

SELF - ASSESSMENT ON THE INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS CORE PRINCIPLES

Background

This document outlines the Dubai Financial Services Authority's (DFSA) self-assessment of its supervisory policies and practices against the Insurance Core Principles developed by the International Association of Insurance Supervisors, (IAIS). The summary is based on the DFSA's complete Assessment on IAIS Core Principles.

Established in 1994, the IAIS represents insurance regulators and supervisors of some 180 jurisdictions in more than 130 countries, constituting 97% of the world's insurance premiums. It also has more than 100 observers. Its objectives are to:

- Cooperate to contribute to improved supervision of the insurance industry on a domestic as well as on an international level in order to maintain efficient, fair, safe and stable insurance markets for the benefit and protection of policyholders
- Promote the development of well-regarded insurance markets; and
- Contribute to global financial stability.

The DFSA's supervisory practices are continually evolving to align with international best practices, adapted to the context of the DIFC. This self-assessment has been conducted to take stock of the current practices and to determine conformity with the IAIS Core Principles. The DFSA is committed to evolving its supervisory practices, legislation and rules to continually align with internationally accepted benchmarks. It should be noted that the DFSA is the integrated regulator for financial services, including insurance activities, within the Dubai International Financial Centre (DIFC). The DIFC is a Financial Free Zone located in Dubai, one of the seven Emirates of the United Arab Emirates.

Glossary

AAOIFI	Accounting and Auditing Organization for Islamic Financial Institutions
AFN	Application Forms and Notices
AUT IND I	Application Form for Authorised Individual status
AUT INS	Application Form for Insurance, Reinsurance and Insurance Intermediation Business
AUT CORE	Application Form – Core Information
COB	The Conduct of Business Module of the Rulebook
DIFX	Dubai International Financial Exchange
ENF	The Enforcement Module of the Rulebook
GAAP	Generally Accepted Accounting Principles
GEN	The General Module of the Rulebook
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
IOSCO	The International Organization of Securities Commissions
MOU	Memorandum of Understanding
PIN	The Prudential Insurance Module of the Rulebook
SUP	The Supervision Module of the Rulebook

Background

Background – Insurance Core Principles and Methodology

The Insurance Core Principles provide a globally-accepted framework for the regulation and supervision of the insurance sector. The IAIS principles, standards and guidance papers expand on various aspects. They provide the basis for evaluating insurance legislation, and supervisory systems and procedures. They apply to the supervision of insurers and reinsurers. The 28 principles cover all aspects of insurance industry regulation and supervision – from licensing a company to winding it up. Principles addressing such issues as transparency of the supervisory process, assessment and management of risk, consumer protection, and anti-money laundering have been added.

The self-assessment programme

Periodically, insurance supervisors are expected to carry out a self-assessment to determine whether the Principles are being observed in their jurisdiction.

To this end the DFSA carried out its first self-assessment in late 2004 as part of the IAIS's self-assessment programme. The current version was updated as at 31 October 2007.

Assessment methodology

The assessment of compliance with each of the 28 principles is made in accordance with the IAIS core principles methodology. A principle is considered "Observed" if the authority has the legal authority to perform its tasks, and if it exercises this authority to a satisfactory standard. For a principle to be considered as "largely observed", it is necessary that only minor shortcomings exist which do not raise any concerns about the authority's ability to achieve full observance with the criterion. A principle will be considered "Partly observed" whenever, despite progress, the shortcomings are sufficient to raise doubts about the authority's ability to achieve observance. A principle will be considered "Not observed" whenever no substantive progress toward observance has been achieved. A principle is considered "Not applicable" whenever the principle does not apply given the structural, legal and institutional features of a jurisdiction.

General Observations concerning observance with Core Principles

Overall, the DFSA achieved an observed or largely observed rating against a majority of the core principles. Of the 28 core principles, 11 are rated as observed, 13 are rated as largely observed, 3 core principles are partly observed and 1 is not applicable. The DFSA's objective is to largely observe all principles as soon as possible and achieve full observed over time.

In many instances the DFSA has assessed a principle as largely observed for reasons of prudence, as we have not yet had practical examples to show the effectiveness of our existing laws, rules or regulatory practice.

