



**Financial Services  
Commission**

## **Guidance Note**

**System of Governance - Insurance**

**Transition to Governance Requirements  
established under the Solvency II Directive**

Issued : 31 December 2013



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## 1. Introduction

This Guidance Note provides Guidelines for Gibraltar licensed insurance and reinsurance undertakings or those that have submitted an application for a licence (“undertaking”) on the system of governance which should be in place to ensure that the undertaking meets the criteria of sound and prudent management set out in the Financial Services (Insurance Companies) Act and/or that demonstrates that the undertaking is taking necessary steps to ensure that it will be able to meet the corporate governance requirements established under the Solvency II Directive when that Directive takes effect, currently expected to be 1 January 2016.

The Commission has identified, for each of the Guidelines contained within this Guidance Note an indication as to whether the undertaking should be meeting the Guideline now or whether it should be able to demonstrate that it is taking the necessary steps to ensure that it will meet the Guideline when the Solvency II Directive takes effect in full (“*Solvency II Requirement*”). This guidance has immediate effect.

The Financial Services Commission (“Commission”) will take account of the contents of this Guidance Note when conducting supervisory work, including the consideration of applications for licensing and the undertaking of risk assessments, to ensure that adequate systems of governance are in place. If an undertaking is not following the Guidelines contained within this note the undertaking will be expected to explain what other approaches are being adopted to ensure that the undertaking conducts or will conduct its business in a sound and prudent manner.

In meeting the criteria of sound and prudent management undertakings are expected to organise their systems of governance in a manner that is proportionate to the nature, scale and complexity of the risks inherent in the undertaking’s business.

The Guidelines set out in this Guidance Note are principal based and are drafted with a view to achieving the outcome or supervisory objective that should be met, i.e. that undertakings should have in place an effective system of governance for their business which provides for sound and prudent management of that business.

In the event that there is any conflict between Guidelines provide in this Guidance Note and Guidance provided in earlier Guidance Notes issued by the FSC then the Guidelines in this Guidance Note will take precedence.

This note takes into account Guidelines on the System of Governance issued by the European Insurance and Occupational Pensions Authority (“EIOPA”) on 31 October 2013 Reference EIOPA-CP-13/08 that are intended to prepare supervisory authorities and undertakings for the implementation of the Solvency II Directive.

## 2. Detailed Guidelines

### General governance requirements

#### 2.1 The Board

The Board of the undertaking should maintain appropriate interaction with any committee it establishes as well as with senior management and with other key functions in the undertaking, proactively requesting information from them and challenging that information when necessary.

At a group level, the Board of the entity responsible for fulfilling the governance requirements should have an appropriate interaction with the Board of all entities within the group, requesting information proactively and challenging the decisions in the matters that may affect the group.

## 2.2 Organisational and operational structure

The undertaking should maintain organisational and operational structures aimed at supporting the strategic objectives and operations of the undertaking. Such structures should be able to be adapted to changes in the strategic objectives, operations or in the business environment of the undertaking within an appropriate period of time.

The Board of the entity responsible for fulfilling governance requirements at group level should assess how changes to the group's structure impact on the sustainable financial position of the entities affected and make necessary adjustments in a timely manner.

In order to take appropriate measures, the Board of the entity responsible for fulfilling the governance requirements at group level should have an appropriate knowledge of the corporate organisation of the group, the business model of its different entities and the links and relationships between them and the risks arising from the group's structure.

## 2.3 Key functions (*"Solvency II Requirement"*)

The undertaking should appropriately implement the following key functions: risk management function, compliance function, internal audit function and actuarial function.

The entity responsible for fulfilling the governance requirements at group level should appropriately implement the following key functions: risk management function, compliance function, internal audit function and actuarial function at the level of the group.

## 2.4 Decision-making

The undertaking should ensure that at least two persons effectively run the undertaking. That implies that any significant decision of the undertaking involves at least two persons who effectively run the undertaking before the decision is being implemented.

