten years, the OIC has not been able to provide data before 2000 which according to the OIC has been archived. To date the data prior to 2000 has not been located. If the data becomes available before the Workshop a supplementary paper will be issued.

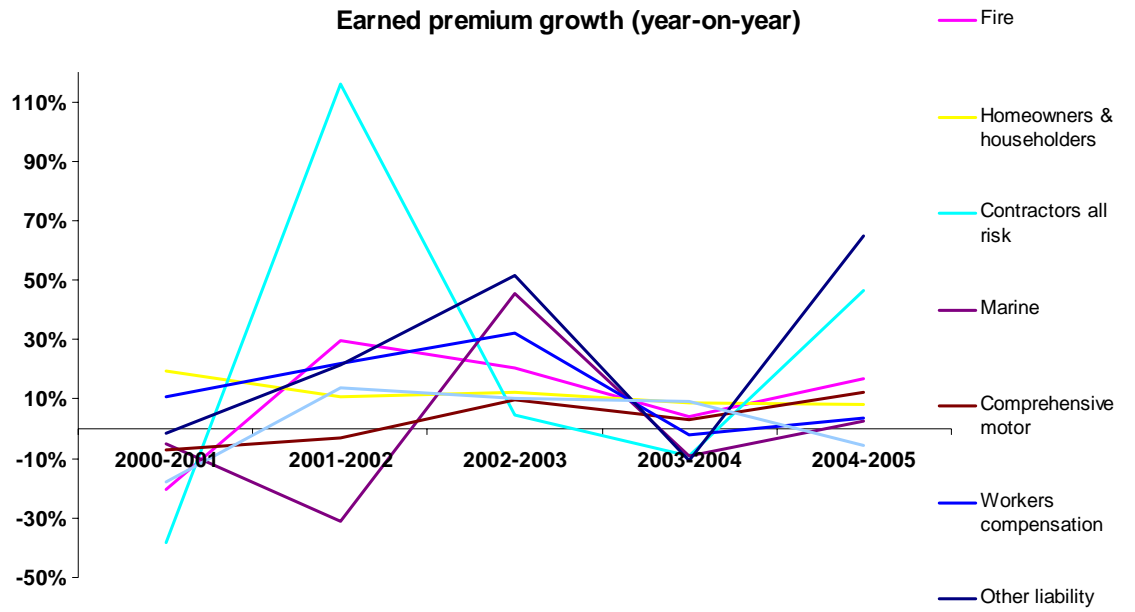
The Review seeks feedback from stakeholders at the Workshop, to confirm the data and understand the key drivers for the industry in PNG.

#### 3.1 Aggregated industry data from OIC

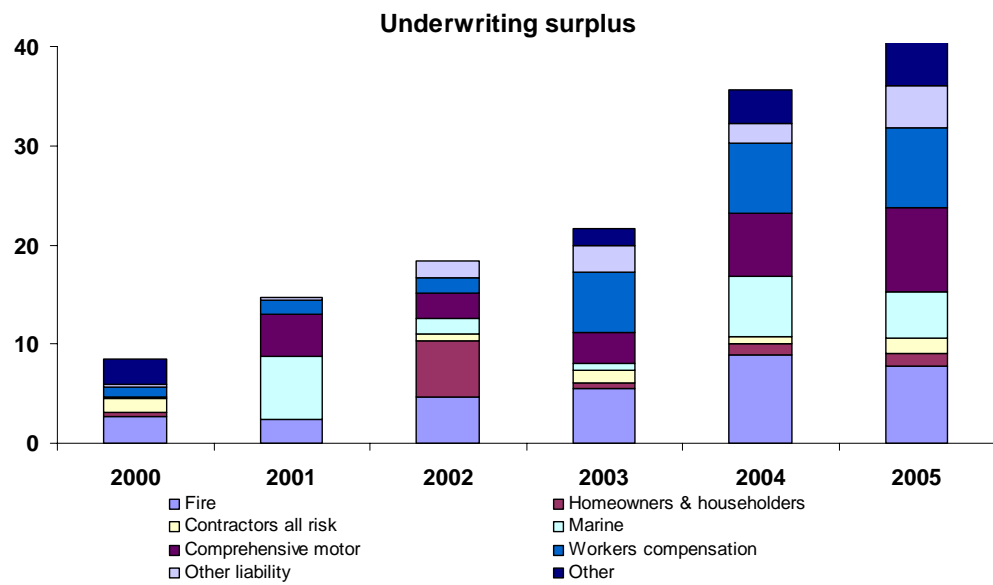
Figure 3-1: Growth in earned premiums – total, 2000-2005