Name of Organisation:

DIFC Financial Services Authority

Core Principle	Title	Level of Observance (Please tick one for each Principle)				
		O	LO	PO	NO	NA
1	Conditions for effective insurance supervision			✓		
2	Supervisory objectives	✓				
3	Supervisory authority		✓			
4	Supervisory process	✓				
5	Supervisory cooperation and information sharing		✓			
6	Licensing	✓				
7	Suitability of persons	✓				
8	Changes in control and portfolio transfers	✓				
9	Corporate governance		✓			
10	Internal control		✓			
11	Market analysis					✓
12	Reporting to supervisors and off-site monitoring	✓				
13	On-site inspection	✓				
14	Preventive and corrective measures		✓			
15	Enforcement or sanctions		✓			
16	Winding-up and exit from the market			✓		
17	Group-wide supervision			✓		
18	Risk assessment and management	✓				
19	Insurance activity	✓				
20	Liabilities		✓			
21	Investments		✓			
22	Derivatives and similar commitments		✓			
23	Capital adequacy and solvency	✓				
24	Intermediaries	✓				
25	Consumer protection		✓			
26	Information, disclosure and transparency towards the market		✓			
27	Fraud		✓			
28	Anti-money laundering, combating the financing of terrorism (AML/CFT)		✓			

* (O-Observed, LO-Largely Observed, PO-Partly Observed, NO-Not Observed, NA-Not Applicable)

Principle 1: Conditions for effective insurance supervision

Insurance supervision relies upon:

- *a policy, institutional and legal framework for financial sector supervision;*
- *a well developed and effective financial market infrastructure;*
- *efficient financial markets.*

The Dubai International Financial Centre ('DIFC'), a 110-acre financial free zone established by Federal Decree and Dubai Law, has four integral components, one being the DFSA. The DFSA is an independent regulatory and supervisory body created to license and regulate the activities of financial and ancillary services in the DIFC. The DFSA is responsible for the oversight of asset management, banking, securities trading, Islamic finance, insurance and reinsurance, and the DIFX. The DFSA's regulatory approach is to use principle-based legislation and to operate to standards that meet those applying in other major financial centres.

There is currently no public policy statement on financial stability in the United Arab Emirates (UAE). However, the UAE authorities have undertaken a number of initiatives to improve the financial sector supervision and efficiency. These include the modernisation of the financial sector's legal framework and improvement in securities and insurance supervision and regulation. The IMF has observed, however, that despite the fact that the methodology used to compile macroeconomic statistics is generally appropriate, in most sectors there are deficiencies.

The DFSA is in the process of establishing a comprehensive data collection and dissemination system for publishing aggregate information on the financial strength and performance of the authorised firms operating in the DIFC. Consultation Paper 46 was issued in May 2007 and the system will be operational at the end of 2007. This system will enable the DFSA to publish information on the financial strength and performance of the industry operating in the DIFC on its website, as well as provide the same to key external stakeholders. The DFSA also intends to publish quarterly and annual reports, on a regular basis.

Also, there are, at present two capital and securities markets in the UAE to which DIFC firms may have access but these are, at present, somewhat limited in both scope and depth.

Assessment: Partly Observed (PO)

Comment: - Fundamentally, whilst improvement continues in financial sector supervision and efficiency, there is no public policy statement on financial stability. Although the legal structure and other requirements are mostly in place, relevant behaviour cannot yet be demonstrated. The capital and securities markets are in their nascent stages. The main issues here are outside the ambit of the DFSA's responsibilities, as it is a separate jurisdiction from the rest of the UAE.

Principle 2: Supervisory objectives

The principal objectives of insurance supervision are clearly defined.

The Objectives of the DFSA are set in Regulatory Law and cover both insurance and other financial services sectors.

Relevant DFSA objectives are to foster and maintain fairness, transparency and efficiency in the financial services and protect direct and indirect users and prospective users of the financial services industry in the DIFC.

The DFSA sets out its regulatory and supervisory philosophy at length, mainly in its rules. Annual reports also set out the supervisory approach, as does the 2007 business plan, which are both available to the public through the website.

Assessment: **Observed (O)**

Comment: The Principle is fully observed.

Principle 3: Supervisory authority

The supervisory authority:

- *has adequate powers, legal protection and financial resources to exercise its functions and powers*
- *is operationally independent and accountable in the exercise of its functions and powers*
- *hires, trains and maintains sufficient staff with high professional standards*
- *treats confidential information appropriately.*

The DFSA is the sole financial services regulator in the DIFC. It has the power to supervise insurance entities, captives, protected cell companies and insurance intermediaries.

The Regulatory Law gives the power to the DFSA to issue and enforce rules by administrative means and take the appropriate actions as and when required.

The Regulatory Law empowers the DFSA to discharge its supervisory responsibilities effectively.

The governance structure of the DFSA is strictly defined in the Legislation. The DFSA is supervised by a Board of Directors, and managed by an executive headed by a Chief Executive. The Board has established several committees, (including audit and risk, remuneration and nomination and corporate governance), to meet international good governance practices.

The Regulatory Law specifies that only the President shall appoint or dismiss a person from the office of Chairperson and appoint persons to, or dismiss persons from, the office of Board Member.

The Chief Executive is appointed by the Board and can only be removed by a two-thirds majority of that body. There is no mechanism in the Decree, Laws or rules for public disclosure of the reasons for the removal of the head of the authority or the governing body.