## 2.5 Documentation of decisions taken at the level of the Board

The undertaking should appropriately document decisions taken at the level of the Board of the undertaking and how information from the risk management system has been taken into account. (*Solvency II Requirement in relation to the risk management system*)

## 2.6 Internal review of the system of governance (*Solvency II Requirement*)

The Board of the undertaking should determine the scope and frequency of internal reviews of the system of governance, taking into account the nature, scale and complexity of the business both at individual and at group level, as well as the structure of the group.

The scope, findings and conclusions of reviews should be properly documented and reported to the Board of the undertaking. Suitable feedback loops should be put in place to ensure follow-up actions are undertaken and recorded.

## 2.7 Policies

Undertakings should align all policies required as part of the system of governance with each other and with its business strategy. Each policy should clearly set out at least:

- a) the goals pursued by the policy;
- b) the tasks to be performed and the person or role responsible for them;
- c) the processes and reporting procedures to be applied; and

d) the obligation of the relevant organisational units to inform the risk management, internal audit and the compliance and actuarial functions of any facts relevant for the performance of their duties. *(Solvency II Requirement)*

For policies that cover the key functions, the undertaking should also address the position of these functions within the undertaking, their rights and powers. *(Solvency II Requirement)*

## 2.8 Contingency plans

The undertaking should identify risks to be addressed by contingency plans based on the areas where it considers itself to be vulnerable and review, update and test these contingency plans on a regular basis.

## Fit and Proper

### 2.9 Fit requirements

Persons who effectively run the undertaking or have other key functions, including members of the Board of the undertaking should be 'fit'. The undertaking should take account of the respective duties allocated to individual persons to ensure appropriate diversity of qualifications, knowledge and relevant experience so that the undertaking is managed and overseen in a professional manner.

The undertaking should ensure that the members of the Board collectively possess at least qualification, experience and knowledge about at least:

- a) insurance and financial markets;
- b) business strategy and business model;
- c) system of governance;
- d) financial and actuarial analysis; and
- e) regulatory framework and requirements.

### 2.10 Proper requirements

The undertaking, when assessing whether a person is 'proper', should include an assessment of that person's honesty and financial soundness based on relevant evidence regarding their character, personal behaviour and business conduct including any criminal, financial and supervisory aspects regardless of jurisdiction. The period of limitation of any committed offence is judged based on Gibraltar law.

### 2.11 Fit and proper policies and procedures

The undertaking should have a policy on fit and proper requirements, which includes at least:

- a) a description of the procedure for assessing the fitness and propriety of the persons who effectively run the undertaking or have other key functions, both when being considered for the specific position and on an on-going basis;
- b) a description of the situations that give rise to a re-assessment of the fit and proper requirements; and
- c) a description of the fit and proper procedures for assessing other relevant personnel according to internal standards, both when being considered for the specific position and on an on-going basis.

## 2.12 Outsourcing of key functions

Undertakings should apply fit and proper procedures in assessing persons employed by a service provider or sub service provider to perform an outsourced key function.

The undertaking should designate a person within the undertaking with overall responsibility for any outsourced key function who is fit and proper and possesses sufficient knowledge and experience regarding the outsourced key function to be able to challenge the performance and results of the service provider.

NB Undertaking should also refer to FSC Guidance Note No. 2 on Outsourcing.

## Risk Management

### 2.13 Role of the Board in the risk management system *(Solvency II Requirement)*

The Board of the undertaking is ultimately responsible for ensuring the effectiveness of the risk management system, setting the undertaking's risk appetite and overall risk tolerance limits as well as approving the main risk management strategies and policies.

The Board of the entity responsible for risk management system at group level is responsible for the effectiveness of the risk management system of the whole group. This risk management system should include at least:

- a) the strategic decisions and policies on risk management at group level;
- b) the definition of group's risk appetite and overall risk tolerance limits; and
- c) the identification, measurement, management, monitoring and reporting of risks at group level.

The entity responsible should ensure that such strategic decisions and policies are consistent with the group's structure, size and the specificities of the entities in the group. It should also ensure that the specific operations, which are material, and associated risks of each entity in the group are covered and in addition, it ensures that an integrated, consistent and efficient risk management of the group is put in place.