**Figure 3-2: Growth in earned premiums – by class of insurance, 2000-2005**

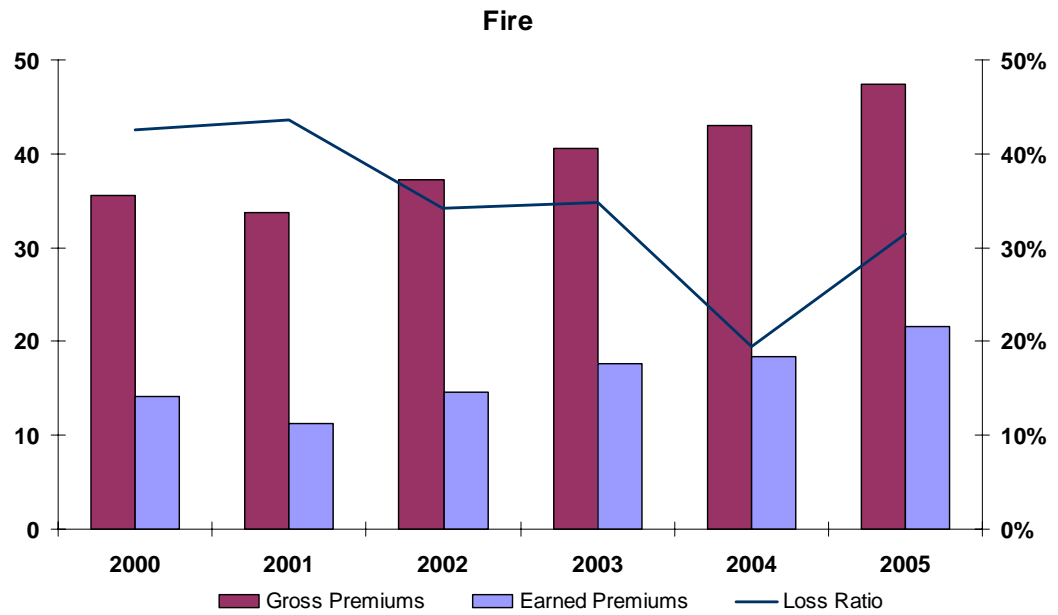


**Figure 3-3: Underwriting surplus – by class of insurance, 2000-2005**

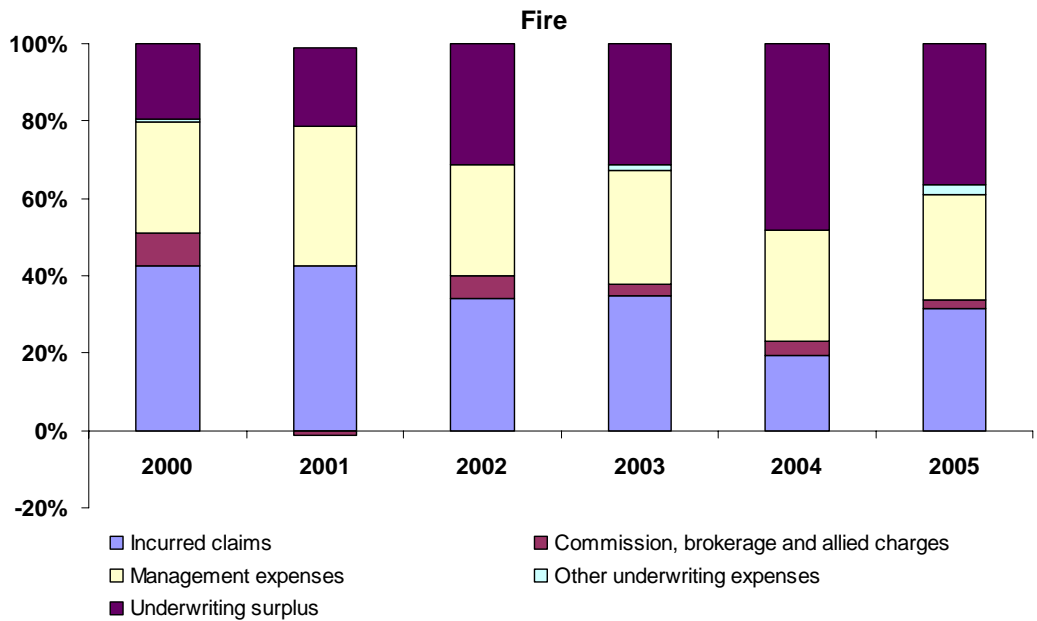


*Fire*

**Figure 3-4: Earned premiums, gross premiums and loss ratio (K million) – Fire, 2000-2005**

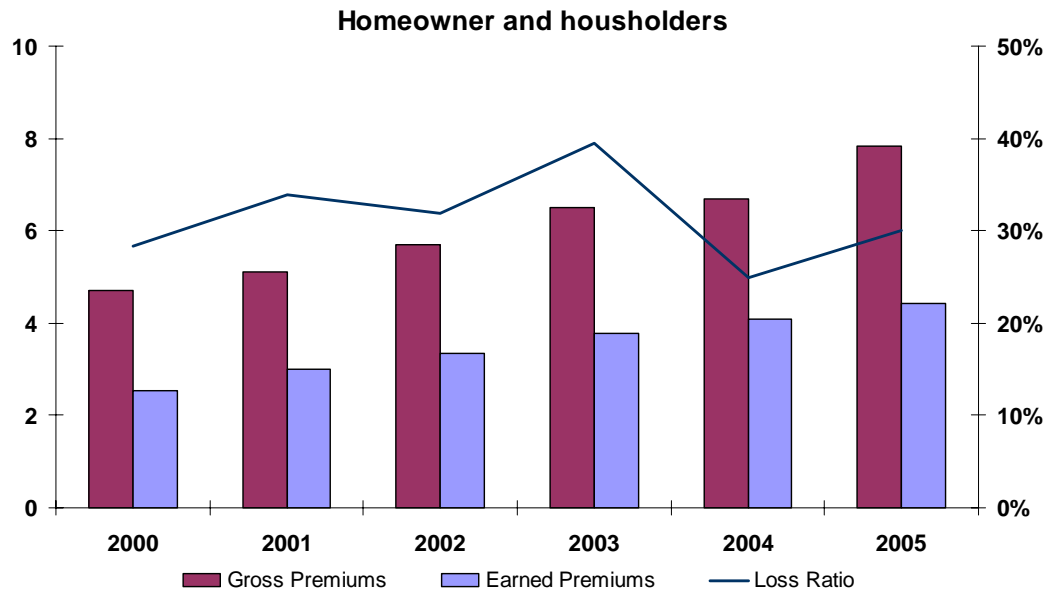


**Figure 3-5: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Fire, 2000-2005**

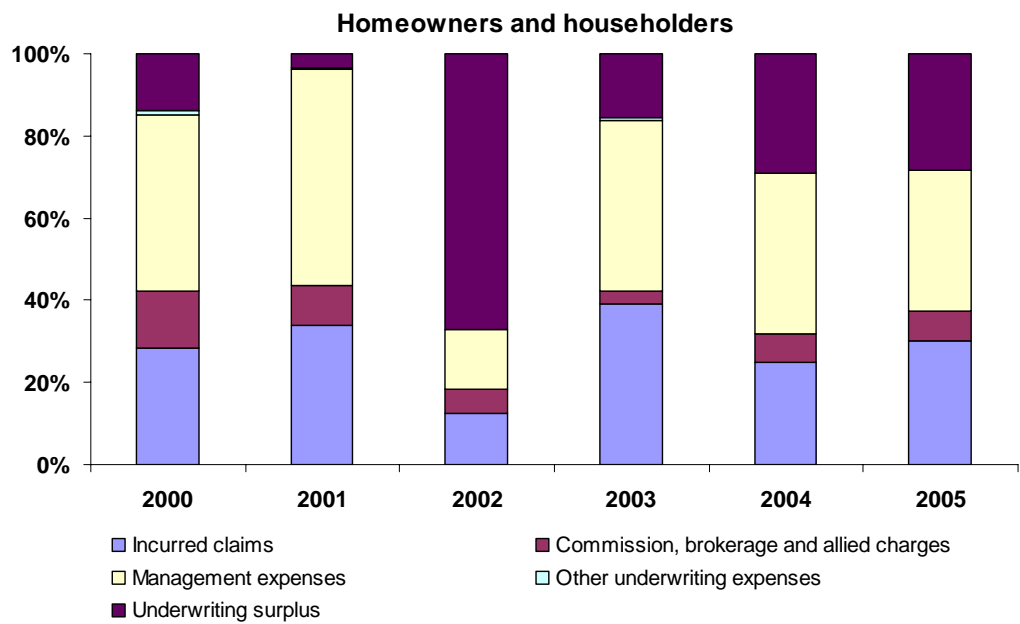


*Homeowners and Householders*

**Figure 3-6: Earned premiums, gross premiums and loss ratio – Homeowners and Householders, 2000-2005**

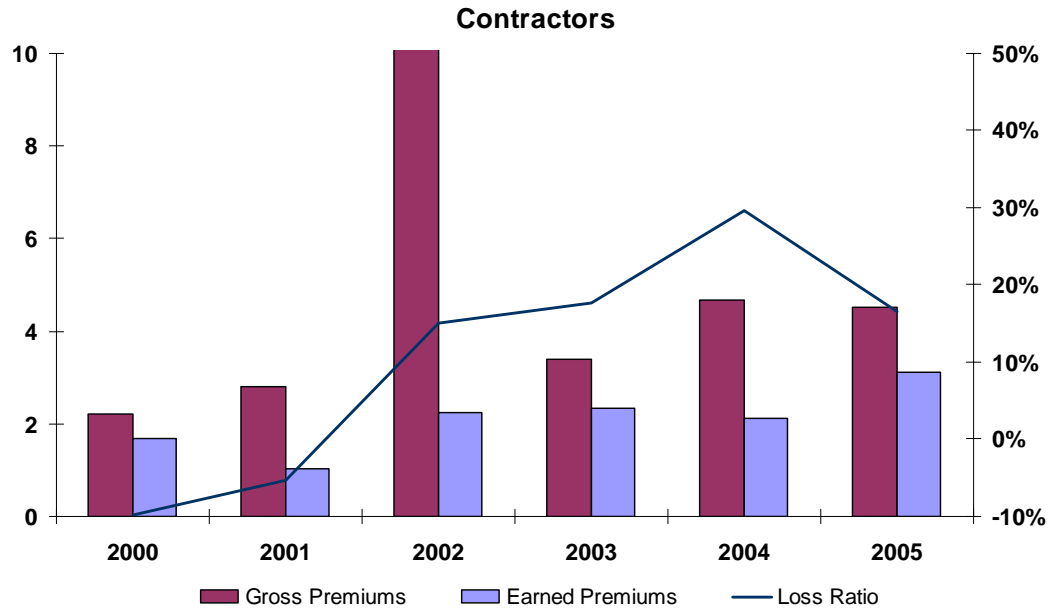


**Figure 3-7: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Homeowners and Householders, 2000-2005**

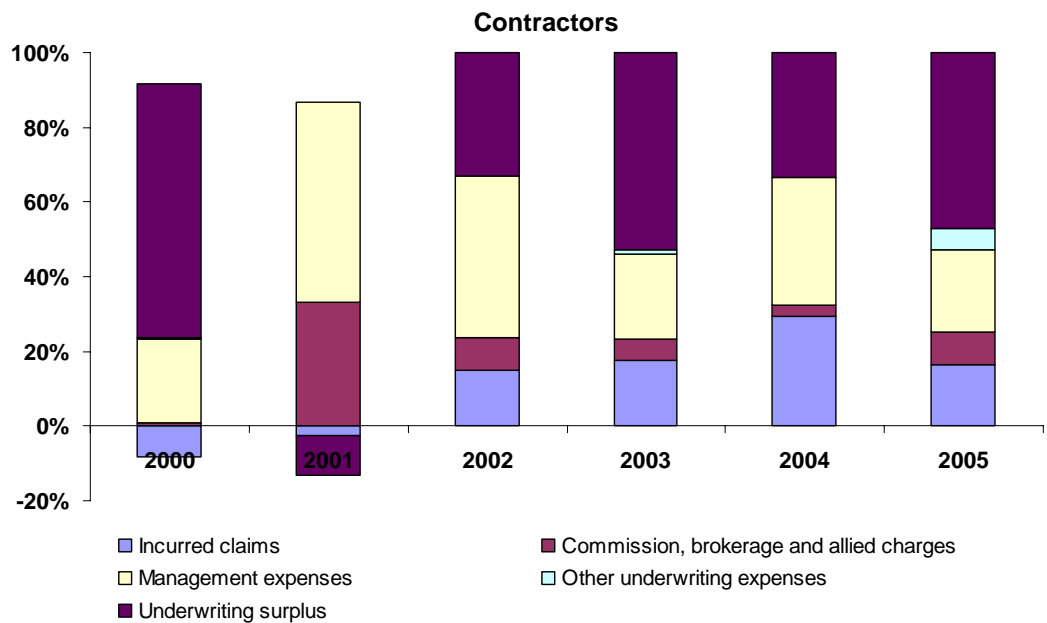


**Contractors All Risk**

**Figure 3-8: Earned premiums, gross premiums and loss ratio – Contractors All Risk, 2000-2005**

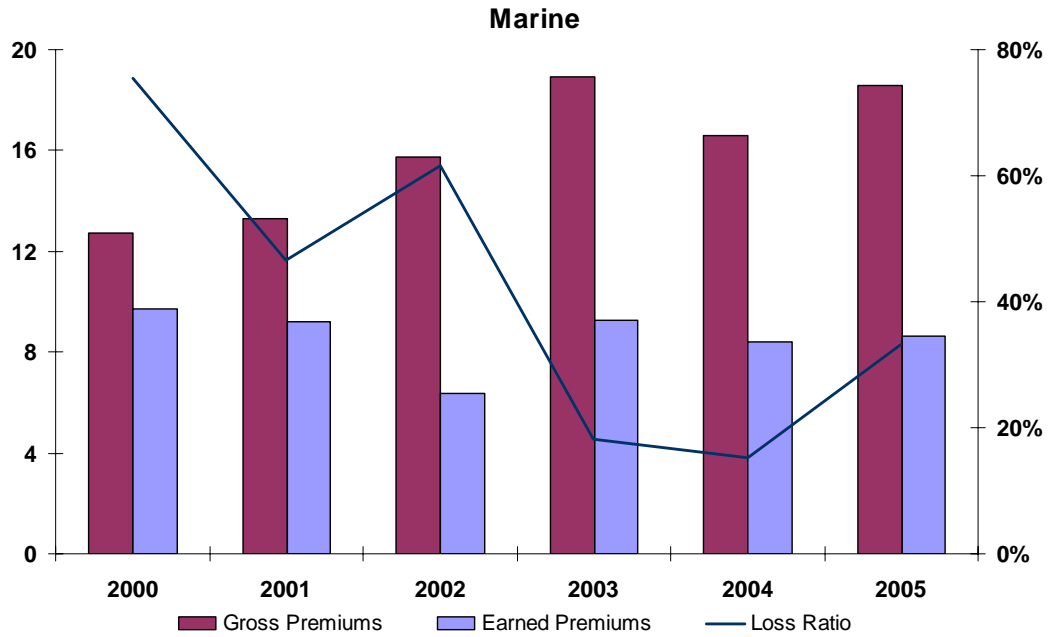


**Figure 3-9: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Contractors All Risk, 2000-2005**

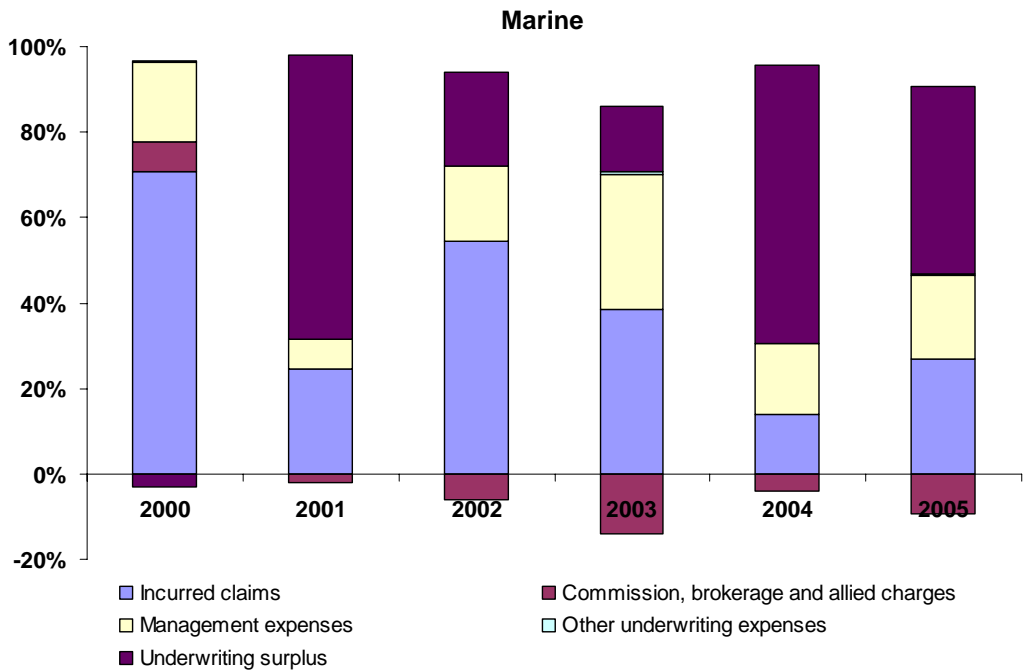


*Marine*

**Figure 3-10: Earned premiums, gross premiums and loss ratio – Marine, 2000-2005**

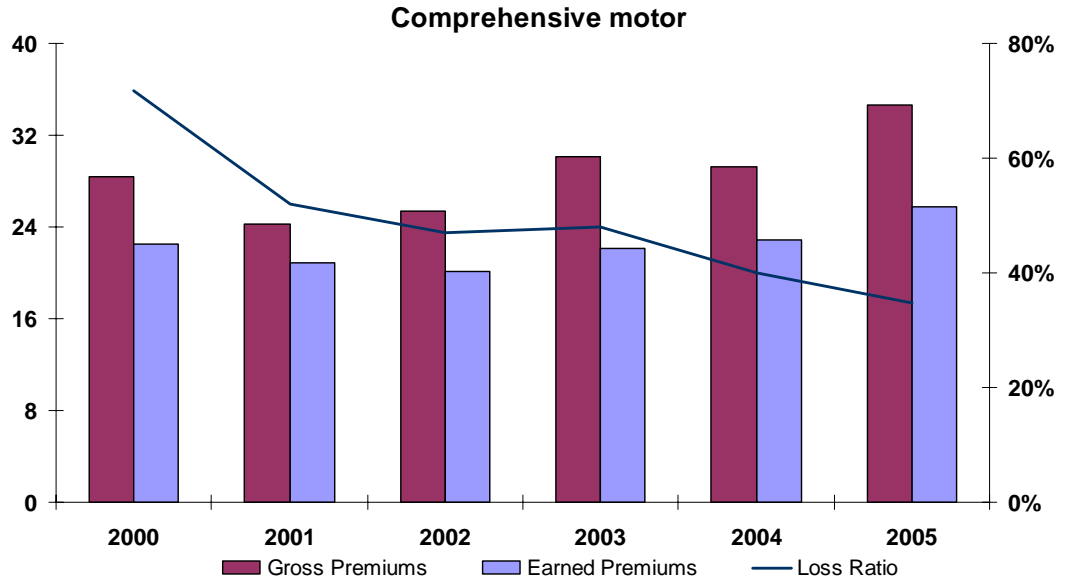


**Figure 3-11: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Marine, 2000-2005**

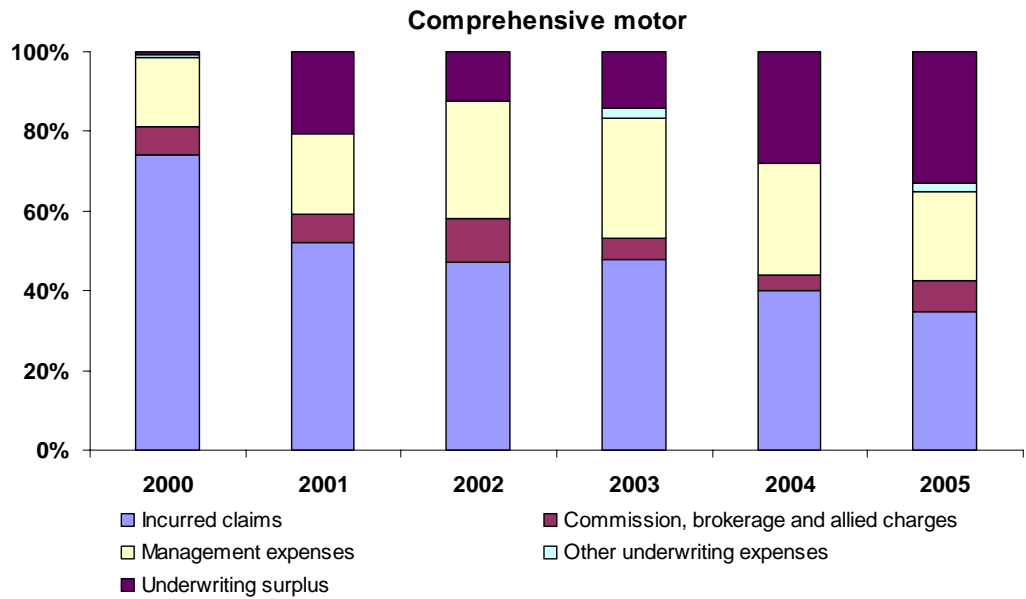


*Comprehensive Motor*

**Figure 3-12: Earned premiums, gross premiums and loss ratio – Comprehensive Motor, 2000-2005**

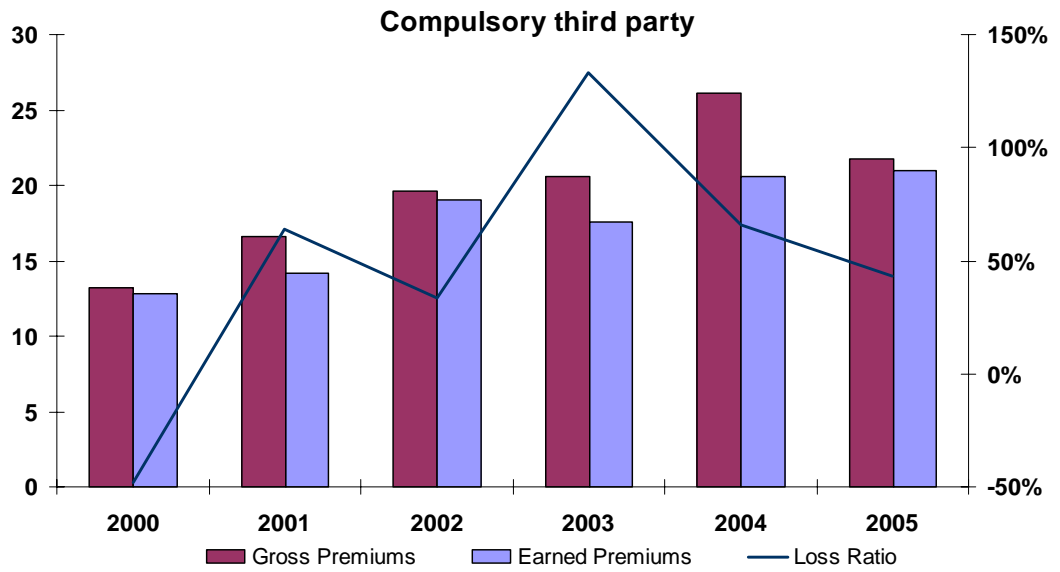


**Figure 3-13: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Comprehensive Motor, 2000-2005**

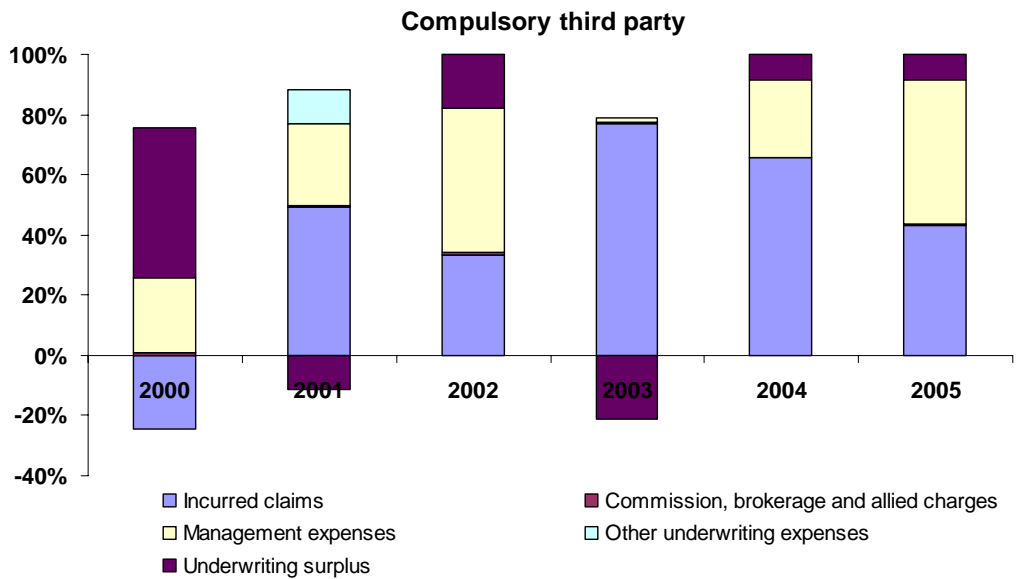


**Compulsory Third Party**

**Figure 3-14: Earned premiums, gross premiums and loss ratio – Compulsory Third Party, 2000-2005**

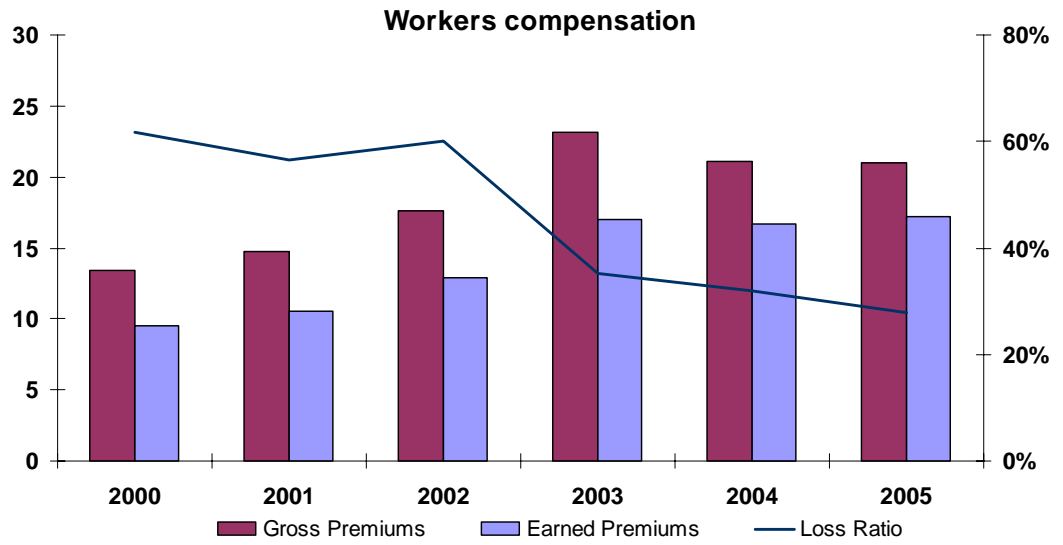


**Figure 3-15: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Compulsory Third Party, 2000-2005**

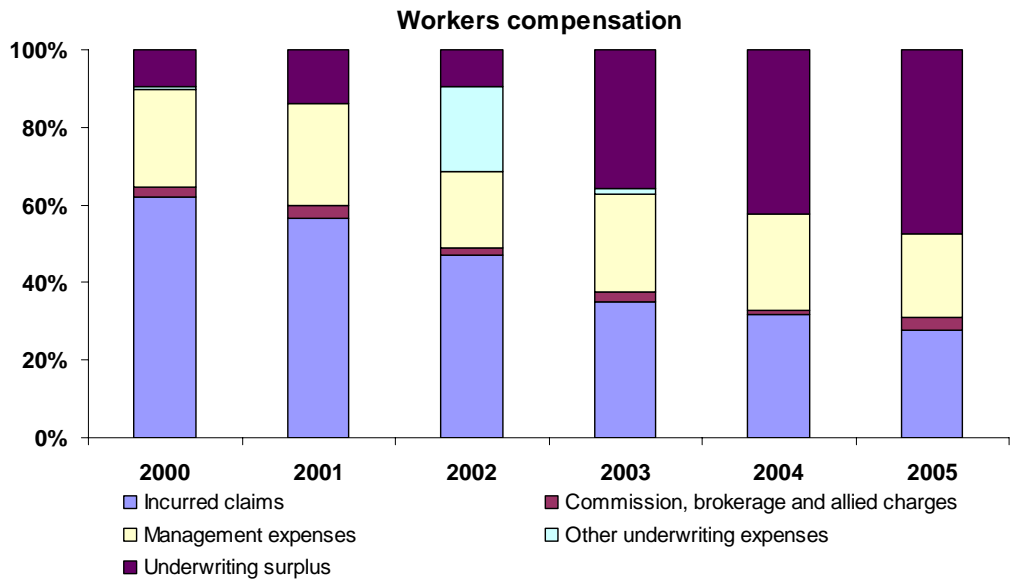