The DFSA has an independent budget and the Government provides sufficient funds for this purpose.

The DFSA complies with relevant generally accepted principles of good governance.

The Dubai Law and the Regulatory Law specifically deal with confidentiality and confidential information.

Assessment: **Largely Observed.**

Comment: Public disclosure of the reasons for dismissal is not addressed in the laws. Consequently the overall rating has been given as largely observed.

Principle 4: Supervisory process

The supervisory authority conducts its functions in a transparent and accountable manner.

The DFSA's guiding principles are based on integrity, transparency and efficiency. All laws, rules and procedures are published for a comment process and reviewed as and when required. The process of publication of draft rules is detailed in the Regulatory Law and it includes that the draft text of the rules, a statement of the substance and purpose of the material provisions of the draft rules, and a summary of the draft rules must be disclosed.

The DFSA's rules and regulations utilise a risk based supervisory regime which takes into account the different risk profiles of insurers.

Under Articles 26-30 of the Regulatory Law a Regulatory Appeals Committee (RAC), is established with power to review a wide range of DFSA actions. This scope is further extended by provisions in the Rules. The RAC has freedom to determine whether or not the DFSA action should be stayed pending the appeal. The DFSA would expect to resist any stay which threatened the interests of policyholders. Under Article 27(5) of the Regulatory Law, further review of an RAC decision is possible in the Court, on a point of law only. Again, the bringing of an appeal to the Court does not automatically stay the action.

The DFSA's role and objectives are publicly available through various accessible channels, most notably its website.

The DFSA has power to do whatever it deems necessary for or in connection with, or reasonably incidental to performing its functions and exercising its powers.

The structure of the DFSA and the enforcement power granted to it through the Laws and rules allow for immediate action to be taken when the need may arise. The DFSA is a relatively small body, and there are no administrative obstacles to rapid action.

The Appeals process is clearly specified and balanced with the right to appeal defined, and an Appeals committee in place; see the Articles of the Regulatory Law already cited, and also the representation process in App 2 of ENF.

An annual report is produced, in a timely fashion, shortly after the close of each financial year encompassing the salient issues of the Authority's objectives, performance, structure and audited reports. The reports are made publicly available on our website. As the DIFC matures, annual reports will contain an increasing quantity of information on regulatory activity, including performance against service standards.

Assessment: **Observed (O)**

Comment: The Principle is fully observed.

Principle 5: Supervisory cooperation and information sharing

The supervisory authority cooperates and shares information with other relevant supervisors subject to confidentiality requirements.

Under Article 20 of the Regulatory Law, the DFSA has the authority to enter into binding and non-binding arrangements, including memoranda of understanding and cooperation agreements with similar bodies, but the sharing of information is governed by Article 38, which does not make such an agreement a prerequisite.

The DFSA's general policy is to share as much information as possible, and be as open as is legally permissible with other supervisors who are obliged to keep confidential regulatory information. The DFSA is also a signatory to the IOSCO Multilateral Memorandum of Understanding, and has been active in developing a similar Memorandum within the IAIS.

Article 38 of the Regulatory Law empowers the DFSA with the authority to disclose confidential information to foreign regulatory authorities for the purpose of assisting them in the performance of their regulatory functions. There are no restrictions on the type of information that may be exchanged, and the Data Protection Law provides adequate exemptions for legitimate regulatory purposes. The DFSA does in practice exchange information with other supervisors.

There is no requirement in our Laws or rules that requires any strict reciprocity in terms of the level, format and detailed characteristics of the information exchanged.

Assessment: **Largely Observed (LO)**

Comment: The appropriate provisions exist in the law and supervisory behaviour can be demonstrated in areas other than insurance.

Principle 6: Licensing

An insurer must be licensed before it can operate within a jurisdiction. The requirements for licensing are clear, objective and public.

Article 41(1) of the Regulatory Law 2004 prohibits a Financial Service from being carried on in or from the DIFC unless it is carried on by an Authorised Firm whose Licence authorises it to do so. GEN prescribes the Financial Services which can be carried on by an Authorised Firm; Article 42 provides for the DFSA to be the (sole) licensing authority. Permissible legal forms are covered in AUT 3.2.2.

The licensing criteria are set out in AUT 3.3. They include adequate resources, including financial resources which must comply with the applicable provisions of PIN, risk management systems, etc. Application forms, AUT CORE, AUT INS and AUT IND1, are found in the AFN module, and cover the relevant issues. They require details of any home state regulation, and it is established practice for the DFSA to seek input from a home state regulator.

It is the DFSA's policy, demonstrated in practice, to liaise with home state supervisors when a firm seeks to establish a branch in the DIFC. The DFSA's policy is in general to license branches only where it is satisfied that the home state provides a high standard of regulation and supervision, especially prudential supervision. Where the DFSA is satisfied of this, it may be prepared to defer to the home state supervisor in prudential matters, and therefore to grant waivers or modifications of some of its own rules.