### 2.14 Risk management policy *(Solvency II Requirement)*

The undertaking should establish a risk management policy which at least:

- a) defines the risk categories and the methods to measure the risks;
- b) outlines how the undertaking manages each relevant category, area of risks and any potential aggregation of risks
- c) describes the connection with the overall solvency needs assessment as identified in the forward looking assessment of the undertaking's own risks (based on the ORSA principles), the regulatory capital requirements and the undertaking's risk tolerance limits;
- d) specifies risk tolerance limits within all relevant risk categories in line with the undertaking's overall risk appetite; and
- e) describes the frequency and content of regular stress tests, and the situations that would warrant ad-hoc stress tests.

### 2.15 Risk management function: general tasks *(Solvency II Requirement)*

The undertaking should require the risk management function to report to the Board on risks that have been identified as potentially material. The risk management function should also report on other specific areas of risks both on its own initiative and following requests from the Board.

The entity responsible for fulfilling the governance requirements at group level should ensure that the risk policy is implemented consistently across the group.

## 2.16 Underwriting and reserving risk management policy

In its risk management policy, the undertaking should cover at least the following with regard to underwriting and reserving risk:

- a) the types and characteristics of the insurance business, such as the type of insurance risk the undertaking is willing to accept;
- b) how the adequacy of premium income to cover expected claims and expenses is to be ensured;
- c) the identification of the risks arising from the undertaking's insurance obligations, including embedded options and guaranteed surrender values in its products;
- d) how, in the process of designing a new insurance product and the premium calculation, the undertaking takes account of the constraints related to investments; and
- e) how, in the process of designing a new insurance product and the premium calculation, the undertaking takes account of reinsurance or other risk mitigation techniques.

## 2.17 Operational risk management policy *(Solvency II Requirement)*

In its risk management policy, the undertaking should cover at least the following with regard to operational risk:

- a) identification of the operational risks it is or might be exposed to and assessment of the way to mitigate them;
- b) activities and internal processes for managing operational risks, including the IT system supporting them; and
- c) risk tolerance limits with respect to the undertaking's main operational risk areas.

The undertaking should have processes to identify, analyse and report on operational risk events. For this purpose, it should establish a process for collecting and monitoring operational risk events.

For the purposes of operational risk management, the undertaking should develop and analyse an appropriate set of operational risk scenarios based on at least the following approaches:

- a) the failure of a key process, personnel or system; and
- b) the occurrence of external events.

## 2.18 Control and documentation of risk-mitigation techniques

*(Solvency II Requirement)*

For the purposes of proper use of reinsurance and other risk mitigation techniques the undertaking should analyse, assess and document the effectiveness of all risk mitigation techniques employed.

## 2.19 Reinsurance and other risk-mitigation techniques – risk management policy

In its risk management policy the undertaking should cover at least the following with regard to risk mitigation techniques:

- a) identification of the level of risk transfer appropriate to the undertaking's defined risk limits and which kind of reinsurance arrangements are most appropriate considering the undertaking's risk profile;



- b) principles for the selection of such risk mitigation counterparties and procedures for assessing and monitoring the creditworthiness and diversification of reinsurance counterparties;
- c) procedures for assessing the effective risk transfer and consideration of basis risk; and
- d) liquidity management to deal with any timing mismatch between claims' payments and reinsurance recoveries.

### **2.20 Asset-liability management policy**

In its risk management policy the undertaking should cover at least the following information with regard to asset-liability management:

- a) a description of the procedure for identification and assessment of different natures of mismatches between assets and liabilities, at least with regard to terms and currency;
- b) a description of mitigation techniques to be used and the expected effect of relevant risk-mitigating techniques on asset-liability management;
- c) a description of deliberate mismatches permitted; and
- d) a description of the underlying methodology and frequency of stress tests and scenario tests to be carried out.