**Workers Compensation**

**Figure 3-16: Earned premiums, gross premiums and loss ratio – Workers Compensation, 2000-2005**

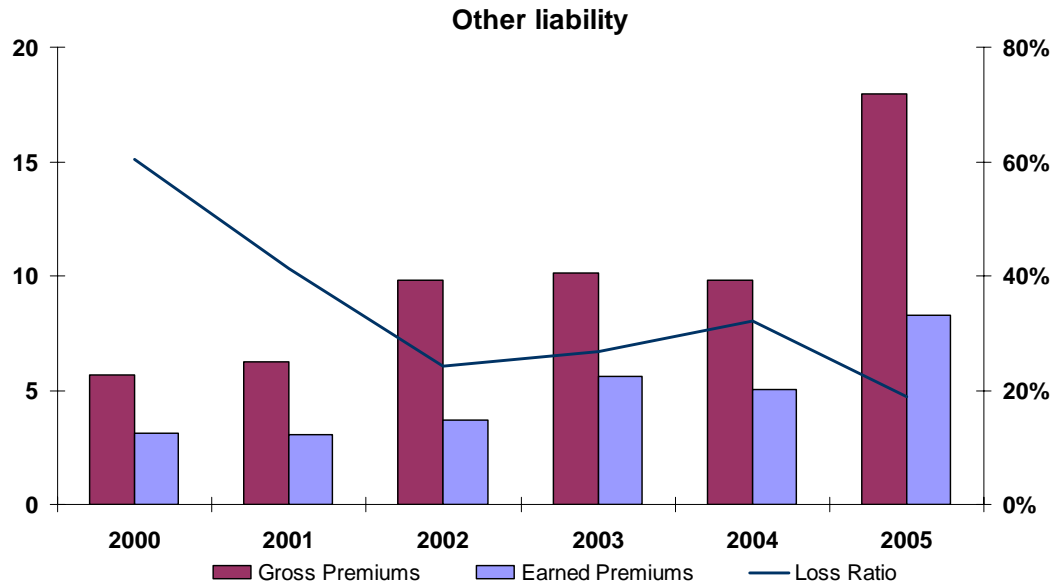


**Figure 3-17: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Workers Compensation, 2000-2005**

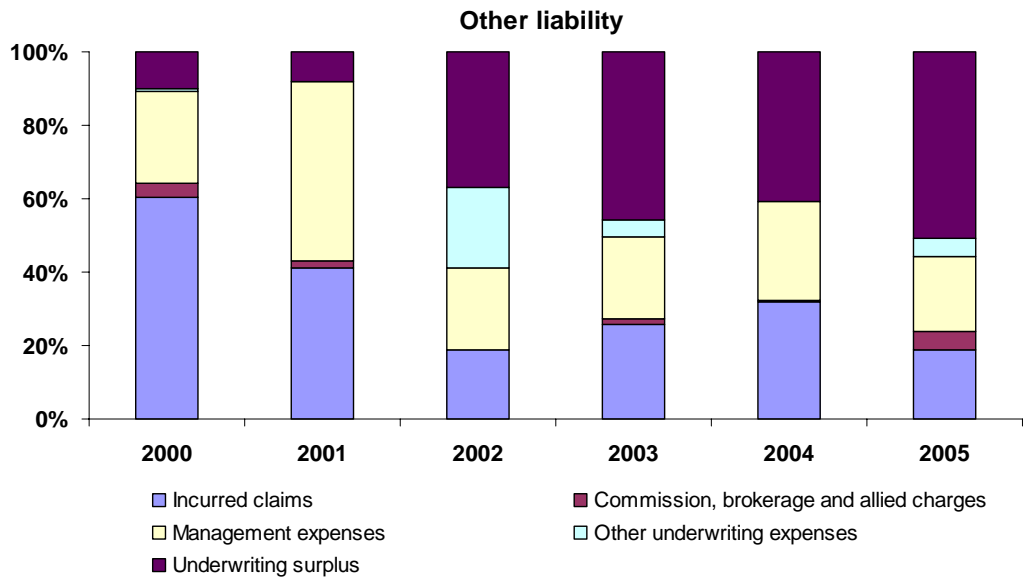


*Other Liability*

**Figure 3-18: Earned premiums, gross premiums and loss ratio – Other Liability, 2000-2005**

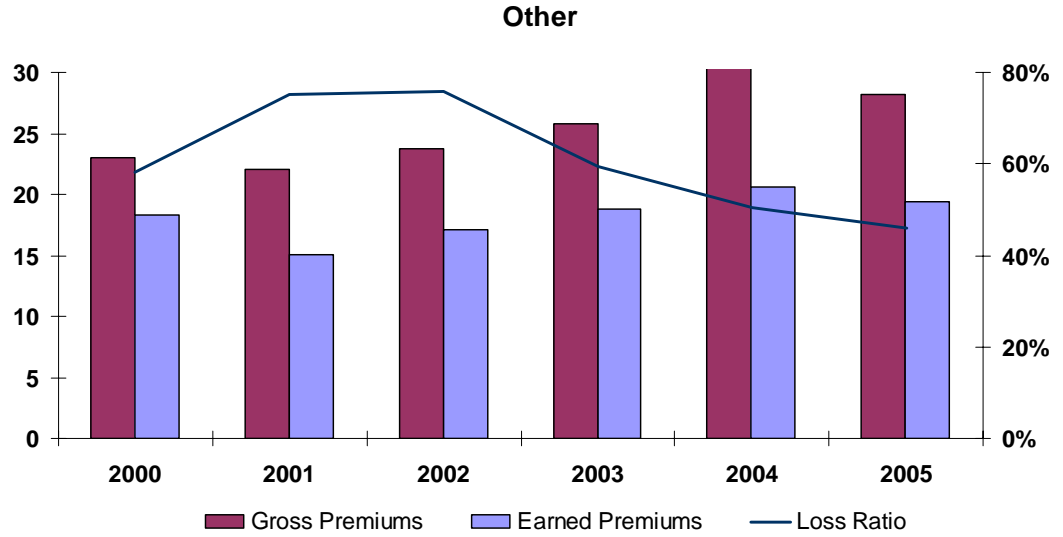


**Figure 3-19: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Other Liability, 2000-2005**

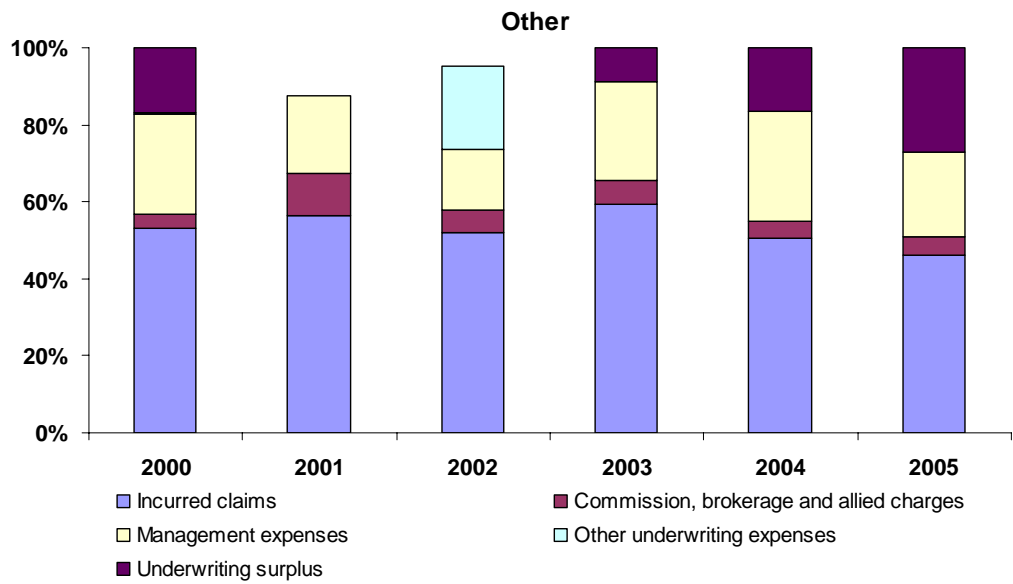


*Other*

**Figure 3-20: Earned premiums, gross premiums and loss ratio – Other Liability, 2000-2005**

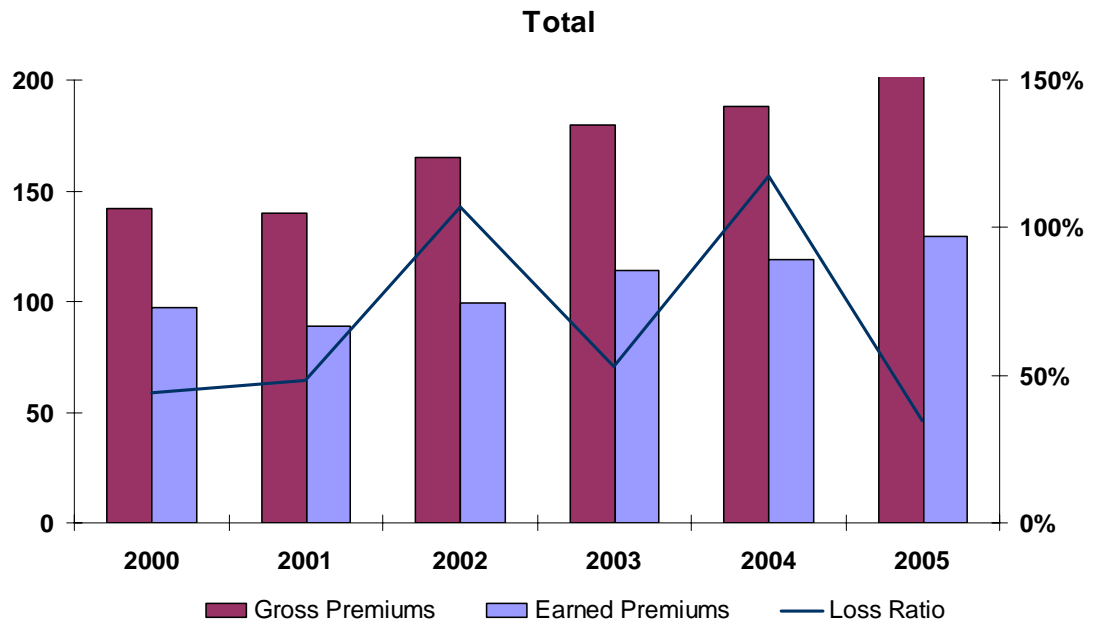


**Figure 3-21: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – Other Liability, 2000-2005**

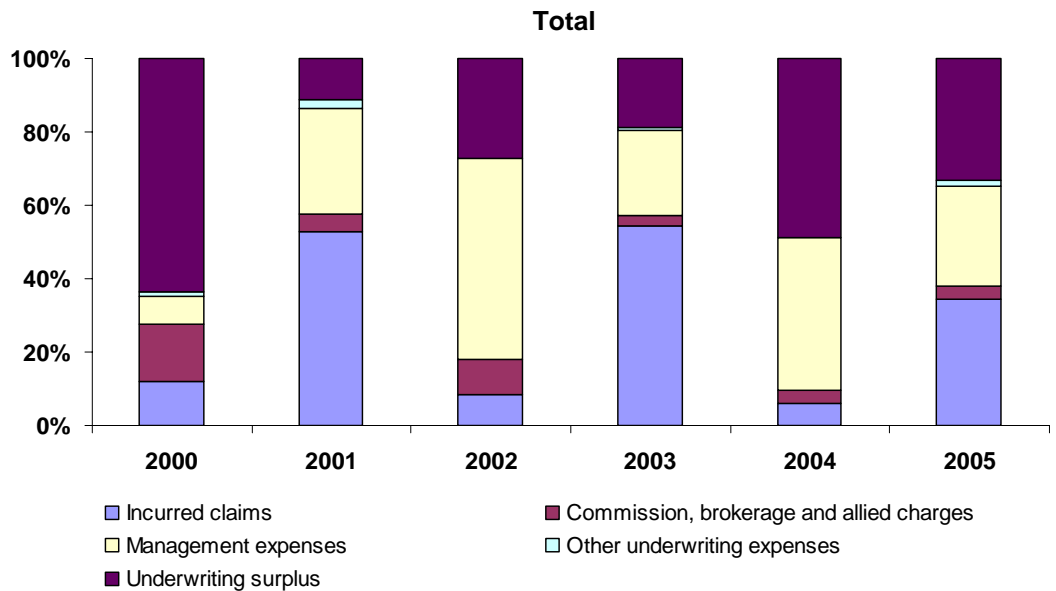


**Total**

**Figure 3-22: Earned premiums, gross premiums and loss ratio – Total (including Accident and Health, Compulsory Third Party Motor), 2000-2005**



**Figure 3-23: Incurred claims, expenses and underwriting surplus as a proportion of earned premiums (percentage) – PNG total, 2000-2005**



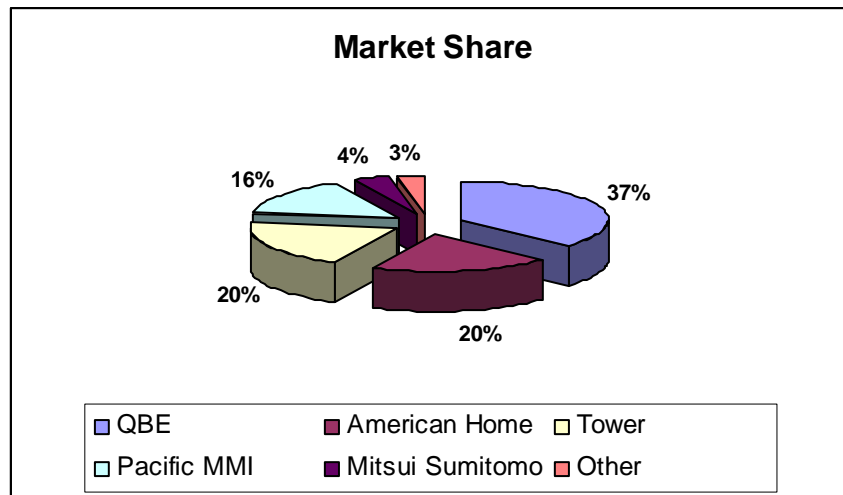
### 3.2 Market Analysis

The industry has shown a solid growth in earned premiums and strong and improving underwriting performance over the period since 2000 as shown in Figures 3-1 to 3-3.

In 2005 the industry was financially sound and had net assets of around K100 million and recorded a net profit before tax in excess of K50 million (excluding Pacific Re and MVIL which also operated profitably).

The five major insurers enjoyed a 97% market share by earned premiums as shown in the figure below.

**Figure 3.2-1: Market Share by earned premiums-2005 (excluding reinsurance and CTP)**



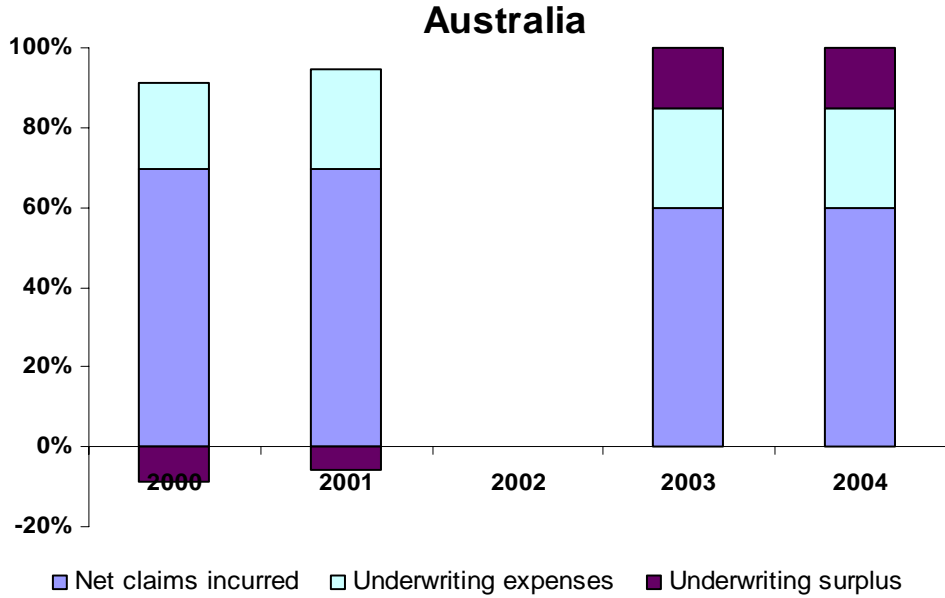
*Source: OIC Data*

There is no discernable concentration among the insurers by class written although Tower has a disproportionate share of Houseowners and Householders and QBE has a larger share of Contractors All Risks and Marine than its overall market share would indicate. American Home is the largest user of reinsurance.