COB 2.2.2 prevents an insurer carrying on both long-term and general business from an establishment in the DIFC (with the usual exceptions for accident and sickness insurance). Where an insurer licensed in the DIFC does nevertheless carry on both types of business in another jurisdiction, PIN 3.2 requires that it establish one or more long-term insurance funds to provide the necessary separation.

Under COB 2.2.3 an insurer may not carry on any activity other than insurance business or other closely-related activities. The DFSA has power to impose requirements, conditions or restrictions, for example under Articles 48 and 49 of the Regulatory Law.

Assessment: **Observed (O)**

Comment: A comprehensive regime is in place.

Principle 7: Suitability of persons

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.

The requirements as regards owners (controllers), are set out in AUT chapter 15. Those for other functionaries are set out in AUT chapter 10.

The relevant powers are contained in Article 64(2) of the Regulatory Law. If the DFSA notifies a firm that a controller is unacceptable, and the firm does not remove that controller, then the DFSA may withdraw the firm's licence.

The powers to disqualify most key functionaries are in Regulatory Law article 58 and those parts of AUT already cited, plus chapter 9. As regards auditors, under Article 60 of the Regulatory Law and GEN chapter 8, DIFC incorporated firms must use an auditor registered with the DFSA, and such auditors, by GEN 8.7.2, must meet “fit and proper” requirements. For branches, the requirement is that the DFSA must be notified of the auditor (GEN 8.4.1), and may direct the firm to replace an unsuitable auditor (GEN 8.4.6).

The provisions relating to actuaries are in PIN chapter 7. The DFSA must be notified of the actuary and his qualifications, and may require a different actuary to be appointed under PIN 7.5.3.

SUP chapter 7 specifies a range of notifications which an Authorised Firm must make to the DFSA. They include any material matters relating to the fitness and propriety of an Authorised Individual (SUP 7.2.1(a)), and also other matters relating to any of the firm’s employees (e.g. SUP 7.3.1 (d) and (e) and 7.4.1). There is also a general obligation in GEN 4.2.10 to keep the DFSA promptly informed of any matter of which the DFSA would reasonably expect to be notified.

Assessment: **Observed (O)**

Comment: DFSA law and rules addressing this principle are comprehensive.

Principle 8: Changes in control and portfolio transfers

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.

Change in control

All the principal relevant provisions are contained in the Authorisation module of the DFSA Handbook

Portfolio Transfer

Under Part 9 of the Regulatory Law a portfolio transfer has to be approved by the Court although the DFSA has full rights of representation. A scheme report must be provided, and both its form, and the person making it, must be approved by the DFSA.

Assessment: **Observed (O)**

Comment: The Principle is fully observed.

Principle 9: Corporate governance

The corporate governance framework recognises and protects rights of all interested parties. The supervisory authority requires compliance with all applicable corporate governance standards.

The Principles for Authorised Firms in GEN 4.2 deal with corporate governance at a high level. Corporate governance is dealt with at greater length in chapter 5 of GEN (Management, Systems and Controls). This covers, for example, risk management, compliance, and internal audit arrangements. For insurers, risk management is further dealt with in chapter 2 of PIN, amplified by the guidance in PIN App2, which at certain points deals with governance issues and the role of the board. It is, however, arguable that some high level corporate governance issues relating, for example, to board membership, are not addressed in the rules.

Assessment: **Largely Observed (LO)**

Comment: The large majority of the issues are dealt with-in the rules. There are, however, possible gaps in the areas of high level governance, placing certain responsibilities clearly on the board, and requiring policies in areas such as remuneration and fair treatment of customers. However, following a review of the corporate governance standards of authorised firms in 2007 it is proposed that only minor amendments be considered as part of a wider review of corporate governance for reporting entities scheduled to take place in 2008.

Principle 10: Internal control

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.

The basic responsibility for adequate internal controls is set in Principle 3 of the Principles for Authorised Firms and in GEN 5.3. For insurers, these are amplified by PIN 2.2.1 and the associated guidance in PIN App 2.

The adequacy of internal controls is a key part of the DFSA's risk framework. Firms are therefore assessed at the licensing stage and also in all supervisory risk assessments. This will normally include both desk review of the controls as defined and review of how they operate in practice. The Risk Mitigation Programmes which are produced following risk assessments can, and frequently do, require the strengthening of controls in particular areas.

Delegation of responsibilities is covered in GEN 5. The issue of checks and balances can be demonstrated by supervisory behaviour.

Assessment: **Largely Observed (LO)**

Comment: The DFSA regime covers most of the relevant areas quite thoroughly.

Principle 11: Market analysis

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.