### **2.21 Investment risk management policy**

In its risk management policy, the undertaking should cover at least the following with regard to investments:

- a) the level of security, quality, liquidity, profitability and availability the undertaking is aiming for with regard to the whole portfolio of assets and how it plans to achieve this;
- b) its quantitative limits on assets and exposures, including off-balance sheet exposures, that are to be established to help to ensure the undertaking achieves its desired level of security, quality, liquidity, profitability and availability for the portfolio;
- c) consideration of the financial market environment;
- d) the conditions under which the undertaking can pledge or lend assets;
- e) the link between market risk and other risks in adverse scenarios;
- f) the procedure for appropriately valuing and verifying the investment assets;
- g) the procedures to monitor the performance of the investments and review the policy when necessary; and
- h) how the assets are to be selected in the best interest of policyholders and beneficiaries.

### **2.22 Liquidity risk management policy**

In its risk management policy, the undertaking should cover at least the following items with regard to liquidity risk:

- a) the procedure for determining the level of mismatch between the cash inflows and the cash outflows of both assets and liabilities, including expected cash flows of direct insurance and reinsurance such as claims, lapses or surrenders;
- b) consideration of total liquidity needs in the short and medium term including an appropriate liquidity buffer to guard against a liquidity shortfall;
- c) consideration of the level and monitoring of liquid assets, including a quantification of potential costs or financial losses arising from an enforced realisation;

- d) identification and cost of alternative financing tools; and
- e) consideration of the effect on the liquidity situation of expected new business.

## The “prudent person” principle and the system of governance

### 2.23 Investment risk management *(Solvency II Requirement)*

The undertaking should not solely depend on the information provided by third parties, such as financial institutions, asset managers and rating agencies. In particular, the undertaking should develop its own set of key risk indicators in line with its investment risk management policy and business strategy.

In making its investment decisions, the undertaking should take into account the risks associated with the investments without relying only on the risk being adequately captured by the capital requirements.

For the purpose of investment risk management

### 2.24 Assessment of non-routine investment activities

Before performing any investment or investment activity of a non-routine nature the undertaking should carry out an assessment of at least:

- a) its ability to perform and manage the investment or the investment activity;
- b) the risks specifically related to the investment or the investment activity and the impact of the investment or the investment activity on the undertaking’s risk profile;
- c) the consistency of the investment or investment activity with the beneficiaries’ and policyholders’ interest, liability constraints set by the undertaking and efficient portfolio management; and
- d) the impact of this investment or investment activity on the quality, security, liquidity, profitability and availability of the whole portfolio.

The undertaking should have procedures that require that where such investment or investment activity entails a significant risk or change in the risk profile, the undertaking’s risk management function should communicate such a risk or change in the risk profile to the Board of the undertaking.

### 2.25 Unit-linked and index-linked contracts

The investments of unit-linked and index-linked contracts of the undertaking should be selected in the best interest of policyholders and beneficiaries taking into account any disclosed policy objectives.

In the case of unit-linked business, the undertaking should take into account and manage the constraints related to unit-linked contracts, in particular liquidity constraints.

### 2.26 Assets not admitted for trading on a regulated financial market

The undertaking should implement, manage, monitor and control procedures in relation to investments that are not admitted to trading on a regulated financial market or to complex products, which are difficult to value.

The undertaking should treat assets admitted to trading, but not traded or traded on a non-regular basis, similarly to those assets not admitted to trading on a regulated financial market.

## 2.27 Derivatives

The undertaking, when it uses derivatives, should implement the procedures in line with its risk management policy on investments (*Solvency II Requirement*) to monitor the performance of these derivatives.

The undertaking should demonstrate how the quality, security, liquidity or profitability of the whole portfolio is improved without significant impairment of any of these features where derivatives are used to facilitate efficient portfolio management.

The undertaking should document the rationale and demonstrate the effective risk transfer obtained by the use of the derivatives where derivatives are used to contribute to a reduction of risks or as a risk mitigation technique.

NB Undertaking should also refer to FSC Insurance Guidance Note No. 5 on Systems of Control over Investments (and Counterparty Exposures) including the use of Derivatives.

## 2.28 Securitised instruments

Where the undertaking invests in securitised instruments, it should ensure that its interests and the interests of the originator or sponsor concerning the securitised assets are well understood and aligned.