The seven brokers operate across all classes of business with the two largest accounting for almost 70% of the market by premium placed in 2005.

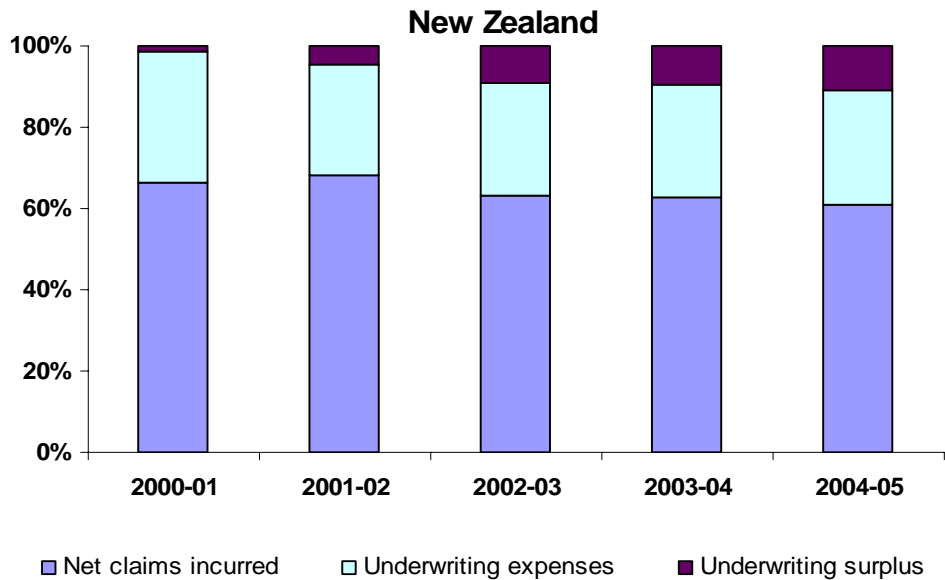
### 3.3 Comparison with other countries

Figure 3.3-1 Net claims incurred, underwriting expenses and underwriting surplus as a proportion of earned premiums (percentage) –Australian (total) 2000-2005



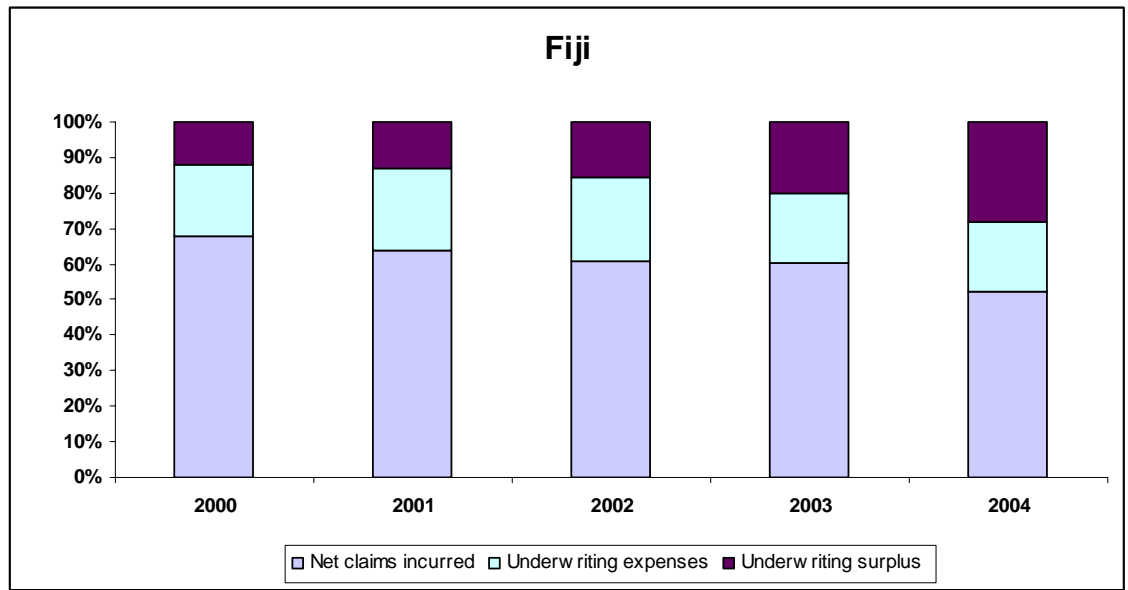
Source: APRA, Half-Yearly General Insurance Bulletin, December 2005. Data not available for 2002

Figure 3.3-2: Net claims incurred, underwriting expenses and underwriting surplus as a proportion of earned premiums (percentage) –New Zealand (total) 2000-2005



Source: Insurance Council of New Zealand, Annual Industry Review 2005-06

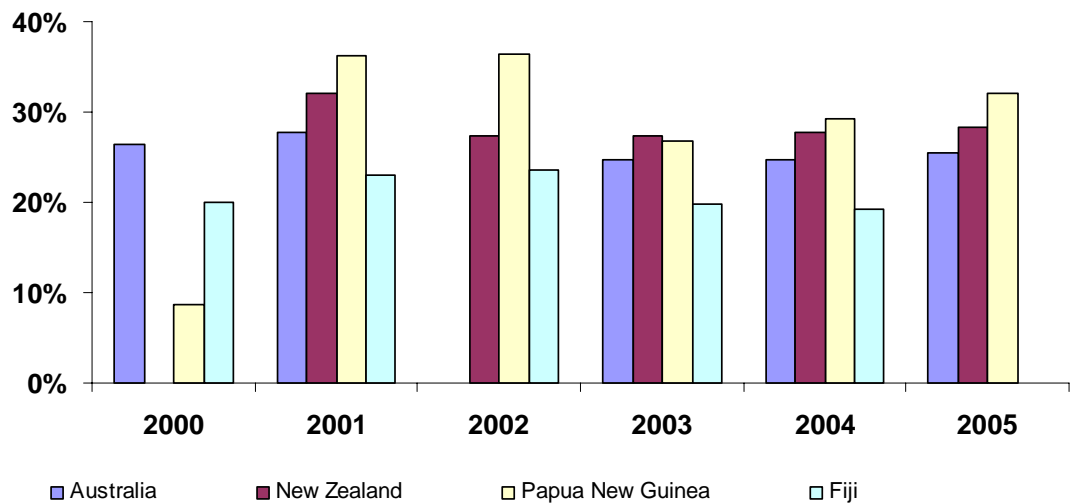
**Figure 3.3-3: Net claims incurred, underwriting expenses and underwriting surplus as a proportion of earned premiums (percentage) –Fiji (total) 2000-2004**



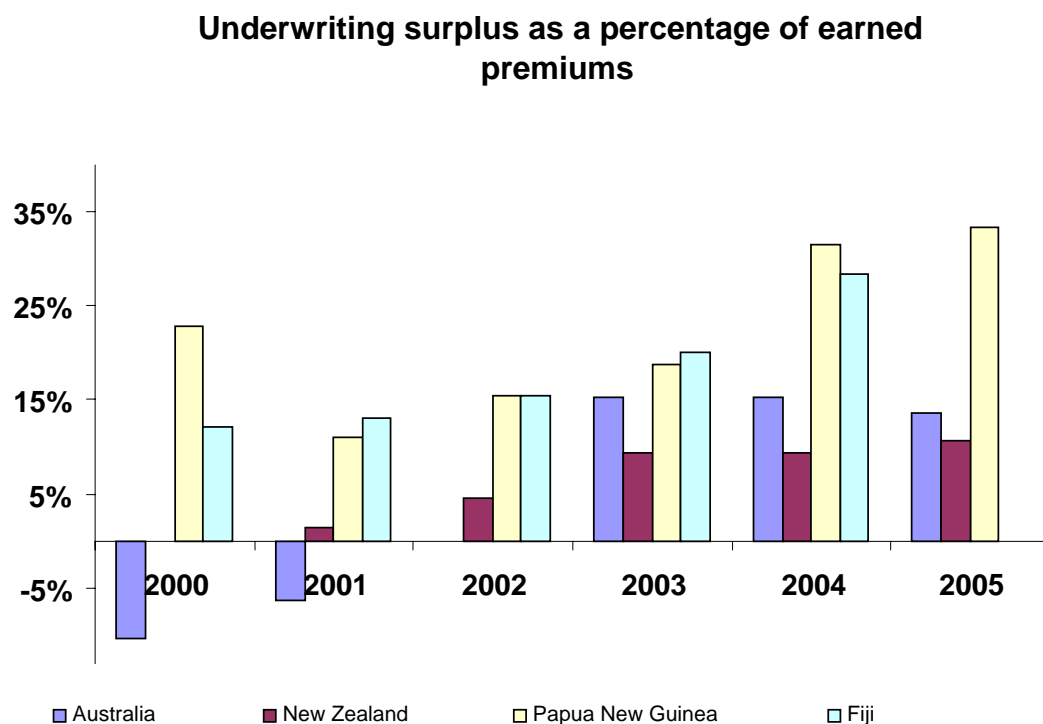
Source: Axco Country Report

**Figure 3.3-4: Underwriting expenses as a percentage of earned premiums –Australia, New Zealand, Fiji PNG (total) 2000-2005**

**Underwriting expenses as a percentage of earned premiums**



**Figure 3.3-5: Underwriting surplus as a percentage of earned premiums –Australia, New Zealand, Fiji PNG (total) 2000-2005**



**Summary**

Over period, the underwriting expenses in PNG as a percentage of earned premiums are relatively consistent with those recorded in Australia and New Zealand, whereas underwriting surplus in PNG has been significantly above that in Australia and New Zealand.

## **4 Review of Regulatory Models**

The Review's Terms of Reference provides a starting point for a review of potential regulatory models for the PNG general insurance industry.

The Terms of Reference sought advice on the efficacy of the current prudential supervision arrangements and whether the form of prudential regulation was consistent with world's best practice and provided the necessary protection for policyholders.

The models of regulation of the general insurance industry employed around the world vary.

Generally there is governing legislation supported by regulation with responsibility for administration and supervision lying with a discrete appropriately skilled and resourced unit either within the Central Bank or the Ministry/department for Finance or alternatively as a separate authority established for the purpose.

### **4.1 Principles for Regulation of the Insurance Industry**

The International Association of Insurance Supervisors (IAIS) has developed a range of Principles, Standards and Guidance papers with the objective of contributing to improved supervision of the insurance industry globally, development of insurance markets, and global financial stability.

To this end, the IAIS has developed Insurance Core Principles covering the following areas:

- Conditions for effective insurance supervision;
- Supervisory systems;
- Supervised entities;
- On-going supervision;
- Prudential requirements;
- Markets and consumers; *and*
- Anti-money laundering, combating the financing of terrorism.

The IAIS core principles outline the essential principles required for an effective, world's best practice supervisory system which may be used as a benchmark for establishing a supervisory regime or assessing an existing supervisory framework.

The existence of an effective regulatory and supervisory regime is critical to ensure effective and transparent operation of the general insurance market. Creating the appropriate regulatory and supervisory environment is also necessary for effective competition and consumer protection.

### **4.2 High-level assessment against principles**

This section provides a high-level assessment of the extent to which the regulation of the PNG general insurance market adheres to IAIS core principles, based on stakeholder feedback and the Review's preliminary analysis. This assessment is provided as a starting point for the discussions at the Workshop.

**Table 1: Assessment against IAIS Core Principles**

**Key** ✓✓ Displays *most* elements of best practice ✓ Displays *some* elements of best practice X Does not display elements of best practice

IAIS Core Principle	Assessment
<p><b>ICP 1 Conditions for effective insurance supervision</b> Insurance supervision relies upon</p> <ul style="list-style-type: none"> <li>• a policy, institutional and legal framework for financial sector supervision</li> <li>• a well developed and effective financial market infrastructure</li> <li>• efficient financial markets</li> </ul>	<p>✓✓ Evident in the PNG financial sector</p> <p>✓ Reasonably well developed and effective banking and financial services sector</p> <p>✓ Financial market immature, with Port Moresby Stock Exchange remaining relatively illiquid</p>
<p><b>ICP 2 Supervisory objectives</b> The principal objectives of insurance supervision are clearly defined.</p>	<p>X Supervisory objectives not clearly defined in the Act</p>
<p><b>ICP 3 Supervisory authority</b> The supervisory authority:</p> <ul style="list-style-type: none"> <li>• has adequate powers, legal protection and financial resources to exercise its functions and powers</li> <li>• is operationally independent and accountable in the exercise of its functions and powers</li> <li>• hires, trains and maintains sufficient staff with high professional standards</li> <li>• treats confidential information appropriately.</li> </ul>	<p>? Legal powers and protection may be insufficient or lack clarity</p> <p>X Greater operational transparency and accountability required</p> <p>X OIC would benefit from having more appropriately skilled resources</p> <p>✓ Generally confidentiality is respectful</p>

IAIS Core Principle	Assessment
<p><b>ICP 4 Supervisory process</b> The supervisory authority conducts its functions in a transparent and accountable manner.</p>	<p>X Greater transparency and accountability in the supervisory process required</p>
<p><b>ICP 5 Supervisory cooperation and information sharing</b> The supervisory authority cooperates and shares information with other relevant supervisors subject to confidentiality requirements.</p>	<p>X Not defined in the Act. May occur in practice, but Review unable to make assessment due to limited information provided by the OIC</p>
<p><b>ICP 6 Licensing</b> An insurer must be licensed before it can operate within a jurisdiction. The requirements for licensing are clear, objective and public.</p>	<p>✓ Legislation mandates licensing of insurers. However, licensing criteria and requirements not sufficiently defined in the Act</p>
<p><b>ICP 7 Suitability of persons</b> The significant owners, board members, senior management, auditors and actuaries of an insurer are fit and proper to fulfil their roles. This requires that they possess the appropriate integrity, competency, experience and qualifications.</p>	<p>X Suitability criteria not specifically defined in the Act</p>
<p><b>ICP 8 Changes in control and portfolio transfers</b> The supervisory authority approves or rejects proposals to acquire significant ownership or any other interest in an insurer that results in that person, directly or indirectly, alone or with an associate, exercising control over the insurer. The supervisory authority approves the portfolio transfer or merger of insurance business.</p>	<p>✓✓ Sufficient direction around changes in ownership and control provided in the Act</p>
<p><b>ICP 9 Corporate governance</b> The corporate governance framework recognises and protects rights of all interested parties. The supervisory authority requires compliance with all applicable corporate governance standards.</p>	<p>X Not defined in the Act</p>
<p><b>ICP 10 Internal control</b> The supervisory authority requires insurers to have in place internal controls that are adequate for the nature and scale of the business. The oversight and reporting systems allow the board and management to</p>	<p>X Not defined in the Act</p>

IAIS Core Principle	Assessment
monitor and control the operations.	
<p><b>ICP 11 Market analysis</b>  Making use of all available sources, the supervisory authority monitors and analyses all factors that may have an impact on insurers and insurance markets. It draws conclusions and takes action as appropriate.</p>	<p>X Limited guidance on the nature and detail of analysis required in the Act – annual report on operation of the Act, desirable measures for achievement of purposes of the Act and an assessment (including statistical analysis) of performance and trends in industry. Lack of regular reporting and public provision of industry statistics by the OIC would suggest that this is currently inadequate</p>
<p><b>ICP 12 Reporting to supervisors and off-site monitoring</b>  The supervisory authority receives necessary information to conduct effective off-site monitoring and to evaluate the condition of each insurer as well as the insurance market.</p>	<p>✓ Requirement to submit returns defined in the Act, though specific detail not outlined. Extent to which necessary information is received in practice cannot be assessed due to limited data provided by OIC</p>
<p><b>ICP 13 On-site inspection</b>  The supervisory authority carries out on-site inspections to examine the business of an insurer and its compliance with legislation and supervisory requirements.</p>	<p>✓ Requirements adequately defined in the Act, though unsure whether adequate on-site inspections occur in practice due to limited data provided by OIC</p>
<p><b>ICP 14 Preventive and corrective measures</b>  The supervisory authority takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.</p>	<p>X Stakeholders commented that prudential supervision by the OIC needs to be enhanced</p>
<p><b>ICP 15 Enforcement or sanctions</b>  The supervisory authority enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>	<p>X Stakeholders commented that the prudential supervision, regulation and enforcement of breaches by the OIC needs to be enhanced</p>
<p><b>ICP 16 Winding-up and exit from the market</b>  The legal and regulatory framework defines a range of options for the orderly exit of insurers from the marketplace. It defines insolvency and establishes the criteria and procedure for dealing with insolvency. In the</p>	<p>✓ Some provisions for winding up of a licenced insurer outlined in the Act. However the Act does not specifically define insolvency, establish criteria and procedures for dealing with insolvency, nor</p>