Assessment: **Not Applicable (NA)**

Comment: This Principle has been rated as not applicable since at present there is an under developed insurance market within the DIFC. To date DFSA have authorised a small number of insurance firms. However, the DFSA is in the process of establishing a comprehensive data collection and dissemination system for publishing aggregate information on the financial strength and performance of the authorised firms operating in the DIFC. The proposed project, to be implemented in December 2007, will enable the DFSA to publish information on the financial strength and performance of the industry operating in the DIFC on its website as well as provide the same to key external stakeholders. Subsequent to the implementation of this project, DFSA intends to publish quarterly and annual reports, as well as publish them on the website, on a regular basis.

These systems will supplement the information available to supervisors through the DFSA's active supervisory programme, and the informal contacts which are available in a physically small financial centre with, at present, a limited number of active firms. In addition, supervisors monitor international developments through trade press and internet, and through active involvement in the IAIS, to assess developments that may have a material impact on firms in the DIFC.

Principle 12: Reporting to supervisors and off-site monitoring

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.

The regular reports are prescribed mainly in PIN 6.2 (annual) and PIN 6.3 (quarterly), with forms and detailed instructions in PIN Appendix 10 and PIN Form 11. PIN 6.4 requires that annual reports be audited, and GEN 8.6.2 also requires a copy of the audited accounts. An annual actuarial report is required by PIN 7.2 and 7.3.

The DFSA has wide powers, in Articles 73 and 74 of the Regulatory Law, to require additional information. Guidance notes 12 and 13 in SUP 1.7 make clear that these powers will be used routinely, and they are further dealt with in SUP 2.2.

Requirements do differ in certain respects between companies incorporated in the jurisdiction and branches, reflecting the need in the latter case to distinguish between "whole firm" information and information relating only to the operations conducted in the DIFC. In many instances, where the whole firm is subject to satisfactory prudential supervision by a home state regulator, the financial and reporting requirements on a branch may be largely waived in favour of reliance on that regulator. The DFSA does not consider that these differences are market-distorting

On-going monitoring of the financial condition and performance of insurers is a key element of supervision. It is covered in the internal Supervision Manual, and the DFSA's current IT project will include relevant analytical software.

Assessment: **Observed (O)**

Comment: The Principle is fully observed.

Principle 13: On-site Inspection

The supervisory authority carries out on-site inspections to examine the business of an insurer and its compliance with legislation and supervisory requirements.

The principal powers to gather information and to conduct on-site inspections are in Article 73 (1) and (2) of the Regulatory Law.

The DFSA's powers are not limited to visits of particular types, and several types of visit, including focused and thematic visits are undertaken. Because of the stage of development of insurance activity in the DIFC, the main visits which have taken place to date have been initial risk assessments, which have therefore covered the full span of the firm's activities. However, in at least one instance the risk mitigation programme has identified a need for a subsequent targeted visit to ensure that controls improvements have been carried out and are operational.

The DFSA produces full risk mitigation programmes which are discussed with the insurer, and followed up as necessary. See guidance notes 14-17 of SUP 1.6 and section 2.5 of the internal Supervision Manual.

SUP 2.4 requires authorised firms to ensure that the DFSA has full access to third party suppliers. This is reinforced by Article 73(4) of the Regulatory Law, which allows the DFSA to obtain an order from the Court to access information from agents of authorised firms even where these are located outside the DIFC.

Assessment: **Observed (O)**

Comment: The DFSA regime is strong in this regard and fully operational.

Principle 14: Preventive and Corrective Measures

The supervisory authority takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.

The DFSA has a wide range of available instruments. These range from requirements to provide reports, through restrictions on business and property and imposition of requirements to fines or the removal of authorisation. There are also powers to appoint managers (Article 88), to seek Court injunctions (Article 92) and to seek compulsory winding up (Article 93).

As set out above, there is a full range of supervisory instruments available, and the intention is indeed to follow a policy of progressive escalation although this cannot yet be demonstrated in practice.

The DFSA has power to act where a breach of the legislation is anticipated. For example, SUP 5.2.1 deals with the circumstances in which restrictions may be placed on an authorised firm. These include a reasonable likelihood of contravention of any legislation, and risk of any adverse effect on the firm's customers. Use of these powers cannot yet be demonstrated in practice

Assessment: **Largely Observed (LO)**

Comment: There are no weaknesses in the DFSA's powers, but their use in practice remains to be fully demonstrated.

Principle 15: Enforcement or sanctions

The supervisory authority enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.

The DFSA has a wide range of available instruments. These range from requirements to provide reports, through restrictions on business and property and imposition of requirements to fines or the removal of authorisation. There are also powers to appoint managers (Article 88), to seek Court injunctions (Article 92) and to seek compulsory winding up (Article 93). There may, however, be doubt about the ability to restrict the activities of a subsidiary where this does not operate in the DIFC.