# Own fund requirements and the system of governance

## 2.29 Capital Management Policy (*Solvency II Requirement*)

The undertaking should be developing a capital management policy which includes:

- a) a description of the procedure to ensure that own fund items, both at issue and subsequently, meet the requirements of the applicable capital and distribution regime and are classified correctly where the applicable regime requires;
- b) a description of the procedure to monitor the issuance of own fund items according to the medium term capital management plan;
- c) a description of the procedure to ensure that the terms and conditions of any own fund item are clear and unambiguous in relation to the criteria of the applicable capital regime; and
- d) a description of the procedures to:
  - (i) ensure that any policy or statement in respect of ordinary share dividends is taken into account in consideration of the capital position; and
  - (ii) identify and document instances in which distributions on an own funds item are expected to be deferred or cancelled.

## 2.30 Medium-term Capital Management Plan (*Solvency II Requirement*)

The undertaking should develop a medium-term capital management plan which is to be monitored by the Board of the undertaking and which includes at least considerations of:

- a) any planned capital issuance;
- b) the maturity, incorporating both the contractual maturity and any earlier opportunity to repay or redeem, relating to the undertaking's own fund items;
- c) how any issuance, redemption or repayment of, or other variation in the valuation of, an own funds item affects the application of any limits in the applicable capital regime; and
- d) the application of the distributions policy.

The undertaking should take into account in the capital management plan the output from the risk management system and the forward looking assessment of the undertaking's own risks (based on the ORSA principles).

## Internal Controls

### 2.31 Internal Control environment

The undertaking should promote the importance of performing appropriate internal controls by ensuring that all personnel are aware of their role in the internal control system. The control activities should be commensurate to the risks arising from the activities and processes to be controlled.

The entity responsible for fulfilling the governance requirements at group level should ensure a consistent implementation of the internal control systems across the group.

### 2.32 Monitoring and reporting

The monitoring and reporting mechanisms within the internal control system of the undertaking should provide the Board with relevant information for the decision-making processes.

## Internal audit function

### 2.33 Independence *(Solvency II Requirement)*

When performing an audit and when evaluating and reporting the audit results, the internal audit function of the undertaking should not be subject to influence from the Board that can impair its independence and impartiality.

### 2.34 Internal audit policy *(Solvency II Requirement)*

The undertaking should have an internal audit policy which covers at least the following areas:

- a) the terms and conditions according to which the internal audit function can be called upon to give its opinion or assistance or to carry out other special tasks;
- b) where appropriate, internal rules setting out the procedures the person responsible for the internal audit function needs to follow before informing the supervisory authority; and
- c) where appropriate, the criteria for the rotation of staff assignments.

The entity responsible for fulfilling the governance requirements at group level should ensure that the audit policy at the level of the group describes how the internal audit function:

- a) coordinates the internal audit activity across the group; and
- b) ensures compliance with the internal audit requirements at the group level.

### 2.35 Internal audit tasks *(Solvency II Requirement)*

The internal audit function of the undertaking should, at least:

- a) establish, implement and maintain an audit plan setting out the audit work to be undertaken in the upcoming years, taking into account all activities and the complete system of governance of the undertaking;
- b) take a risk-based approach in deciding its priorities;
- c) report the audit plan to the Board;
- d) issue an internal audit report to the Board based on the result of work carried out in accordance with point a) which includes findings and recommendations, including the envisaged period of time to remedy the shortcomings and the persons responsible for doing so, and information on the achievement of audit recommendations;

- e) submit the internal audit report to the Board on at least an annual basis; and
- f) verify compliance with the decisions taken by the Board on the basis of those recommendations referred to in point (d).

Where necessary, the internal audit function may carry out audits which are not included in the audit plan.

## Actuarial Function

### 2.36 Tasks of the actuarial function *(Solvency II Requirement)*

The undertaking should take appropriate measures to address the potential conflicts of interests, if the undertaking decides to add additional tasks or activities to the tasks and activities of the actuarial function.

The entity responsible for fulfilling the governance requirements at group level should require that the actuarial function gives an opinion on the reinsurance policy and the reinsurance program for the group as a whole.