IAIS Core Principle	Assessment
event of winding-up proceedings, the legal framework gives priority to the protection of policyholders.	does it adequately prioritise the protection of rights and entitlements of policyholders and other policy beneficiaries.
<b>ICP 17 Group-wide supervision</b> The supervisory authority supervises its insurers on a solo and a group-wide basis.	X Not defined in the Act
<b>ICP 18 Risk assessment and management</b> The supervisory authority requires insurers to recognise the range of risks that they face and to assess and manage them effectively.	X Not defined in the Act
<b>ICP 19 Insurance activity</b> Since insurance is a risk taking activity, the supervisory authority requires insurers to evaluate and manage the risks that they underwrite, in particular through reinsurance, and to have the tools to establish an adequate level of premiums.	X Not defined in the Act
<b>ICP 20 Liabilities</b> The supervisory authority requires insurers to comply with standards for establishing adequate technical provisions and other liabilities, and making allowance for reinsurance recoverables. The supervisory authority has both the authority and the ability to assess the adequacy of the technical provisions and to require that these provisions be increased, if necessary.	X Not defined in the Act
<b>ICP 21 Investments</b> The supervisory authority requires insurers to comply with standards on investment activities. These standards include requirements on investment policy, asset mix, valuation, diversification, asset-liability matching, and risk management.	X Not defined in the Act
<b>ICP 22 Derivatives and similar commitments</b> The supervisory authority requires insurers to comply with standards on the use of derivatives and similar commitments. These standards address	X Not defined in the Act

IAIS Core Principle	Assessment
restrictions in their use and disclosure requirements, as well as internal controls and monitoring of the related positions.	
<p><b>ICP 23 Capital adequacy and solvency</b>  The supervisory authority requires insurers to comply with the prescribed solvency regime. This regime includes capital adequacy requirements and requires suitable forms of capital that enable the insurer to absorb significant unforeseen losses.</p>	<p>✓ Requirement to maintain minimum statutory deposits outlined in the Act. The OIC has set minimum capital requirements and statutory deposit requirements for each category of insurer</p>
<p><b>ICP 24 Intermediaries</b>  The supervisory authority sets requirements, directly or through the supervision of insurers, for the conduct of intermediaries.</p>	<p>X Not defined in the Act</p>
<p><b>ICP 25 Consumer protection</b>  The supervisory authority sets minimum requirements for insurers and intermediaries in dealing with consumers in its jurisdiction, including foreign insurers selling products on a cross-border basis. The requirements include provision of timely, complete and relevant information to consumers both before a contract is entered into through to the point at which all obligations under a contract have been satisfied.</p>	<p>X Not defined in the Act. However, this may be addressed in the proposed Insurance Contract Law, which intends to provide for consumer protection</p>
<p><b>ICP 26 Information, disclosure &amp; transparency towards the market</b>  The supervisory authority requires insurers to disclose relevant information on a timely basis in order to give stakeholders a clear view of their business activities and financial position and to facilitate the understanding of the risks to which they are exposed.</p>	<p>X Not defined in the Act</p>
<p><b>ICP 27 Fraud</b>  The supervisory authority requires that insurers and intermediaries take the necessary measures to prevent, detect and remedy insurance fraud.</p>	<p>X Not defined in the Act</p>

IAIS Core Principle	Assessment
<p><b>ICP 28 Anti-money laundering, combating the financing of terrorism (AML/CFT)</b></p> <p>The supervisory authority requires insurers and intermediaries, at a minimum those insurers and intermediaries offering life insurance products or other investment related insurance, to take effective measures to deter, detect and report money laundering and the financing of terrorism consistent with the Recommendations of the Financial Action Task Force on Money Laundering (FATF).</p>	<p>X Not defined in the Act</p>

### **4.3 Options for a future regulatory model**

The Review has identified the following high-level options for a future regulatory model for the PNG general insurance industry. These options are provided for discussion at the Workshop.

#### ***Status quo***

If the Review's preliminary assessment in section 4.2 is viewed as being appropriate and accurate, then the existing regulatory model does not meet best practice (as defined by the IAIS core principles) and needs to be restructured accordingly.

Whilst some areas of supervision and market administration are not specifically covered by legislation or regulation, the OIC is currently undertaking the relevant supervisory activities. However to meet IAIS core principles, there is a need for greater clarity, transparency and documentation of the appropriate supervisory processes and standards and the role of the OIC in administering and enforcing the standards.

#### ***OIC with appropriate regulations, guidelines and standards***

The OIC to continue as the industry regulator, along with a framework consistent with the IAIS core principles to be developed and implemented and that the Office is resourced with the appropriately skilled professionals with access to necessary technology and other support.

In particular, supervisory processes and standards would be clearly documented, primarily by way of regulations. The processes and reporting of the OIC would be transparent and open to scrutiny.

#### ***Central Bank assume responsibility for regulation of General Insurance Industry***

In this model the Central Bank would assume the responsibility for supervision and regulation perhaps merging it with the current responsibility for regulating the life insurance industry. Again a framework consistent with the IAIS core principles would need to be developed and implemented and adequate resourcing and up skilling of personnel provided.

#### ***New regulatory authority***

An independent authority established through enabling legislation which is separate to any Government Department and charged specifically with the regulation and supervision of the industry. Again a framework consistent with the IAIS core principles would need to be developed and implemented and adequate resourcing and training of personnel undertaken. Depending on the Government's policy position, the authority may also regulate other insurance and financial service providers, for example life insurance.

Supervisory processes and standards would be clearly documented primarily by way of separate legislation and/or regulations.

## A IAIS core principles and criteria

IAIS Core Principle	Criteria
<p><b>ICP 1 Conditions for effective insurance supervision</b> Insurance supervision relies upon</p> <ul style="list-style-type: none"> <li>• a policy, institutional and legal framework for financial sector supervision</li> <li>• a well developed and effective financial market infrastructure</li> <li>• efficient financial markets</li> </ul>	<p><b>Financial sector policy framework</b> <i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The government establishes and publicly discloses a policy statement aimed at ensuring financial stability, including the provision of effective financial sector supervision covering the insurance and other financial sectors.</li> <li>b. An institutional and legal framework – comprising public institutions, laws and regulations – exists for financial sector issues, including those pertaining to insurance, to address system-wide issues. This framework is well-defined and publicly disclosed.</li> </ol> <p><b>Financial market infrastructure</b> <i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>c. There is a reliable, effective, efficient and fair legal and court system (a body of ethical, professional and trained lawyers and judges) whose decisions are enforceable. Alternative dispute mechanisms operate within an appropriate legal framework.</li> <li>d. Accounting, actuarial and auditing standards are comprehensive, documented, transparent and consistent with international standards. Accounting and actuarial standards are applied and disclosed in a manner that allows current and prospective policyholders, investors, intermediaries, creditors and supervisors to properly evaluate the financial condition of insurers.</li> <li>e. Accountants, actuaries and auditors are competent and experienced and comply with technical and ethical standards to ensure the accuracy and reliability of financial data and its interpretation. Auditors are independent from the insurer.</li> <li>f. Professional bodies set and enforce technical and ethical standards. These standards are accessible to the public.</li> <li>g. Basic economic, financial and social statistics are available to the supervisory authority, the industry and the public.</li> </ol> <p><i>Advanced criteria</i></p> <ol style="list-style-type: none"> <li>h. Laws and regulations are updated, as necessary, to reflect current best practices and industry conditions.</li> </ol> <p><b>Efficient financial markets</b> <i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>i. Well-functioning money and securities markets exist to support the availability of both long-term and short-term investment opportunities.</li> </ol>
<p><b>ICP 2 Supervisory objectives</b> The principal objectives of insurance supervision are clearly defined.</p>	<p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. Legislation or regulation clearly defines the objectives of insurance supervision.</li> <li>b. The key objectives of supervision promote the maintenance of efficient, fair, safe and stable insurance markets for the benefit and protection of policyholders.</li> <li>c. In the event that the law mandates or specifies multiple objectives for insurance supervision, the supervisory authority discloses and explains how each objective will be applied.</li> <li>d. The supervisory authority gives reasons for and explains any deviations from its objectives.</li> </ol>

IAIS Core Principle	Criteria
	<p>e. Where objectives are contradictory, the supervisory authority initiates or proposes correction in law or regulation.</p>
<p><b>ICP 3</b>  <b>Supervisory authority</b>  The supervisory authority:</p> <ul style="list-style-type: none"> <li>• has adequate powers, legal protection and financial resources to exercise its functions and powers</li> <li>• is operationally independent and accountable in the exercise of its functions and powers</li> <li>• hires, trains and maintains</li> </ul>	<p><b>Legal framework</b>  <i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The legislation identifies the authority (or authorities) responsible for the supervision of insurance entities.</li> <li>b. The legislation gives the supervisory authorities the power to issue and enforce rules by administrative means (refer to ICP 4 EC a).</li> <li>c. The legislation grants sufficient powers for the effective discharge of supervisory responsibilities.</li> </ol> <p><b>Independence and accountability</b>  <i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>d. The governance structure of the supervisory authority is clearly defined. Internal governance procedures necessary to ensure the integrity of supervisory operations, including internal audit arrangements, are in place.</li> <li>e. There are explicit procedures regarding the appointment and dismissal of the head and members of the governing body. When the head of an authority or the governing body is removed from office, the reasons are publicly disclosed.</li> <li>f. The institutional relationships between the supervisory authority and executive and the judiciary branches are clearly defined and transparent. Circumstances where executive overrides are allowed are specified.</li> <li>g. The supervisory authority and its staff are free from undue political, governmental and industry interference in the performance of supervisory responsibilities.</li> <li>h. The supervisory authority is financed in a manner that does not undermine its independence from political, governmental or industry bodies.</li> <li>i. The supervisory authority has discretion to allocate its resources in accordance with its mandate and objectives and the risks it perceives.</li> <li>j. The supervisory authority has transparent processes and procedures for making supervisory decisions. Supervisory decisions are demonstrably consistent.</li> <li>k. All material changes to the insurance legislation and supervisory practices are normally subject to prior consultations with market participants.</li> </ol> <p><i>Advanced criteria</i></p> <ol style="list-style-type: none"> <li>l. Representatives of the supervisory authority publicly explain their policy objectives, and report on their activities and</li> </ol>

IAIS Core Principle	Criteria
<p>sufficient staff with high professional standards</p> <ul style="list-style-type: none"> <li>• treats confidential information appropriately.</li> </ul>	<p>performance in pursuing their objectives.</p> <p>m. Subject to confidentiality considerations, information is provided publicly about problem or failed insurers, including information on official actions taken.</p> <p><b>Powers</b> <i>Essential criteria</i></p> <p>n. When necessary, the supervisory authority has the power to take immediate action to achieve its objectives, especially to protect policyholders' interests (refer to ICP 4 EC e).</p> <p><b>Financial resources</b> <i>Essential criteria</i></p> <p>o. The supervisory authority has its own budget sufficient to enable it to conduct effective supervision. The supervisory authority is able to attract and retain highly skilled staff, hire outside experts as necessary, provide training, and rely upon an adequate supervisory infrastructure and tools.</p> <p>p. The supervisory authority publishes audited financial statements on a regular basis.</p> <p><b>Human resources and legal protection</b> <i>Essential criteria</i></p> <p>q. The supervisory authority and its staff</p> <ul style="list-style-type: none"> <li>- observe the highest professional standards</li> <li>- have the appropriate levels of skills and experience have the necessary legal protection to protect them against lawsuits for actions taken in good faith while discharging their duties, provided they have not acted illegally</li> <li>- are adequately protected against the costs of defending their actions while discharging their duties</li> <li>- act with integrity. Supervisory staff are subject to conflict of interest rules, such as prohibition on dealing in shares and investing in the companies they supervise. The supervisory authority establishes and enforces a code of conduct that applies to all staff members.</li> </ul> <p>r. The supervisory authority has the authority to hire, contract or retain the services of external specialists through contracts or outsourcing arrangements if necessary.</p> <p>s. Where supervisory functions are outsourced to third parties, the supervisory authority is able to assess their competence, monitor their performance, and ensure their independence from the insurer or any other related party.</p> <p><b>Confidentiality</b> <i>Essential criteria</i></p> <p>t. The supervisory authority maintains appropriate safeguards for the protection of confidential information in its possession. Other than when required by law, or when requested by another supervisor who has a legitimate supervisory interest and the ability to</p>

IAIS Core Principle	Criteria
	<p>uphold the confidentiality of the requested information, the supervisory authority denies requests for confidential information in its possession (refer to ICP 5).</p> <p>u. External specialists hired by the supervisory authority are subject to the same confidentiality and code of conduct requirements as the staff of the supervisory authority.</p>
<p><b>ICP 4</b>  <b>Supervisory process</b>  The supervisory authority conducts its functions in a transparent and accountable manner.</p>	<p><i>Essential criteria</i></p> <p>a. The supervisory authority adopts clear, transparent and consistent regulatory and supervisory processes. The rules and procedures of the supervisory authority are published and updated regularly.</p> <p>b. The supervisory authority applies all regulations and administrative procedures consistently and equitably, taking into account the different risk profiles of insurers.</p> <p>c. The administrative decisions of the supervisory authority can be subject to substantive judicial review. However, such action must not unduly impede the ability of the supervisory authority to make timely interventions in order to protect policyholders' interests.</p> <p>d. The supervisory authority makes information on its role publicly available.</p> <p>e. The decision-making lines of the supervisory authority are so structured that action can be taken immediately in the case of an emergency situation (refer to ICP 3 EC n and ICP 15).</p> <p>f. The process to appeal supervisory decisions is specified and balanced to preserve supervisory independence and effectiveness. The supervisory authority publishes a regular report – at least annually and in a timely manner – on the conduct of its policy, explaining its objectives and describing its performance in pursuing its objectives.</p> <p><i>Advanced criteria</i></p> <p>h. The supervisory authority provides and publishes information about the financial situation of the insurance industry and observations on major developments in the insurance or financial market.</p>

IAIS Core Principle	Criteria
<p><b>ICP 5</b>  <b>Supervisory cooperation and information sharing</b>  The supervisory authority cooperates and shares information with other relevant supervisors subject to confidentiality requirements.</p>	<p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The existence of a formal agreement with another supervisor is not a prerequisite for information sharing.</li> <li>b. The supervisory authority, at its discretion, can enter into agreements or understandings with any other financial sector supervisor (“another supervisor”) to share relevant supervisory information or to otherwise work together.</li> <li>c. When reasonably requested and with appropriate safeguards, the supervisory authority is able to exchange with another supervisor (refer to ICP 7 EC e) the following: <ul style="list-style-type: none"> <li>- relevant supervisory information, including specific information requested and gathered from a supervised entity</li> <li>- relevant financial data</li> <li>- objective information on individuals holding positions of responsibility in such entities.</li> </ul> </li> <li>d. Information sharing, whether carried out under formal or informal arrangements, allows for a two-way flow of information without requiring strict reciprocity in terms of the level, format and detailed characteristics of the information exchanged.</li> <li>e. The home supervisory authority provides relevant information to the host supervisor.</li> <li>f. The supervisory authority is required to take reasonable steps to ensure that any information released to another supervisor will be treated as confidential by the receiving supervisor and will be used only for supervisory purposes.</li> <li>g. The supervisory authority consults with another supervisor if it proposes to take action on the evidence of the information received from that supervisor.</li> <li>h. The home supervisory authority informs relevant host supervisors of any material changes in supervision that may have a significant bearing on the operations of foreign establishments operating in their jurisdictions.</li> <li>i. Where possible, the home supervisory authority informs the host supervisor in advance of taking any action that will affect the foreign establishment in the host supervisor’s jurisdiction.</li> <li>j. Where possible, the host supervisory authority informs the home supervisor in advance of taking any action that will affect the parent company or headquarters in the home supervisor’s jurisdiction.</li> </ol>
<p><b>ICP 6</b>  <b>Licensing</b>  An insurer must be licensed before it can operate within a jurisdiction. The requirements for licensing are clear, objective and public.</p>	<p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The insurance legislation: <ul style="list-style-type: none"> <li>- includes a definition of insurers</li> <li>- requires licensing of insurers, and prohibits unauthorised insurance activities</li> <li>- defines the permissible legal forms of insurers</li> <li>- allocates the responsibility for issuing licences.</li> </ul> </li> <li>b. Clear, objective and public licensing criteria require:</li> </ol>