Assessment: **Largely Observed (LO)**

Comment: All the relevant powers exist however their operation in practice has not yet been demonstrated.

Principle 16: Winding-up and exit from the market

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.

Under Article 50 of the Insolvency Law, any company may be wound up by the Court if it is unable to pay its debts; this circumstance is defined in Article 51 and takes account of contingent liabilities of the company. However, DFSA Rules impose a more demanding test of capital adequacy and under Article 93 of the Regulatory Law the DFSA has power to petition for a winding up whenever it appears just and equitable in the interest of the DIFC to do so.

Assessment: **Partly observed (PO)**

Comment: There is a comprehensive framework of insolvency law, but the draft regulations are currently out for consultation, accordingly, the regulation has not been used yet.

Principle 17: Group-wide supervision

The supervisory authority supervises its insurers on a solo and a group-wide basis.

The concept of "group" is well-defined drawing on Companies legislation. The concept "related" is also relevant to certain aspects of group supervision.

The DFSA will ensure that either it or another regulator conducts group-wide supervision of any group including an insurer operating in the DIFC. This is an issue raised as a matter of normal DFSA practice at the licensing stage. It is expected that in the near future there will be few, if any groups, headquartered in the DIFC, and it will usually be more appropriate for another regulator to perform consolidated supervision; in such cases the DFSA would, if necessary, expect to receive a copy of the report to that supervisor rather than duplicate its work. Where a group is headquartered in the DIFC, or where there is no adequate consolidation elsewhere, the DFSA would practise consolidate supervision.

Assessment: **Partly Observed (PO)**

Comment: Although the capability of group supervision exists, that framework has not been fully developed, reflecting the fact that the DFSA does not expect for some time to be the lead supervisor of a group.

Principle 18: Risk assessment and management

The supervisory authority requires insurers to recognise the range of risks that they face and to assess and manage them effectively.

Risk management requirements on all authorised firms are set out in GEN 5.3.4 – 5.3.6. In the case of insurers they are supplemented by further specific requirements in chapter 2 of PIN, amplified by the guidance in PIN App 2.

Linkage to complexity, size and nature emerges explicitly from PIN 2.2.1. Risk limits are addressed in PIN App 2.

This is made explicit in general terms in PIN 2.2.1, and a comprehensive list of risks that must be addressed is given in PIN 2.3.

This is implicit in the requirement to identify and address all material risks (PIN 2.2.2), and is made explicit in guidance note 3 of PIN A2.3.

All authorised firms are required by GEN 5.3.6 to establish a risk management function. The DFSA expects a risk management committee in larger firms.

Assessment: **Observed (O)**

Comment: All the relevant requirements are in place.

Principle 19: Insurance activity

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.

Product design and pricing risk, and underwriting risk, are specifically addressed in PIN 2.3.1. PIN A2.4 makes clear that all risk management policies should be reviewed by the board.

Detailed guidance on claims management risk is given in PIN A2.8, on product design and pricing risk at A2.9, and on underwriting risk at A2.7.

As already noted, the DFSA has very wide-ranging powers in the Regulatory Law to require information, to conduct on-site reviews and also to require expert review. It should be noted, however, that since the DIFC is a wholesale centre, and most insurance business is expected to be reinsurance, many risks are likely to be rated individually.

Reinsurance risk is covered specifically in PIN 2.3.4 and PIN 2.3.5, with additional guidance in PIN A2.14. The limitation of risk through reinsurance is also covered for underwriting in PIN A2.7 and for pricing in PIN A2.9. The DFSA does seek, and reviews in detail, the reinsurance strategies and programmes of authorised insurers.

Assessment: **Observed (O)**

Comment: The rules and guidance are sound and the necessary supervisory practice can be demonstrated.

Principle 20: Liabilities

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.

All authorised firms are required to use IFRS (or AAOIFI standards for Islamic firms). Further rules on the valuation of liabilities are given in chapter 5 of PIN. PIN 5.4.7 and 5.4.8 require the establishment of proper technical provisions for general insurance; the corresponding rules for long-term insurance are PIN 5.6.5 – 5.6.7. In both cases, annual actuarial review is required (PIN 7.2.3, 7.2.4, 7.3.2 and 7.3.6). If the technical provisions are not consistent with the actuarial report, the insurer must notify the DFSA in writing (PIN 6.2.4 and 6.2.5).

The general valuation of reinsurance recoverables is dealt with briefly in PIN 5.4.9 and 5.6.7, and in the relevant accounting standards. However, the DFSA operates a risk-based capital system which requires capital to be set aside for reinsurance recoverables on a basis which reflects the credit rating of the reinsurer (see, for example, PIN A4.4.1 and A4.4.2). In addition, the credit which can be taken for reinsurance when calculating the underwriting risk component of the required capital is limited by A4.10.6. Effectively, the credit is limited to 50%, as in many other jurisdictions.