### 2.37 Coordination of the calculation of technical provisions *(Solvency II Requirement)*

The actuarial function of the undertaking should identify any inconsistency with the requirements set out in Articles 76 to 85 of the Solvency II Directive for the calculation of technical provisions and implements corrections as appropriate.

The actuarial function should explain any material effect of changes in data, methodologies or assumptions between valuation dates on the amount of technical provisions if already calculated on a solvency II basis.

### 2.38 Data quality *(Solvency II Requirement)*

The actuarial function of the undertaking should assess the consistency of the internal and external data used in the calculation of technical provisions against the data quality standards as set in the Solvency II Directive and should provide recommendations, where relevant, on internal procedures to improve data quality so as to ensure that the undertaking is in a position to comply with the related Solvency II requirement when implemented.

### 2.39 Underwriting policy and reinsurance arrangements *(Solvency II Requirement)*

When providing its opinion on the underwriting policy and the reinsurance arrangements, the actuarial function of the undertaking should take into consideration the interrelations between these and the technical provisions.

### 2.40 The actuarial function of an undertaking with an internal model under pre-application *(Solvency II Requirement)*

During the pre-application process, the actuarial function of an undertaking should contribute to specifying which risks within their domain of experience are covered by an internal model. The actuarial function should also contribute to how dependencies between these risks and dependencies between these risks and other risks are derived. This contribution should be based on a technical analysis and should reflect the experience and expertise of the function.

### 2.41 Actuarial reporting to the Board *(Solvency II Requirement)*

The actuarial function of the undertaking should report in writing at least annually to the Board. The reporting should document all material tasks that have been undertaken

by the actuarial functions, their results, clearly identifying any deficiencies and giving recommendations as to how such deficiencies could be remedied.

## Outsourcing

NB Undertaking should also refer to FSC Guidance Note No. 2 on Outsourcing.

### 2.42 Critical or important operational functions and activities

The undertaking should determine and document whether the outsourced function or activity is a critical or important function or activity on the basis of whether this function is essential to the operation of the undertaking as it would be unable to deliver its services to policyholders without the function or activity.

### 2.43 Underwriting

When an insurance intermediary, who is not an employee of the undertaking, is given authority to underwrite business or settle claims in the name and on account of an insurance undertaking, the undertaking should ensure that the activity of this intermediary is subject to outsourcing requirements.

### 2.44 Intra-group outsourcing

If key functions are outsourced within the group, the entity responsible for fulfilling the governance requirements at group level should document which functions relate to which legal entity and ensure that the performance of the key functions at the level of the undertaking is not impaired by such arrangements.

### 2.45 Outsourcing written policy

An undertaking that outsources or considers outsourcing should cover in its policy the undertaking's approach and processes for outsourcing from the inception to the end of the contract. This in particular includes:

- a) the criteria for determining whether a function or activity is critical or important;
- b) how a service provider of suitable quality is selected and how and how often his performance and results are assessed;
- c) the details to be included in the written agreement with the service provider; and
- d) business contingency plans, including exit strategies for outsourced critical or important functions or activities.

## Group governance specific requirements

### 2.46 Entity responsible for the fulfilment of the group governance requirements

The parent insurance or reinsurance undertaking or insurance holding company should identify the undertaking responsible for fulfilling the governance requirements at group level and report it to the group supervisor.

### 2.47 Responsibilities for setting internal governance requirements

The entity responsible for fulfilling the governance requirements at group level should set adequate internal governance requirements across the group appropriate to the structure, business and risks of the group and of its related entities, and consider the appropriate structure and organisation for risk management at group level, setting a clear allocation of responsibilities between all entities of the group.

The entity responsible for fulfilling the governance requirements at group level should not impair the responsibilities of the Board of each entity in the group when setting up its own system of governance.

## 2.48 System of Governance at group level

The entity responsible for fulfilling the governance requirements at group level should:

- a) have in place appropriate and effective tools, procedures and lines of responsibility and accountability enabling it to oversee and steer the functioning of the risk management and internal control systems at individual level;
- b) have in place reporting lines within the group and effective systems for ensuring information flows in the group bottom up and top-down as well;
- c) document and inform all the entities in the group about the tools used to identify measure, monitor, manage and report all risks to which the group is exposed; and
- d) take into account the interests of all the entities belonging to the group and how these interests contribute to the common purpose of the group as a whole over the long term.