IAIS Core Principle	Criteria
	<ul style="list-style-type: none"> <li>- the applicant's board members, senior management, auditor and actuary both individually and collectively to be suitable, as specified in ICP 7</li> <li>- the applicant's significant owners (refer to ICP 8 EC a) to be suitable, as specified in ICP 7</li> <li>- <input type="checkbox"/> the applicant to hold the required capital</li> <li>- the applicant's risk management systems including reinsurance arrangements, internal control systems, information technology systems, policies and procedures to be adequate for the nature and scale of the business in question</li> <li>- information on the applicant's business plan projected out for a minimum of three years. The business plan must reflect the business lines and risk profile, and give details of projected setting-up costs, capital requirements, projected development of business, solvency margins and reinsurance arrangements. The business plan must present information regarding primary insurance and inward reinsurance separately</li> <li>- information on the products to be offered by the insurer</li> <li>- information on contracts with affiliates and outsourcing arrangements</li> <li>- information on the applicant's reporting arrangements, both internally to its own management and externally to the supervisory authority</li> <li>- input from the applicant's home supervisory authority when the insurer or its owners are not domestic and a home supervisory authority exists (refer to ICP 5).</li> </ul> <p>c. The supervisory authority requires that no domestic or foreign insurance establishment escape supervision.</p> <p>d. All insurance establishments of international insurance groups and international insurers are subject to effective supervision. The creation of a cross border establishment should be subject to consultation between the host and home supervisor.</p> <p>e. The insurance legislation determines the method by which a foreign insurer can carry on business in the jurisdiction. This may be by way of a local branch or subsidiary that must be licensed, or on a services basis only.</p> <p>f. If a foreign insurer is allowed to carry on business in the jurisdiction the supervisory authority must be provided with the following data:</p> <ul style="list-style-type: none"> <li>- confirmation from the home supervisory authority that the insurer is authorised to carry on the types of insurance business proposed</li> <li>- information from the home supervisory authority that the insurer is solvent and meets all the regulatory requirements in the home jurisdiction</li> </ul>

IAIS Core Principle	Criteria
	<ul style="list-style-type: none"> <li>- in the case of a branch office: the name and address of the branch</li> <li>- the name of the authorised agent in the local jurisdiction in the case of insurance offered on a services basis (i.e., where a local branch or subsidiary is not established)</li> <li>- the information and documentation normally required to be licensed in the local jurisdiction, when appropriate.</li> </ul> <p>These information requirements might be waived if insurance is offered on a services basis only.</p> <ul style="list-style-type: none"> <li>g. An insurer licensed to underwrite life insurance business must not also be licensed to underwrite non-life insurance business, and vice versa, unless the supervisory authority is satisfied that the insurer has satisfactory processes requiring that risks be handled separately on both a going concern and a winding-up basis.</li> <li>h. The supervisory authority imposes additional requirements, conditions or restrictions on an applicant where the supervisory authority considers this appropriate. This might include restrictions on non-insurance activities.</li> <li>i. The supervisory authority assesses the application and makes a decision within a reasonable time. No licence is issued without its approval. The applicant must be informed of the decision without delay and, if the licence is denied or conditional, be provided with an explanation.</li> <li>j. The supervisory authority refuses to issue a licence where it considers the applicant not to have sufficient resources to maintain the insurer's solvency on an on-going basis, where the organisational (or group) structure hinders effective supervision, or where the application is not in accordance with the licensing criteria.</li> <li>k. As necessary, after an insurer has been licensed, the supervisory authority evaluates and monitors the degree to which the insurer satisfies the relevant licensing principles and requirements of the jurisdiction.</li> </ul>

IAIS Core Principle	Criteria
<p><b>ICP 7</b>  <b>Suitability of persons</b>  The significant owners, board members, senior management, auditors and actuaries of an insurer are fit and proper to fulfil their roles. This requires that they possess the appropriate integrity, competency, experience and qualifications.</p>	<p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. Legislation identifies which key functionaries must meet fit and proper requirements. The key functionaries identified may differ depending on the legal form and governance structure of the insurer.</li> <li>b. In cases where significant owners no longer meet fit and proper requirements, the supervisory authority must be able to take appropriate action, including requiring that the owners dispose of their interests.</li> <li>c. The supervisory authority disqualifies the appointment of key functionaries including auditors and actuaries of insurers that do not comply with fit and proper requirements</li> <li>d. The insurer should be required to demonstrate to the supervisory authority the fitness and propriety of key functionaries by submitting documentation illustrating their knowledge, experience, skills and integrity upon request, or where there are changes in key functionaries. The knowledge and experience required depends on the position and responsibility of the functionary within the insurer.</li> <li>e. The supervisory authority exchanges information with other authorities inside and outside its jurisdiction where necessary to check the suitability of persons. The supervisory authority uses this information as an additional tool to effectively assess the fitness and propriety of, or to obtain information on, a key functionary of an insurer (refer to ICP 5).</li> <li>f. The supervisory authority disallows actuaries, auditors, directors and senior managers, from simultaneously holding two positions in an insurer where this could result in a material conflict.</li> <li>g. Where the insurer becomes aware of circumstances that may be relevant to the fitness and propriety of its key functionaries, it is required to notify the supervisory authority as soon as possible.</li> </ol> <p><i>Advanced criteria</i></p> <ol style="list-style-type: none"> <li>h. Criteria to assess the fitness and propriety of auditors' and actuaries' include qualifications, professional proficiency, appropriate practical experience and updated knowledge on developments within their profession and membership of professional bodies.</li> <li>i. In the case of auditors and actuaries, the supervisory authority may give regard to or rely on professional bodies that set and enforce standards of professional conduct.</li> </ol>
<p><b>ICP 8</b>  <b>Changes in control and portfolio transfers</b>  The supervisory authority approves or rejects proposals to acquire significant ownership or any other interest in an insurer that results in that person, directly or indirectly, alone or with an</p>	<p><b>Changes in Control</b></p> <p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The term “control” over an insurer is defined in legislation and it addresses: <ul style="list-style-type: none"> <li>- holding of a defined number or percentage of issued shares or specified financial instruments (such as compulsory convertible debentures) above a designated threshold in an insurer or its intermediate or ultimate beneficial owner</li> <li>- voting rights attached to the aforementioned shares or financial instruments</li> <li>- power to appoint or remove directors to the board and other executive committees.</li> </ul> </li> <li>b. The supervisory authority requires that the potential controlling owners apply for approval for the acquisition, or change in</li> </ol>

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<p>associate, exercising control over the insurer. The supervisory authority approves the portfolio transfer or merger of insurance business.</p>	<p>control, of the insurers. The insurer must inform the supervisory authority of any acquisitions or changes in control.</p> <p>c. The supervisory authority approves any significant increase in shareholdings above the predetermined control levels in an insurer by legal or natural persons, whether obtained individually or in association with others. This also applies to any other interest in that insurer or its intermediate or ultimate beneficial owners.</p> <p>d. The requirements in criteria b and c above also refer to the acquisition or change of control where the intermediate or ultimate beneficial owner(s) of an insurer is (are) outside the jurisdiction where the insurer is incorporated. Supervision of changes in control may require coordination with supervisors in other jurisdictions (refer to ICP 5).</p> <p>e. The supervisory authority must be satisfied that those seeking control meet the criteria applied during the licensing process. The requirements in ICP 7 – Suitability of persons – will apply to the prospective owners in control of insurers.</p> <p>f. The supervisory authority requires that the structures of the financial groups containing potential controlling owners of insurers be sufficiently transparent so that supervision of the insurance group will not be hindered (refer to ICP 17).</p> <p>g. The supervisory authority rejects applications of proposed owners to control insurers if facts exist from which it can be deduced that their ownership will be unduly prejudicial to policyholders. The supervisory authority should know who is the intended beneficial owner.</p> <p>h. To assess applications for proposed acquisitions or changes in control of insurers the supervisory authority establishes requirements for financial and non-financial resources.</p> <p><i>Advanced criteria</i></p> <p>i. Upon request insurers provide the supervisory authority with information on their shareholders and any other person directly or indirectly exercising control. The supervisory authority determines the content and format of this information.</p> <p><b>Portfolio transfer</b></p> <p><i>Essential criteria</i></p> <p>j. The supervisory authority requires that insurers get approval from the authority before they transfer all or any part of their insurance business.</p> <p>k. The supervisory authority establishes requirements to assess insurers’ applications to transfer all or any part of their insurance business.</p> <p>l. The supervisory authority requires that the interests of the policyholders of both the transferee and transferor be protected when insurance business is transferred (refer to ICP 15 EC c).</p>

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<p><b>ICP 9</b></p> <p><b>Corporate governance</b></p> <p>The corporate governance framework recognises and protects rights of all interested parties. The supervisory authority requires compliance with all applicable corporate governance standards.</p>	<p><i>Essential criteria</i></p> <p>a. The supervisory authority requires and verifies that the insurer complies with applicable corporate governance principles.</p> <p>b. The board of directors:</p> <ul style="list-style-type: none"> <li>- sets out its responsibilities in accepting and committing to the specific corporate governance principles for its undertaking. Regulations on corporate governance should be covered in general company law and/or insurance law. These regulations should take account of the size, nature and complexity of the insurer.</li> <li>- establishes policies and strategies, the means of attaining them, and procedures for monitoring and evaluating the progress toward them. Adherence to the policies and strategies are reviewed regularly, and at least annually.</li> <li>- satisfies itself that the insurer is organised in a way that promotes the effective and prudent management of the institution and the board’s oversight of that management. The board of directors has in place and monitors independent risk management functions that monitor the risks related to the type of business undertaken. The board of directors establishes audit functions, actuarial functions, strong internal controls and applicable checks and balances.</li> <li>- distinguishes between the responsibilities, decision-making, interaction and cooperation of the board of directors, chairman, chief executive and senior management. The board of directors delegates its responsibilities and establishes decision-making processes. The insurer establishes a division of responsibilities that will ensure a balance of power and authority, so that no one individual has unfettered powers of decision.</li> <li>- establishes standards of business conduct and ethical behaviour for directors, senior management and other personnel. These include policies on private transactions, self-dealing, preferential treatment of favoured internal and external entities, covering trading losses and other inordinate trade practices of a non-arm’s length nature. The insurer has an on-going, appropriate and effective process of ensuring adherence to those standards.</li> <li>- appoints and dismisses senior management. It establishes a remuneration policy that is reviewed periodically. This policy is made available to the supervisory authority.</li> <li>- collectively ensures that the insurer complies with all relevant laws, regulations and any established codes of conduct (refer to EC f).</li> <li>- has thorough knowledge, skills, experience and commitment to oversee the insurer effectively (refer to ICP 7).</li> <li>- is not subject to undue influence from management or other parties. The board of directors has access to information about the insurer, and asks and receives additional information and analyses that the board sees fit.</li> <li>- communicates with the supervisory authority as required and meets with the supervisory authority when requested.</li> </ul>

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	<ul style="list-style-type: none"> <li>- sets out policies that address conflicts of interest, fair treatment of customers and information sharing with stakeholders, and reviews these policies regularly (refer to ICP 25).</li> </ul> <p>c. Senior management is responsible for:</p> <ul style="list-style-type: none"> <li>- overseeing the operations of the insurer and providing direction to it on a day-to-day basis, subject to the objectives and policies set out by the board of directors, as well as to legislation.</li> <li>- providing the board of directors with recommendations, for its review and approval, on objectives, strategy, business plans and major policies that govern the operation of the insurer.</li> <li>- providing the board with comprehensive, relevant and timely information that will enable it to review business objectives, business strategy and policies, and to hold senior management accountable for its performance.</li> </ul> <p><i>Advanced criteria</i></p> <ul style="list-style-type: none"> <li>d. The board of directors may establish committees with specific responsibilities like a compensation committee, audit committee or risk management committee.</li> <li>e. The remuneration policy for directors and senior management has regard to the performance of the person as well as that of the insurer. The remuneration policy should not include incentives that would encourage imprudent behaviour.</li> <li>f. The board of directors identifies an officer or officers with responsibility for ensuring compliance with relevant legislation and required standards of business conduct and who reports to the board of directors at regular intervals (refer to EC b).</li> <li>g. When a “responsible actuary” is part of the supervisory process, the actuary has direct access to the board of directors or a committee of the board. The actuary reports relevant matters to the board of directors on a timely basis.</li> </ul>
<p><b>ICP 10</b>  <b>Internal control</b>  The supervisory authority requires insurers to have in place internal controls that are adequate for the nature and scale of the business. The oversight and reporting systems allow the board and management to monitor and control the operations.</p>	<p><i>Essential criteria</i></p> <ul style="list-style-type: none"> <li>a. The supervisory authority reviews the internal controls and checks their adequacy to the nature and the scale of the business and requires strengthening of these controls where necessary. The board of directors is ultimately responsible for establishing and maintaining an effective internal control system.</li> <li>b. The framework for internal controls within the insurer includes arrangements for delegating authority and responsibility, and the segregation of duties. The internal controls address checks and balances; e.g. cross-checking, dual control of assets, double signatures (refer to ICP 9 EC b).</li> <li>c. The internal and external audit, actuarial and compliance functions are part of the framework for internal control, and must test adherence to the internal controls as well as to applicable laws and regulations.</li> <li>d. The board of directors must provide suitable prudential oversight and establish a risk management system that includes setting and monitoring policies so that all major risks are identified, measured, monitored and controlled on an on-going basis. The risk management systems, strategies and policies are approved and periodically reviewed by the board of directors (refer to ICP 18).</li> <li>e. The board of directors provides suitable oversight of market conduct activities.</li> </ul>

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	<p>f. The board of directors should receive regular reporting on the effectiveness of the internal controls. Internal control deficiencies, either identified by management, staff, internal audit or other control personnel, are reported in a timely manner and addressed promptly.</p> <p>g. The supervisory authority requires that internal controls address accounting procedures, reconciliation of accounts, control lists and information for management.</p> <p>h. The supervisory authority requires oversight and clear accountability for all outsourced functions as if these functions were performed internally and subject to the normal standards of internal controls.</p> <p>i. The supervisory authority requires the insurer to have an on-going internal audit function of a nature and scope appropriate to the business. This includes ensuring compliance with all applicable policies and procedures and reviewing whether the insurer's policies, practices and controls remain sufficient and appropriate for its business.</p> <p>j. The supervisory authority requires that an internal audit function:</p> <ul style="list-style-type: none"> <li>- has unfettered access to all the insurer's business lines and support departments</li> <li>- assesses outsourced functions</li> <li>- has appropriate independence, including reporting lines to the board of directors</li> <li>- has status within the insurer to ensure that senior management reacts to and acts upon its recommendations</li> <li>- has sufficient resources and staff that are suitably trained and have relevant experience to understand and evaluate the business they are auditing</li> <li>- employs a methodology that identifies the key risks run by the institution and allocates its resources accordingly (refer to ICP 18).</li> </ul> <p>k. The supervisory authority has access to reports of the internal audit function.</p> <p>l. Where the appointment of an actuary is called for by applicable legislation or by the nature of the insurer's operations, the supervisory authority requires that actuarial reports be made to the board and to management.</p>

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<p><b>ICP 11</b>  <b>Market analysis</b>  Making use of all available sources, the supervisory authority monitors and analyses all factors that may have an impact on insurers and insurance markets. It draws conclusions and takes action as appropriate.</p>	<p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The supervisory authority conducts regular analysis of market conditions.</li> <li>b. The market analysis not only includes past developments and the present situation, but also aims to identify trends and possible future scenarios and issues, so that the supervisory authority is well prepared to take action at an early stage, if required.</li> <li>c. The market analysis is both quantitative and qualitative and makes use of both public and confidential sources of information.</li> <li>d. The supervisory authority or others, such as the insurance industry, publish aggregated market data that is readily and publicly available to the insurance industry and other interested parties.</li> <li>e. The supervisory authority requires market-wide systematic reporting to analyse and monitor particular market-wide events of importance for the financial stability of insurance markets.</li> </ol> <p><i>Advanced criteria</i></p> <ol style="list-style-type: none"> <li>f. Insofar as international relationships affect internal insurance and financial markets, the analysis is not limited to the home market, but also includes developments elsewhere.</li> <li>g. The supervisory authority monitors trends that may have an impact on the financial stability of insurance markets. It assesses whether macro-economic risks and vulnerabilities are adversely impinging on prudential safeguards, financial stability or consumer interests.</li> </ol>
<p><b>ICP 12</b>  <b>Reporting to supervisors and off-site monitoring</b>  The supervisory authority receives necessary information to conduct effective off-site monitoring and to evaluate the condition of each insurer as well as the insurance market.</p>	<p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The supervisory authority: <ul style="list-style-type: none"> <li>- sets the requirements for the submission of regular and systematic financial and statistical information, actuarial reports and other information from all insurers licensed in the jurisdiction</li> <li>- defines the scope and frequency of those reports and information, including any requirement that reports and information be audited</li> <li>- requires, as a minimum, an audit opinion should be provided annually (refer to ICP 1 EC e)</li> <li>- requests more frequent and more detailed additional information whenever there is a need.</li> </ul> </li> <li>b. If making a distinction between the financial reports and requirements of companies incorporated in the jurisdiction and branches, or between private entities and government sponsored insurers that compete with private enterprises, the supervisory authority should not distort the market in favour of or against any particular form of enterprise.</li> <li>c. The supervisory authority: <ul style="list-style-type: none"> <li>- requires insurers to submit information about their financial condition and performance on both a solo and a group-wide basis. It may request and obtain financial information on any subsidiary of the supervised entity.</li> </ul> </li> </ol>

