



TURKS & CAICOS ISLANDS FINANCIAL SERVICES COMMISSION ***Guidelines for Head Office Oversight and Internal Controls for Insurers***

1. Introduction

This Guideline applies specifically to Turks and Caicos Islands (“TCI”) licensed domestic Insurers¹. It is issued by the Turks and Caicos Islands Financial Services Commission (“the Commission”) pursuant to Section 43 of the Financial Services Commission Ordinance to provide guidance on Head Office oversight and internal controls in respect of an Insurer operating in or from within the TCI.

2. Head Office Oversight

The requirement for Head Office oversight pertains to an Insurer:

- (i) domiciled outside the TCI, and whose business model includes supervision by a Head Office located overseas, with the TCI operations of the Insurer being conducted through a branch operation and/or intermediary approved by the Commission; OR
- (ii) domiciled in the TCI and maintains more than one office location in the TCI; AND/OR
- (iii) domiciled in the TCI and carries on business through one or more subsidiaries incorporated outside the TCI .

¹Domestic Insurer: An Insurer, licensed under section 4 (1) (a) of the Insurance Ordinance, whose principal objective is to insure risks in relation to:

- (a) a person who, at the time of effecting the contract, is ordinarily resident in the Islands; or
- (b) property that, at the time of effecting the contract, is in the Islands or, in the case of a vehicle, vessel or aircraft, or other movable property is ordinarily based in the Islands.

A. Supervisory System

- A.1. The Head Office is responsible for overseeing the operations of the Insurer in the TCI, and for ensuring that the Insurer maintains compliance with the legislative and non-legislative requirements of the Commission.
- A.2. Insurers are encouraged to implement a supervisory system which should include procedures to ensure that personnel located in the TCI are properly executing their functions.
- A.3. The supervisory system should include procedures for recordkeeping in order to facilitate the requirement for submission of financials statements to the Commission and periodic off-site and on-site reviews conducted by the Commission. The Commission's on-site visits may also be extended to the intermediaries conducting business on behalf of the Insurer.
- A.4. The supervisory system should also include a framework comprising policies on claims payment, claims management, internal control, risk management, collection of premiums, regulatory compliance, anti-money laundering/counter financing of terrorism, new business, conflicts of interest, complaints against the Insurer, complaints against the intermediary, and handling of client money.
- A.5. Where an Insurer carries on business through one or more subsidiaries incorporated outside the TCI, an appropriate and effective corporate governance framework must be established, maintained and implemented in each subsidiary.
- A.6. In the case of branches, the Head Office should periodically conduct audits as part of the supervisory system, to ensure that that the branch operations/intermediary is acting in accordance to the terms of the agency agreement, and the policies instituted by the Head Office.
 - i) The audit of the TCI branch should form a part of the Insurer's internal audit plan and should be carried out at least once every 3 years.
 - ii) The Commission should be notified of such visits/audits by the Head Office and arrangements should be made to meet with representatives of the Commission to discuss the operations of the branch in the TCI
 - iii) The findings of an internal audit should be submitted to the Commission
- A.7. There should be clearly defined management policies &/or plans for the branch operating within the TCI. The business strategies of the branch office should be consistent with the policies &/or plans of the entire group operations.

- A.8. The supervisory system should also include a Crisis Management Plan which includes the crisis management activities for the TCI branch operation.

B. Annual Returns submission to the Commission

- B.1. Where an Insurer has a branch or subsidiary activity in the TCI which is a separate legal entity, the Insurer is required to submit written confirmation that it accepts responsibility for all contracts issued and for all acts, commissions and liabilities of the branch or subsidiary activity.
- B.2. The Insurer is required to submit Audited Financial Statements for its TCI branch operations in addition to its Consolidated Audited Financial Statements

C. Appointment of Local Representative

- C.1. Insurers are required to appoint at least one person resident in the TCI for the purpose of accepting service of legal process in any legal proceedings against the Insurer. The appointed representative is required to submit in writing to the Commission his consent to such appointment as part of the approval process and should be approved by the Commission.
- C.2. Where an Insurer has a branch or subsidiary activity in the TCI, the Insurer is required to appoint and at all times have a representative in the Islands to act as its insurance agent.

D. Oversight of Intermediaries

- D.1. The Insurer should ensure that all intermediaries marketing policies on its behalf in the TCI are licenced to act in that capacity.
- D.2. The Insurer should ensure that the agency agreement with the insurance intermediary outlines the duties and responsibilities of the intermediary. The Insurer should implement procedures to ensure that the intermediary operates in accordance with instructions given.
- D.3. It is the duty of the Head Office to ensure that the intermediary is provided with training on the marketing and distribution of the Insurers policies within the TCI.
- D.4. The agency agreement should specify that the payment of premiums to the insurance intermediary is deemed to be paid to the Insurer.