Assessment: **Largely Observed (LO)**

Comment: The relevant provisions are present in the rules but relevant supervisory behaviour cannot yet be fully demonstrated.

Principle 21: Investments

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.

There is a high-level requirement for the management of investment risk in PIN 2.3.1. Liquidity risk is separately identified in the same rule. These are supported by the guidance in PIN A2.6 and A2.10. The distribution of investments is treated as a matter for the insurer, but the risk-based capital system assigns capital charges to investments of various kinds, and also applies concentration charges. Where the firm is incorporated in the DIFC, the DIFC Companies Law also imposes on the directors a general “prudent person” requirement.

The underlying basis for valuation is the IFRS (AAIOFI standards for Islamic firms). These basically require investments to be marked to market; see also PIN 5.3.3. In certain instances, firms have been given permission to use other well-reputed GAAPs, where these are substantially similar to IFRS.

Assessment: Largely Observed (LO)

Comment: The necessary framework is mostly in place, and recent supervisory practice is conforming.

Principle 22: Derivatives and similar commitments

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.

PIN 2.3.1 explicitly requires an insurer’s risk management systems to address the risks associated with the use of derivatives. This is amplified by the substantial guidance in note 9 of PIN A2.6.

Gains and losses on derivatives must be disclosed in form PIN 1, but disclosure is not otherwise required. Note, however, that the final IFRS for derivatives are likely to mandate disclosure in statutory accounts.

Assessment: Largely Observed (LO)

Comment: The vast majority of the framework is in place. Issues for consideration are mandating annual review of the derivatives policy, and possibly disclosure of derivatives positions, though the latter may in the event be mandated in the final IFRS standards.

Principle 23: Capital adequacy and solvency

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.

A single, coherent, capital framework has been established based largely on a rating agency model and with substantial external support from Ernst & Young. It is a risk-based system, which defines the capital resources of the insurer and requires that they be at least equal to a capital requirement defined as the sum of a number of risk components.

PIN App 3 defines the capital resources of an insurer in detail. Base capital is defined in a way which roughly equates to owners' equity, and a series of adjustments is applied to exclude assets not available to meet the firm's insurance liabilities.

All insurers are required to apply IFRS or AAOIFI accounting standards, and the rules have been written on that basis. A risk-based capital framework has been adopted, which deals with the major areas of risk and includes an explicit size component. The capital requirement is defined in PIN App 4 as the sum of ten components. These include, most importantly, an underwriting risk component, a reserving risk component, a default risk component, an investment volatility risk component and a concentration risk component. Each of these is defined in detail.

The solvency regime deals with both a DIFC incorporated insurer and, on a whole-firm basis, with an insurer operating through a branch. In addition, an insurer operating through a branch is subject to the DIFC business risk capital requirement set out in PIN 4.7 and App9.

The DFSA's policy is, in general, to license branches only where it is satisfied that the home state provides a high standard of regulation and supervision, especially prudential supervision. Where the DFSA is satisfied of this, it may be prepared to defer to the home state supervisor in prudential matters, and therefore to grant waivers or modifications of some of its own rules.

Assessment: **Observed (O)**

Comment: The relevant issues have been addressed in the prudential framework.

Principle 24: Intermediaries

The supervisory authority sets requirements, directly or through the supervision of insurers, for the conduct of intermediaries.

Insurance Intermediation is defined in GEN 2.2.2(p) and 2.19 and requires full authorisation.

The full “fit and proper” regime applies to intermediaries, as do the requirements in GEN 5.3.18 and 5.3.19 for staff to be fit and proper and appropriately trained.

Status disclosure is mandated by COB 11.2.2, but does not cover whether the intermediary is authorised to conclude contracts. Note, however, that in a wholesale regime the justification for detailed regulation in this area is lower than in a retail regime.

Such individuals or entities would be in breach of the financial services prohibition (Article 41 of the Regulatory Law) and would be subject to the DFSA’s full disciplinary powers.

Assessment: **Observed (O)**

Comment: The regime is in place, and the only gap identified, regarding whether a broker can or cannot bind cover, is not significant in a wholesale centre.

Principle 25: Consumer protection

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.

Principle 2 of the Principles for Authorised Firms (GEN 4.2.2) imposes this requirement.

There is a general requirement to treat customers fairly (GEN 4.2.1), but not for a set of internal policies supported by training. This, however, reflects the wholesale nature of the DIFC.

DIFC Law No.5 of 2005, The Law of Obligations, imposes the requirement of utmost good faith and the duty of disclosure on the contracting parties.

Claims handling is dealt with in COB 13.3.1 and 16.6.1. Complaints are dealt with in GEN 5.3.24. This falls short of mandating a claims procedure of the type described here, but this is reasonable given the wholesale nature of the DIFC.