## 2.49 Risks with significant impact at group level *(Solvency II Requirement)*

The entity responsible for fulfilling the governance requirements at group level should consider in its risk management system risks both at individual and group level and their interdependencies, in particular:

- a) reputational risk and risks arising from intra-group transactions and risk concentrations, including contagion risk, at the group level;
- b) interdependencies between risks stemming from conducting business through different entities and in different jurisdictions;
- c) risks arising from third-country entities;
- d) risks arising from non-regulated entities; and
- e) risks arising from other regulated entities.

## 2.50 Group risk management *(Solvency II Requirement)*

The entity responsible for fulfilling the governance requirements at group level should provide support in its risk management at the level of the group by using appropriate processes and procedures to identify, measure, manage, monitor and report the risks that the group and each individual entity are or might be exposed to.

The entity responsible for fulfilling the governance requirements at group level should ensure that the structure and organisation of the group risk management does not impair the undertaking's legal ability to fulfil its legal, regulatory and contractual obligations.

### Legal Notice

The advice or interpretation given in this paper only represents the views of the FSC as to its expectations of how the requirements of the relevant legislation in question are to be complied with. It is not intended as a definitive interpretation of the legislation as this is a matter for the courts to determine. You are, therefore, strongly advised to seek appropriate legal advice before any action or decision is taken.

**Regulatory objectives and principles of good regulation – checklist**

<b>Which regulatory objectives are the proposals aimed to facilitate:?</b>	
(a) To promote market confidence;	Yes/ <del>No</del>
(b) The reduction of systemic risk;	Yes/ <del>No</del>
(c) To promote public awareness;	<del>Yes</del> /No
(d) The protection of the reputation of Gibraltar;	Yes/ <del>No</del>
(e) The protection of consumers;	Yes/ <u>No</u>
(f) The reduction of financial crime, including the funding of terrorism;	Yes/ <del>No</del>
<b>Do the proposals accord with the following principles of good regulation?</b>	
1. The need to use our resources in the most efficient, effective and economic way;	Yes. The Guidance provides clarity to Gibraltar insurers of expectations of the FSC in relation to systems of governance and places on them the responsibility for ensuring that insurers will meet comply with those standards. The FSC will continue to review the actual governance arrangements that Gibraltar insurers put in place.
2. The principle that the duty to manage a business falls upon the senior management of that business. The Directors of a licence holder, both executive and non-executive have ultimate responsibility for ensuring that the business is properly run and operates in accordance with regulatory requirements;	Yes. The contents of this Guidance Paper are very clear that it is the responsibility of the Board and management of insurers to ensure that its operations and Group companies for which it is responsible for governance, comply with the Guidelines.
3. The principle that a burden or restriction which is imposed upon authorised firms should be commensurate with the benefits expected to result from such action, so ensuring that the Authority is striking the right balance between achieving the statutory objectives and ensuring that the impact on those being regulated is not such as to be counterproductive;	Yes. The FSC agrees with the view of EIOPA that its guidelines, on which this Guidance Note is based, are in most cases principle based or drafted with a view to the outcome  The FSC intends to apply this Guidance in a proportionate manner when it reviews the systems of governance of Gibraltar insurers and of Groups for which it takes responsibility for governance matters.
4. The desirability of facilitating innovation in connection with regulated activities;	Yes. Maintaining good governance should encourage insurers to deliver valuable and innovative products for their customers.
5. The international character of financial services and markets and the desirability of maintaining the competitive position of Gibraltar; and	Yes. This Guidance Note has been developed in a manner that guidance from Gibraltar will be harmonised with guidance provided in other European





	jurisdictions where EU Directives apply.
6. The need to consider the adverse effects of regulation on competition and consumer choice.	Yes. This Guidance Note has been developed in a manner that guidance from Gibraltar will be harmonised with guidance provided in other European jurisdictions where EU Directives apply
7. Does this match UK supervisory practices	Yes. It also ensures that the FSC matches EU practice that the UK will apply.

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