Insurance broker:

- D.5. Where an insurance broker is appointed to act as an agent by the Insurer, subsequent to the granting of the Insurer and/or insurance broker's licence, the Insurer should ensure that a copy of the agency agreement is submitted to the Commission within 7 days of execution.
- D.6. It is the duty of the Head Office to ensure that, where an agency agreement is terminated, the Commission is notified within 7 days of the termination. The reasons for termination of the agreement should also be included in the notice.

Insurance agent:

- D.7. An insurance agent is licensed to act on behalf of only one Insurer. A copy of the agency agreement between the insurance agent and the Insurer is required to be submitted to the Commission as part of the application for the insurance agent licence.
- D.8. It is the duty of the Head Office to ensure that where the agency agreement is terminated, the Commission is notified within 7 days of the termination. The reasons for termination of the agreement should also be included in the notice.
- D.9. Within 7 days of the termination of the agency agreement between the insurance agent and the Insurer, the insurance agent's original licence should be submitted to the Commission for cancellation.

Insurance Manager/Principal Representative:

- D.10. Insurers are reminded that if any person who not being licensed to do so, acts in the capacity of an Insurance Manager or a Principal Insurance Representative commits an offence.
- D.11. Insurers, other than an external Insurer or an Insurer who with the approval of the Commission permanently maintains a principal office and staff in the TCI, are required to appoint an insurance manager resident in the island who is responsible to maintain full and proper records of the Insurer's business activities at a designated principal office in the TCI (or a location as approved by the Commission).
- D.12. The insurance manager or principal representative is required to give the Commission 60-days written notice for the proposed termination of the agreement relating to representation between the Insurer and insurance manager or principal representative.

All intermediaries:

- D.13. Head Office should put procedures in place to ensure that its intermediaries are compliant with the legislative and non-legislative requirements of the Commission.

- D.14. As it pertains to the requirements of the Insurance Ordinance, it is the duty of the Head Office to ensure that its intermediaries are compliant with the following requirements:
- a. Where the intermediary carries on any business in addition to the one for which it is licensed, and/or in the case of insurance broker acts on behalf of more than one Insurer, the intermediary is required to maintain separate records per Insurer, and also in respect of the business for which it is licensed. The intermediary is also required to segregate the assets and liabilities of the licensed business from those of its other business.
 - b. Intermediaries are required to maintain separate accounts for the receipt of premiums on behalf of the Insurer, and may not use the premiums collected to settle any of the intermediaries' own financial debts.
 - c. The intermediary is not permitted to offset the premiums owed to the Insurer, against any debts owed by the intermediary, unless as in the normal course of business.
- D.15. Insurance Managers and Brokers should have in place professional indemnity insurance in respect of its insurance activities. Insurers are reminded that upon cancellation, withdrawal or non-renewal of the professional indemnity cover, the insurance manager/broker is required to immediately notify the Commission, and cease the solicitation of further insurance business until the professional indemnity cover has been reinstated or replaced.
- D.16. Head Office is required to notify the Commission if it has cause to believe that an insurance intermediary is conducting/is likely to conduct his business affairs in contravention to the law.

3. Internal Control

Internal Controls should be designed to provide reasonable assurance regarding the efficiency of operations, the reliability of financial and non-financial reporting, adequate control of risks and compliance with applicable legislation. It is the responsibility of the Head Office to ensure that there is an internal control system in place for the Insurer's TCI operations, which should include:

- 3.1 Standards for prompt and appropriate communications and reporting to the Head Office and the supervisory authorities, particularly when an operational or managerial problem or misconduct occurs in the branch office/ TCI operations of the Insurer
- 3.2 Complaints handling procedures are put in place to ensure that all complaints are dealt with professionally, fairly, promptly and diligently. These complaint handling procedures should be clearly communicated to the Insurers' customers.

- 3.2.1 Contact information to enable the policyholder/customers to have direct access to the Complaints Department at Head Office and or a local Complaints Unit/person.
- 3.2.2 A Complaints Register or Log of all complaints received, the resolution reached and the timeframe taken to resolve the matter.
- 3.3 Standards for the maintenance of a control environment for legal compliance, which should include the implementation of Rules for the organization and management, inclusive of the establishment of personnel structure and operational systems to detect the occurrence of risks related to the business operation, and to properly address these risks.
- 3.4 In the case of a subsidiary operation in the TCI, the employees of the subsidiary should be adept at managing the operations of the business office, and the allocation of these employees throughout the branch should be appropriate. There should also be measures to assess, on an ongoing basis, how aware employees of the branch office/overseas subsidiary/intermediaries effecting business on the Insurer's behalf are with the relevant laws, regulations of the TCI, and the Insurer's rules and guidelines, and to conduct education and training appropriately as necessary.

Financial Services Commission
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