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	<ul style="list-style-type: none"> <li>- sets out the principles and norms regarding accounting and consolidation techniques to be used. The valuation of assets and liabilities should be consistent, realistic, and prudent (refer to ICP 21 EC b).</li> <li>- requires insurers to report any off-balance sheet exposures.</li> <li>- requires insurers to report on their outsourced functions.</li> <li>- requires that the appropriate level of an insurer’s senior management is responsible for the timing and accuracy of these returns.</li> <li>- requires that inaccurate information be corrected and has the authority to impose sanctions for deliberate misreporting.</li> <li>- – based on this information, maintains a framework for on-going monitoring of the financial condition and performance of the insurers.</li> </ul> <p><i>Advanced criteria</i></p> <ul style="list-style-type: none"> <li>d. From time to time, the supervisory authority reviews its regular and systematic reporting requirements to ensure they still serve their intended aims and are carried out in an efficient and effective manner.</li> <li>e. The supervisory authority requires insurers to report promptly material changes that affect the evaluation of their condition.</li> </ul>
<p><b>ICP 13</b>  <b>On-site inspection</b>  The supervisory authority carries out on-site inspections to examine the business of an insurer and its compliance with legislation and supervisory requirements.</p>	<p><i>Essential criteria</i></p> <ul style="list-style-type: none"> <li>a. By law, the supervisory authority has wide-ranging powers to conduct on-site inspections and gather information deemed necessary to perform its duties.</li> <li>b. The supervisory authority, external auditors or other suitably qualified parties verify information in regulatory returns periodically through on-site inspections. Where parties other than the supervisory authority verify information, then arrangements for communication with the supervisory authority should be established.</li> <li>c. The supervisory authority may conduct on-site inspections on either a full scale, or a focussed basis investigating areas of specific concern.</li> <li>d. The supervisory authority promptly discusses findings and any need for corrective action with the insurer and obtains appropriate feedback from the insurer.</li> <li>e. The supervisory authority follows up with the insurer to ensure that any required action has been taken.</li> <li>f. The supervisory authority can extend on-site inspections to obtain information from intermediaries and companies that have accepted functions outsourced by the supervised insurer.</li> </ul>

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<p><b>ICP 14</b>  <b>Preventive and corrective measures</b>  The supervisory authority takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.</p>	<p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The supervisory authority has available and makes use of adequate instruments to enable timely preventive and corrective measures if an insurer fails to operate in a manner that is consistent with sound business practices or regulatory requirements.</li> <li>b. There should be a progressive escalation of action or remedial measures if the problems become worse or if management of the insurer ignores more informal requests from the supervisory authority to take corrective action.</li> <li>c. The supervisory authority has the capacity and standing to communicate with insurers, and insurers comply with such communications, to ensure that relatively minor preventive or corrective measures are taken.</li> <li>d. If necessary the supervisory authority requires the insurer to develop an acceptable plan for correction of problems. Corrective plans include agreed and acceptable steps to be taken to resolve the issues raised and an acceptable timetable.</li> <li>e. The supervisory authority initiates measures designed to prevent a breach of the legislation from occurring, and promptly and effectively deals with non-compliance with regulations that could put policyholders at risk or impinge on any other of the authority's objectives.</li> </ol>
<p><b>ICP 15</b>  <b>Enforcement or sanctions</b>  The supervisory authority enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>	<p><i>Essential criteria</i></p> <ol style="list-style-type: none"> <li>a. The supervisory authority can issue formal directions to companies to take particular actions or to desist from taking particular actions. Failure to comply with a formal direction issued by the supervisory authority has serious consequences for those that take such a step.</li> <li>b. The supervisory authority has the power to prevent the insurer issuing new policies.</li> <li>c. The supervisory authority can arrange for compulsory transfer of the obligations under the policies from a failing insurer to another insurer that accepts this transfer (refer to ICP 8 EC 1).</li> <li>d. The supervisory authority can require capital levels to be increased, restrict or suspend dividend or other payments to shareholders, restrict asset transfers and restrict an insurer's purchase of its own shares. It can also initiate action to restrict the ownership or activities of a subsidiary where, in its opinion, such activities jeopardise the financial situation of the insurer.</li> <li>e. The supervisory authority has effective means to address management problems, including the power to have controlling owners, directors, and managers replaced or their powers restricted. More generally the supervisory authority in extreme cases, imposes conservatorship over an insurer that is failing to meet prudential or other requirements. The supervisory authority has the power to take control of the insurer, or to appoint other specified officials or receivers for the task, and to make such arrangements for the benefit of the policyholders as are necessary.</li> <li>f. Once action has been taken or remedial measures have been imposed, the supervisory authority periodically checks to determine that the insurer is complying with the measures.</li> <li>g. The insurance legislation provides for sanctions by way of fines against individuals and insurers where the provisions of the legislation are breached.</li> <li>h. The insurance legislation provides for sanctions against individuals who withhold information from the supervisory authority, provide information that is intended to mislead the supervisory authority or fail to provide information to the supervisory</li> </ol>

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	<p>authority in a timely fashion.</p> <ul style="list-style-type: none"> <li>i. Individuals can be barred from acting in responsible capacities in the future.</li> <li>j. The process of applying sanctions should not delay necessary preventive and corrective measures and enforcement.</li> <li>k. The supervisory authority takes action to withdraw the license of an insurer where appropriate.</li> <li>l. The supervisory authority has the powers to protect one or more insurers within its jurisdiction that belong to a group from the financial difficulties in other parts of the group.</li> <li>m. The supervisory authority, or another responsible body in the jurisdiction, takes action to enforce all the sanctions noted above.</li> <li>n. The supervisory authority ensures consistency in the way insurers are sanctioned, so that similar violations and weaknesses attract similar preventive and corrective measures.</li> <li>o. The supervisory authority or other authority takes action against those individuals or entities that are operating an insurance business without a licence.</li> </ul>
<p><b>ICP 16</b>  <b>Winding-up and exit from the market</b>  The legal and regulatory framework defines a range of options for the orderly exit of insurers from the marketplace. It defines insolvency and establishes the criteria and procedure for dealing with insolvency. In the event of winding-up proceedings, the legal framework gives priority to the protection of policyholders.</p>	<p><i>Essential criteria</i></p> <ul style="list-style-type: none"> <li>a. The legal and regulatory framework provides for the determination of the point at which it is no longer permissible for an insurer to continue its business.</li> <li>b. The procedures for dealing with insolvency and the winding-up of the insurer are clearly set forth in the law.</li> <li>c. A high legal priority is given to the protection of the rights and entitlements of policyholders and other policy beneficiaries in the event of an insurer becoming insolvent and winding-up. This priority ensures that, as far as is practical, there is limited disruption to the provision of benefits to policyholders.</li> </ul>

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<p><b>ICP 17</b>  <b>Group-wide supervision</b>  The supervisory authority supervises its insurers on a solo and a group-wide basis.</p>	<p><i>Essential criteria</i></p> <p>a. What constitutes an insurance group and financial conglomerate is clearly defined so that supervisors and insurers can determine:</p> <ul style="list-style-type: none"> <li>- which groups are considered to be insurance groups or financial conglomerates</li> <li>- which group or groups an insurer belongs to</li> <li>- the scope of the supervision.</li> </ul> <p>b. The supervisory authority ensures effective and efficient group-wide supervision. The supervisory authorities co-operate to avoid unnecessary duplication.</p> <p>c. Where different supervisory authorities are responsible for different parts of a group or conglomerate appropriate co-operation and co-ordination exists. The supervisory responsibilities of each authority are well-defined and leave no supervisory gaps.</p> <p>d. At a minimum, group-wide supervision of insurers which are part of insurance groups or financial conglomerates includes, as a supplement to solo supervision, at a group level, and intermediate level as appropriate, adequate policies on and supervisory oversight of:</p> <ul style="list-style-type: none"> <li>- group structure and interrelationships, including ownership and management structure</li> <li>- capital adequacy</li> <li>- reinsurance and risk concentration</li> <li>- intra-group transactions and exposures, including intra-group guarantees and possible legal liabilities</li> <li>- internal control mechanisms and risk management processes, including reporting lines and fit and proper testing of senior management.</li> </ul> <p>e. Host supervisory authorities avoid uncooperative behaviour with home supervisory authorities so as not to hinder effective supervision of groups and conglomerates (refer to ICP 5 EC i).</p> <p>f. The supervisory authority requires that insurance groups and financial conglomerates have reporting systems in place that adequately meet the supervisory information demands.</p> <p>g. The supervisory authority may deny or withdraw the license when the organisational (or group) structure hinders effective supervision (refer to ICP 6 and ICP 15).</p>
<p><b>ICP 18</b>  <b>Risk assessment and management</b></p>	<p><i>Essential criteria</i></p> <p>a. The supervisory authority requires and checks that insurers have in place comprehensive risk management policies and systems capable of promptly identifying, measuring, assessing, reporting and controlling their risks (refer to ICP 10 EC d).</p>

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<p>The supervisory authority requires insurers to recognise the range of risks that they face and to assess and manage them effectively.</p>	<p>b. The risk management policies and risk control systems are appropriate to the complexity, size and nature of the insurer’s business. The insurer establishes an appropriate tolerance level or risk limit for material sources of risk.</p> <p>c. The risk management system monitors and controls all material risks.</p> <p>d. Insurers regularly review the market environment in which they operate, draw appropriate conclusions as to the risks posed and take appropriate actions to manage adverse impacts of the environment on the insurer’s business.</p> <p><i>Advanced criteria</i></p> <p>e. Larger insurers establish a risk management function and a risk management committee.</p>
<p><b>ICP 19</b> <b>Insurance activity</b> Since insurance is a risk taking activity, the supervisory authority requires insurers to evaluate and manage the risks that they underwrite, in particular through reinsurance, and to have the tools to establish an adequate level of premiums.</p>	<p><i>Essential criteria</i></p> <p>a. The supervisory authority requires insurers to have in place strategic underwriting and pricing policies approved and reviewed regularly by the board of directors.</p> <p>b. The supervisory authority checks that insurers evaluate the risks that they underwrite and establish and maintain an adequate level of premiums. For this purpose, insurers should have systems in place to control their expenses related to premiums and claims, including claims handling and administration expenses. These expenses should be monitored by management on an on-going basis.</p> <p>c. The supervisory authority is able to review the methodology used by the insurer to set premiums to determine that they are established on reasonable assumptions to enable the insurer to meet its commitments.</p> <p>d. The supervisory authority requires that the insurer has a clear strategy to mitigate and diversify risks by defining limits on the amount of risk retained and taking out appropriate reinsurance cover or using other risk transfer arrangements consistent with its capital position. This strategy is an integral part of the insurer’s underwriting policy and must be approved and regularly monitored and reviewed by the board of directors.</p> <p>e. The supervisory authority reviews reinsurance arrangements to check that they are adequate and that the claims held by insurers on their reinsurers are recoverable. This includes that:</p> <ul style="list-style-type: none"> <li>- the reinsurance programme provides coverage appropriate to the level of capital of the insurer (taking into account the real transfer of risk) and the profile of the risks it underwrites</li> <li>- the reinsurer’s protection is secure. This might be addressed through different means, such as relying on a system of direct supervision of reinsurers or obtaining collateral (including trusts, letters of credit or funds withheld).</li> </ul> <p>f. The supervisory authority checks that risk transfer instruments are properly accounted for in order to give a true and fair view of the insurer’s risk exposure.</p>
<p><b>ICP 20</b> <b>Liabilities</b> The supervisory authority requires insurers to comply</p>	<p><i>Essential criteria</i></p> <p>a. Legal provisions are in place for establishing adequate technical provisions and other liabilities based on sound accounting and actuarial principles.</p> <p>b. The supervisory authority prescribes or agrees to standards for establishing technical provisions and other liabilities.</p> <p>c. The supervisory authority in developing the standards considers:</p>

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<p>with standards for establishing adequate technical provisions and other liabilities, and making allowance for reinsurance recoverables. The supervisory authority has both the authority and the ability to assess the adequacy of the technical provisions and to require that these provisions be increased, if necessary.</p>	<ul style="list-style-type: none"> <li>- what is to be included as a liability</li> <li>- the procedure and the internal control system that are in place to ensure reliable data (refer to ICP 10)</li> <li>- the methods and assumptions for assessing, on a reliable, objective, transparent and prudent basis, technical provisions to cover all expected and some unexpected claims and expenses.</li> </ul> <p>d. The supervisory authority reviews the sufficiency of the technical provisions through off-site monitoring and on-site inspection (refer to ICPs 12 and 13).</p> <p>e. The supervisory authority requires the technical provisions to be increased if they are not sufficient.</p> <p>f. The supervisory authority ensures that standards stipulate:</p> <ul style="list-style-type: none"> <li>- general limits for the valuation of the amounts recoverable under reinsurance arrangements with a given reinsurer for solvency purposes, taking into account the ultimate collectability and the real transfer of risk</li> <li>- sound accounting principles for the booking of the amounts recoverable under reinsurance arrangements</li> <li>- the credit for technical provisions for amounts recoverable under reinsurance arrangements. In that case, the amount recoverable is disclosed in the financial statement of the insurer by reporting the respective gross and net figures in the accounts.</li> </ul> <p><i>Advanced criteria</i></p> <p>g. The supervisory authority requires that insurers undertake regular stress testing for a range of adverse scenarios in order to assess the adequacy of capital resources in case technical provisions have to be increased (refer to ICP 21 AC k and ICP 23 AC j).</p>
<p><b>ICP 21</b> <b>Investments</b> The supervisory authority requires insurers to comply with standards on investment activities. These standards include requirements on investment policy, asset mix, valuation, diversification, asset-liability matching, and risk management.</p>	<p><i>Essential criteria</i></p> <p>a. Requirements regarding the management of investments are in place, either in the law or in supervisory rules. These requirements address, but may not be limited to, the following:</p> <ul style="list-style-type: none"> <li>- the mixture and diversification by type</li> <li>- limits or restrictions on the amount that may be held in particular types of financial instruments, property, and receivables</li> <li>- the safekeeping of assets</li> <li>- the appropriate matching of assets and liabilities</li> <li>- the level of liquidity.</li> </ul> <p>b. Investments are valued according to a method prescribed by or acceptable to the supervisory authority.</p> <p>c. The supervisory authority requires insurers to have in place an overall strategic investment policy, approved and reviewed</p>

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	<p>annually by the board of directors, that addresses the following main elements:</p> <ul style="list-style-type: none"> <li>- the risk profile of the insurer</li> <li>- the determination of the strategic asset allocation, that is, the long-term asset mix over the main investment categories</li> <li>- the establishment of limits for the allocation of assets by geographical area, markets, sectors, counterparties and currency</li> <li>- the extent to which the holding of some types of assets is restricted or disallowed, for example illiquid or volatile assets or derivatives</li> <li>- the conditions under which the insurer can pledge or lend assets</li> <li>- an overall policy on the use of financial derivatives and structured products that have the economic effect of derivatives (refer to ICP 22)</li> <li>- clear accountability for all asset transactions and associated risks.</li> </ul> <p>d. The risk management systems must cover the risks associated with investment activities that might affect the coverage of technical provisions and/or solvency margins (capital). The main risks include:</p> <ul style="list-style-type: none"> <li>- market risk</li> <li>- credit risk</li> <li>- liquidity risk</li> <li>- failure in safe keeping of assets (including the risk of inadequate custodial agreements).</li> </ul> <p>e. The supervisory authority checks that insurers have in place adequate internal controls to ensure that assets are managed in accordance with the overall investment policy, as well as in compliance with legal, accounting, and regulatory requirements. These controls should ensure that investment procedures are documented and properly overseen. Normally the functions responsible for measuring, monitoring, settling and controlling asset transactions are separate from the front office functions (refer to ICP 10).</p> <p>f. The supervisory authority requires that oversight of, and clear management accountability for, an insurer's investment policies and procedures remain ultimately with the board of directors, regardless of the extent to which associated activities and functions are delegated or outsourced.</p> <p>g. The supervisory authority requires that key staff involved with investment activities have the appropriate levels of skills, experience and integrity.</p> <p>h. The supervisory authority requires that insurers have in place rigorous audit procedures that include full coverage of their investment activities to ensure the timely identification of internal control weaknesses and operating system deficiencies. If the</p>