Assessment: **Largely Observed (LO)**

Comment: The DIFC is a wholesale centre, and the Core Principles recognise that the regime in this area may well differ between private and commercial customers.

Principle 26: Information, disclosure & transparency towards the market

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.

The key requirements on disclosure relate to the annual financial statements. Under GEN 8.2.1 an authorised firm must prepare accounts under IFRS, or AAOIFI for Islamic business. These must be audited (GEN 8.6), and must be provided to anyone who requests them (GEN 8.6.3). They must be submitted to the DFSA within 4 months of the financial year end (GEN 8.6.2).

The IFRS accounting standards quoted require quantitative and qualitative information on financial position and performance, including risk management and the methods and assumptions underlying the information, but do not require corporate governance information

This is a matter of supervisory practice, which can be fully demonstrated.

The IFRS standards do not yet cover quantitative risk.

Assessment: **Largely observed (LO)**

Comment: The issue of disclosures on governance and risk exposures remain.

Principle 27: Fraud

The supervisory authority requires that insurers and intermediaries take the necessary measures to prevent, detect and remedy insurance fraud.

The Dubai Law and the Regulatory Law empowers the DFSA with the right to establish and enforce regulations and to communicate with other supervisors for the purpose of deterring, detecting, recording and reporting and remedying fraud in insurance and other financial sectors. The Regulatory Law provides the DFSA with wide powers of investigation.

The DFSA has an Enforcement Department led by experienced staff. They have, in other areas, demonstrated the ability to make effective links with other authorities (including the Dubai Police), and to co-operate with them in addressing other areas of financial crime.

The DIFC does not have a separate criminal legal regime from the UAE. The UAE Penal Code and other federal criminal laws continue to apply in the DIFC. The UAE Penal Code (Federal Law no 3 of 1987) Article 399 specifically deals with fraud and fraudulent activities and Article 400 specifies the remedies. Insurance fraud is encompassed under the Federal Law.

Claims fraud is a punishable offence pursuant to the Federal Law. Articles 216, 222, 399 and 400 specifically deal with all fraud crimes, including the production of fake documents.

The DFSA requires firms to notify the Authority immediately of any perceived or committed serious fraudulent act from an employee, customer or third party. However, the rules do not routinely address acts as small scale claims fraud.

We are considering rule changes to reflect the criteria requirements.

The Dubai Law allows the DFSA to co-operate and develop relationships with other governments, quasi-governmental authorities, institution, entities and individuals. This extends from the regulation of financial services to any matter which allows the DFSA to execute its duties.

Assessment: ***Largely Observed (LO)***

Comment: There are some minor gaps in the DFSA regime relating to information exchange between insurers and specific training requirements. There is a strong Federal Law dealing with fraud.

Principle 28: Anti-money laundering, combating the financing of terrorism (AML/CFT)

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).

The UAE Penal Code and other federal criminal laws continue to apply in the DIFC, including the Federal Law No.4 of 2002 (Criminalisation of Money Laundering), and the Federal Law No.1 of 2004 (Counter Terrorism Law). Any criminal investigation will be performed by UAE authorities. The UAE Central Bank and its national Financial Intelligence Unit, the 'Anti Money Laundering Suspicious Cases Unit' (AMLSCU), have the principal responsibility in respect of anti money laundering and counter terrorist financing in the UAE and therefore Suspicious Transaction Reports (STRs) are required to be filed with the AMLSCU. Consequent prosecutions are referred to the UAE Attorney General. Under Article 7 of the Federal Law No.8 establishing the free zones, the Federal Government has authority to ensure that the DIFC complies with the provisions of that law, including the AML provisions. The DFSA's anti money laundering regulations and supervisory regime apply only to financial and ancillary services provided in or from the DIFC. The DFSA's AML requirements are made under its Regulatory Law and are designed to ensure that those involved in financial and related ancillary services in the DIFC also comply with applicable federal law. The DFSA's AML rules apply to insurers as to other Authorised Firms (including, for example, banks). We consider that they meet the FATF Recommendations.

AML/CFT systems and controls are an important element in the DFSA's risk framework, and hence in risk assessment both at the licensing stage and in supervision. Supervisors review AML/CFT systems both off and on site.

AML/CFT systems and controls are an important element in the DFSA's regulatory framework, and hence in risk assessment both at the licensing stage and in supervision. Supervisors review AML/CFT systems both off and on site, and have access to subject matter experts where necessary

The DFSA requires authorised firms to establish and maintain effective anti money laundering policies, procedures, systems and controls to prevent opportunities for Money Laundering.

Assessment: **Largely Observed (LO)**

Comment: The Laws and rules are in place and meet most of the criteria. The outstanding element is a MoU with the Central Bank of UAE.