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	<p>audit is performed internally it should be independent of the function being reviewed.</p> <p>i. The supervisory authority requires that insurers have in place effective procedures for monitoring and managing their asset/liability position to ensure that their investment activities and asset positions are appropriate to their liability and risk profiles.</p> <p>j. The supervisory authority requires that insurers have in place contingency plans to mitigate the effects of deteriorating conditions.</p> <p><i>Advanced criteria</i></p> <p>k. The supervisory authority requires that insurers undertake regular stress testing for a range of market scenarios and changing investment and operating conditions in order to assess the appropriateness of asset allocation limits (refer to ICP 20 AC g and ICP 23 AC j).</p>
<p><b>ICP 22</b>  <b>Derivatives and similar commitments</b>  The supervisory authority requires insurers to comply with standards on the use of derivatives and similar commitments. These standards address restrictions in their use and disclosure requirements, as well as internal controls and monitoring of the related positions.</p>	<p><i>Essential criteria</i></p> <p>a. Requirements regarding the use of derivatives are in place, either in the law or in supervisory rules. The requirements consider the risks in the use of derivatives and similar commitments.</p> <p>b. The supervisory authority establishes disclosure requirements for derivatives and similar commitments.</p> <p>c. The supervisory authority requires the board of directors to satisfy itself that collectively the board has sufficient expertise to understand the important issues related to the use of derivatives, and that all individuals conducting and monitoring derivatives activities are suitably qualified and competent.</p> <p>d. The supervisory authority requires insurers using derivatives to have in place an appropriate policy for their use that must be approved and reviewed annually by the board of directors. This policy should be consistent with the insurer’s activities, its overall strategic investment policy and asset/liability management strategy, and its risk tolerance. It addresses at least the following elements:</p> <ul style="list-style-type: none"> <li>- the purposes for which derivatives can be used</li> <li>- the establishment of appropriately structured exposure limits for derivatives taking into account the purpose of their use and the uncertainty caused by market, credit, liquidity, operations and legal risk</li> <li>- the extent to which the holding of some types of derivatives is restricted or not authorised; for example, where the potential exposure cannot be reliably measured, the closing out or disposal of the derivative could be difficult due to its lack of marketability (as may be the case with over-the-counter instruments) or the illiquidity of the market, or where independent (i.e. external) verification of pricing is not available</li> <li>- the delineation of lines of responsibility and a framework of accountability for derivatives transactions.</li> </ul> <p>e. The supervisory authority requires that insurers have in place risk management systems, covering the risks from derivatives</p>

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	<p>activities to ensure that the risks arising from all derivatives transactions undertaken by the insurer can be:</p> <ul style="list-style-type: none"> <li>- analysed and monitored individually and in aggregate</li> <li>- monitored and managed in an integrated manner with similar risks arising from nonderivatives activities so that exposures can be regularly assessed on a consolidated basis.</li> </ul> <p>f. The supervisory authority requires that insurers have in place adequate internal controls to ensure that derivatives activities are properly overseen and that transactions have been entered into only in accordance with the insurer’s approved policies and procedures, and legal and regulatory requirements. These controls ensure appropriate segregation between those who measure, monitor, settle and control derivatives and those who initiate transactions (refer to ICP 10).</p> <p>g. The supervisory authority requires that insurers have in place personnel with appropriate skills to vet models used by the front office and to price the instruments used, and that pricing follows market convention. These functions should also be separate from the front office.</p> <p>h. The supervisory authority requires that the board of directors ensure that the insurer has the appropriate capability to verify pricing independently where the use of ‘over-the-counter’ derivatives is permitted under the insurer’s policy.</p> <p>i. The supervisory authority requires that insurers have in place rigorous audit procedures that include coverage of their derivatives activities to ensure the timely identification of internal control weaknesses and operating system deficiencies. If the audit is performed internally it should be independent of the function being reviewed.</p>
<p><b>ICP 23</b>  <b>Capital adequacy and solvency</b>  The supervisory authority requires insurers to comply with the prescribed solvency regime. This regime includes capital adequacy requirements and requires suitable forms of capital that enable the insurer to absorb significant unforeseen losses.</p>	<p><i>Essential criteria</i></p> <p>a. The solvency regime addresses in a consistent manner:</p> <ul style="list-style-type: none"> <li>- valuation of liabilities, including technical provisions and the margins contained therein</li> <li>- quality, liquidity and valuation of assets</li> <li>- matching of assets and liabilities</li> <li>- suitable forms of capital</li> <li>- capital adequacy requirements.</li> </ul> <p>b. Any allowance for risk mitigation or transfer considers both its effectiveness and the security of any counterparty.</p> <p>c. Suitable forms of capital are defined.</p> <p>d. Capital adequacy requirements are sensitive to the size, complexity and risks of an insurer’s operations, as well as the accounting requirements that apply to the insurer.</p> <p>e. The minimum capital adequacy requirements should be set at a sufficiently prudent level to give reasonable assurance that policyholder interests will be protected.</p>

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	<ul style="list-style-type: none"> <li>f. Capital adequacy requirements are established at a level such that an insurer having assets equal to the total of liabilities and required capital will be able to absorb significant unforeseen losses.</li> <li>g. Solvency control levels are established. Where the solvency position reaches or falls below one or more control levels, the supervisory authority intervenes and requires corrective action by the insurer or imposes restrictions on the insurer. The control level is set so that corrective action can be taken in a timely manner (refer to ICP 14).</li> <li>h. Inflation of capital – through double or multiple gearing, intra-group transactions, or other financing techniques available as a result of the insurer’s membership in a corporate group – is addressed in the capital adequacy and solvency calculation (refer to ICP 17).</li> <li>i. The solvency regime addresses the requirements placed upon an insurer operating through a branch.</li> </ul> <p><i>Advanced criteria</i></p> <ul style="list-style-type: none"> <li>j. The solvency regime provides for periodic, forward-looking analysis (e.g., dynamic solvency/ stress testing) of an insurer’s ability to meet its obligations under various conditions (refer to ICP 20 AC g and ICP 21 AC k).</li> <li>k. The supervisory authority assesses the structure of its solvency regime against structures of a peer group of jurisdictions and works towards achieving consistency.</li> </ul>
<p><b>ICP 24</b> <b>Intermediaries</b> The supervisory authority sets requirements, directly or through the supervision of insurers, for the conduct of intermediaries.</p>	<p><i>Essential criteria</i></p> <ul style="list-style-type: none"> <li>a. The supervisory authority requires intermediaries to be licensed or registered.</li> <li>b. The supervisory authority requires intermediaries to have adequate general, commercial and professional knowledge and ability as well as having a good reputation.</li> <li>c. If necessary, the supervisory authority takes corrective action, including applying sanctions, directly or through insurers, and cancelling the intermediary’s licence or registration, when appropriate.</li> <li>d. The supervisory authority requires an intermediary who handles client’s money to have sufficient safeguards in place to protect these funds.</li> <li>e. The supervisory authority requires intermediaries to give customers information on their status, specifically whether they are independent or associated with particular insurance companies and whether they are authorised to conclude insurance contracts on behalf of an insurer or not.</li> <li>f. The supervisory authority or other authority must have powers to take action against those individuals or entities that are carrying on insurance intermediation activity without license or registration.</li> </ul>
<p><b>ICP 25</b> <b>Consumer protection</b> The supervisory authority sets minimum requirements for insurers and intermediaries in dealing with consumers in its</p>	<p><i>Essential criteria</i></p> <ul style="list-style-type: none"> <li>a. The supervisory authority requires insurers and intermediaries to act with due skill, care and diligence in their dealing with consumers.</li> <li>b. The supervisory authority requires insurers and intermediaries to have policies on how to treat consumers fairly and to have systems and provide training to ensure compliance with those policies by their employees and other sales collaborators.</li> <li>c. The supervisory authority requires insurers and intermediaries to seek the information from their consumers that is appropriate in</li> </ul>

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<p>jurisdiction, including foreign insurers selling products on a cross-border basis. The requirements include provision of timely, complete and relevant information to consumers both before a contract is entered into through to the point at which all obligations under a contract have been satisfied.</p>	<p>order to assess their insurance needs, before giving advice or concluding a contract.</p> <p>d. The supervisory authority sets requirements for insurers and intermediaries with regard to the content and timing of provision of information:</p> <ul style="list-style-type: none"> <li>- on the product, including the associated risks, benefits, obligations, and charges</li> <li>- on other matters related to the sale, including possible conflict of interest to existing or potential policyholders.</li> </ul> <p>e. The supervisory authority requires insurers and intermediaries to deal with claims and complaints effectively and fairly through a simple, easily accessible and equitable process.</p> <p><i>Advanced criteria</i></p> <p>f. The supervisory authority requires insurers and intermediaries to set rules on the handling of customer information paying due regard to the protection of private information of customers.</p> <p>g. The supervisory authority gives information to the public about whether and how local legislation applies to the cross-border offering of insurance, such as e-commerce. The supervisor issues warning notices to consumers when necessary in order to avoid transactions with unsupervised entities.</p> <p>h. The supervisory authority promotes the consumers' understanding of the insurance contracts.</p>
<p><b>ICP 26</b>  <b>Information, disclosure &amp; transparency towards the market</b>  The supervisory authority requires insurers to disclose relevant information on a timely basis in order to give stakeholders a clear view of their business activities and financial position and to facilitate the understanding of the risks to which they are exposed.</p>	<p><i>Essential criteria</i></p> <p>a. Insurers are required to disclose information on their financial position and the risks to which they are subject. Specifically, information disclosed should be:</p> <ul style="list-style-type: none"> <li>- relevant to decisions taken by market participants</li> <li>- timely so as to be available and up-to-date at the time those decisions are made</li> <li>- accessible without undue expense or delay by the market participants</li> <li>- comprehensive and meaningful so as to enable market participants to form a well-rounded view of the insurer</li> <li>- reliable as a basis upon which to make decisions</li> <li>- comparable between different insurers</li> <li>- consistent over time so as to enable relevant trends to be discerned.</li> </ul> <p>b. Information includes quantitative and qualitative information on:</p> <ul style="list-style-type: none"> <li>- financial position</li> </ul>

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	<ul style="list-style-type: none"> <li>- financial performance and a description of: <ul style="list-style-type: none"> <li>- the basis, methods and assumptions upon which information is prepared (and comments on the impact of any changes)</li> <li>- risks exposures and how they are managed</li> <li>- management and corporate governance.</li> </ul> </li> <li>c. Insurers are required to produce, at least annually, audited financial statements and make them available to stakeholders.</li> <li>d. The supervisory authority monitors the information disclosed by insurers and takes the necessary actions to ensure the compliance with disclosure requirements.</li> </ul> <p><i>Advanced criteria</i></p> <ul style="list-style-type: none"> <li>e. Information includes quantitative information of relevant risk exposures.</li> </ul>
<p><b>ICP 27</b> <b>Fraud</b></p> <p>The supervisory authority requires that insurers and intermediaries take the necessary measures to prevent, detect and remedy insurance fraud.</p>	<p><i>Essential criteria</i></p> <ul style="list-style-type: none"> <li>a. The supervisory authority has the powers and resources to establish and enforce regulations and to communicate as appropriate with enforcement authorities, as well as with other supervisors, to deter, detect, record, report and remedy fraud in insurance.</li> <li>b. Legislation addresses insurer fraud.</li> <li>c. Claims fraud is a punishable offence.</li> <li>d. The supervisory authority requires insurers and intermediaries to ensure high standards of integrity of their business.</li> <li>e. The supervisory authority requires that insurers and intermediaries allocate appropriate resources and implement effective procedures and controls to deter, detect, record and, as required, promptly report fraud to appropriate authorities. This function is under the responsibility of senior staff of the insurer and intermediary.</li> <li>f. As required, the supervisory authority ascertains that insurers take effective measures to prevent fraud, including providing counter-fraud training to management and staff. The supervisory authority promotes the exchange of information between insurers with respect to fraud and those committing fraud including, as appropriate, through the use of databases.</li> <li>g. The supervisory authority co-operates with other supervisory authorities including, as appropriate, in other jurisdictions in countering fraud.</li> </ul>
<p><b>ICP 28</b> <b>Anti-money laundering, combating the financing of terrorism (AML/CFT)</b></p> <p>The supervisory authority requires insurers and intermediaries, at a minimum</p>	<p><i>Essential criteria</i></p> <ul style="list-style-type: none"> <li>a. The measures required under the AML/CFT legislation and the activities of the supervisors should meet the criteria under those FATF Recommendations applicable to the insurance sector.<sup>5</sup></li> <li>b. The supervisory authority has adequate powers of supervision, enforcement and sanction in order to monitor and ensure compliance with AML/CFT requirements. Furthermore, the supervisory authority has the authority to take the necessary supervisory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in an insurer or an intermediary.</li> </ul>

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<p>those insurers and intermediaries offering life insurance products or other investment related insurance, to take effective measures to deter, detect and report money laundering and the financing of terrorism consistent with the Recommendations of the Financial Action Task Force on Money Laundering (FATF).</p>	<ul style="list-style-type: none"> <li>c. The supervisory authority has appropriate authority to co-operate effectively with the domestic Financial Intelligence Unit (FIU) and domestic enforcement authorities, as well as with other supervisors both domestic and foreign, for AML/CFT purposes.</li> <li>d. The supervisory authority devotes adequate resources - financial, human and technical – to AML/CFT supervisory activities.</li> <li>e. The supervisory authority requires insurers and intermediaries, at a minimum those insurers and intermediaries offering life insurance products or other investment related insurance, to comply with AML/CFT requirements, which are consistent with the FATF Recommendations applicable to the insurance sector, including: <ul style="list-style-type: none"> <li>- performing the necessary customer due diligence (CDD) on customers, beneficial owners and beneficiaries</li> <li>- taking enhanced measures with respect to higher risk customers</li> <li>- maintaining full business and transaction records, including CDD data, for at least 5 years</li> <li>- monitoring for complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose</li> <li>- reporting suspicious transactions to the FIU</li> <li>- developing internal programmes (including training), procedures, controls and audit functions to combat money laundering and terrorist financing</li> </ul> </li> <li>- ensuring that their foreign branches and subsidiaries observe appropriate AML/CFT measures consistent with the home jurisdiction requirements.</li> </ul>

## B Questions for discussion

The Workshop will seek stakeholder comments and input on the following questions.

### Legal and regulatory framework

Stakeholders generally viewed The *Insurance Act 1995* (the Act) as broad in scope and lacking clarity in intent and practical rules for its application. There was also concern in regards to the delineation between the Act's powers and those under the *Life Insurance Act 2000*.

- What specific sections of the Act have caused problems of ambiguity, misinterpretation and inconsistency?
- Does the Act need to be revised to remove these problems?
- Do regulations need to be issued to provide specific 'rules' for operation of the industry in PNG?
- What specific sections of the Act conflict with, or are unclear in intent / scope with the *Life Insurance Act*? Is clear delineation between life and general insurance licence categories including definition of the types of products a certain category licence is permitted to distribute required?
- Does the current model of supervision work effectively or need to change and if so how? What would be the appropriate resourcing for the preferred model?

### Licensing

While stakeholders believed that admitted market status (where industry participants are subject to an approval and licensing process) strengthens and generates benefits to the PNG insurance industry and the broader economy there were concerns regarding licensing.

- What are stakeholders views on the proposal to introduce multi-year licences with regular reviews or a system in which licences are issued once and only revoked for subsequent breaches?
- Should there be any basis for issue of provisional licences?
- Should the criteria and process for approving/accepting an insurer's principal officer be based on those utilised by Australian Prudential Regulation Authority (APRA) which requires that the person exhibits "competence, character, diligence, honesty, integrity and judgement" to properly perform the role?
- Are the current licensing arrangements for Lloyd's of London consistent with the requirements and entitlements for other licenced insurers, and should they be?

### Prudential requirements

- Are the current prudential requirements well understood and appropriate? What are adequate levels for minimum capital requirements and statutory deposits for insurance market participants?

- Should the use of actuaries in determining risk be increased, and mandated?
- What changes to the current arrangements could enhance the efficiency and effectiveness of the offshore exemption process?
- What changes to the current arrangements could improve the effectiveness of the 17.5% premium applied to foreign-based insurers? Should the premium be removed / reduced / increased?
- What are stakeholder views on the proposal to introduce risk based capital requirements?

### **Market Operation and Competition**

Larger, more established insurers generally believe there is sufficient competition in the PNG insurance market between insurers, brokers and loss adjustors, though some stakeholders did not support this contention.

- What evidence exists to support the contention that premiums and coverage are appropriate to the PNG market ?
- How can data collection processes and reporting be improved to ensure timely information is provided to meet industry needs.
- Given acknowledgement by some stakeholders of instances of reinsurance placements being transacted with non-admitted reinsurers, how can the extent of any non-compliance with Section 36 be determined?
- Is the level of market information in relation to the availability and nature of general insurance products sufficient? If not how could information be better provided to the market?
- How can greater transparency and accountability of the collection and expenditure of the Insurance Commission's Levy be provided.
- Should there be a review of the requirements for disclosure of broker's fees and commissions.