



THE INSURANCE COMMISSION
OF THE BAHAMAS

SUPERVISORY LADDER OF INTERVENTION FOR INSURANCE COMPANIES
September 2013

STATEMENT OF OBJECTIVE

This Guide aims to promote awareness and enhance transparency of the Insurance Commission of Bahamas' (the Commission) intervention process. The objective of the intervention process is to enable the Commission to identify areas of concern at an early stage and intervene effectively in order to minimize losses to policyholders and other creditors of domestic and external insurance companies (insurers).

INTRODUCTION

The Commission supervises both life and general (non-life) insurance firms registered to operate in the domestic market pursuant to the Insurance Act (IA), Chapter 347 and those firms registered to operate in the international market pursuant to the External Insurance Act (EIA), Chapter 348. The Commission's approach to supervision recognizes the different risks inherent in the business models of life and general insurers reflecting the different maturities of their assets and liabilities and the different risk to which they are exposed. Across its portfolio of firms the Commission engages in risk based supervision. As such, this guide should be read in conjunction with the Commission's Risk Based Supervision Framework. The main tenets of the Commission's supervision framework are:

- i. The nature and intensity of the Commission's supervisory approach will be commensurate with the level of risk a firm poses to policyholders and to the stability of the system. Through risk based allocation of resources, the Commission will seek to deliver the same level of policyholder protection across all insurers. Supervision will be tailored to different firms and sectors and vary according to risk, rather than a "one size fits all" approach.
- ii. The Commission will focus on understanding the main risks to policyholders and the stability of the system. All supervisory intervention will be clearly and directly linked to reducing risk to policyholders and where appropriate the stability of the system.
- iii. The Commission will be forward-looking, seeking to assess whether, on the balance of risks, there are vulnerabilities in an insurer's business model, reserving, solvency position, governance, risk management and controls that cast into doubt their ability to deliver on policyholder obligations.
- iv. Where potential threats to the safety and soundness of an institution are identified, the Commission will take supervisory action at an early stage to reduce risk to its statutory objectives.

THE COMMISSION'S APPROACH TO SUPERVISORY INTERVENTION

The Ladder of Intervention (LOI) provides a framework for remedial supervisory intervention for all insurance companies supervised by the Commission. This framework has two key purposes. First, it will support the early identification of risks to a firm's viability and ensure that firms take appropriate remedial action to reduce the probability of failure. Second, it will flag actions that the Commission will need to take in advance to prepare for the resolution of a firm.

The IA and EIA provide a wide range of discretionary intervention powers that allow the Commission to intervene to address concerns that may arise with insurers. A summary of the Commission's intervention powers are noted at Appendix I. All assessments made throughout the intervention process consider the unique circumstances of the company including: nature, scope, complexity and risk profile. The LOI describes the types of corrective measures most likely to be undertaken in cases where an insurer fails to meet regulatory requirements or enters into what the Commission deems unsound business practices; and organizes intervention measures in tandem with the significance of prudential concerns. The LOI neither limits the Commission in its powers to protect policyholders nor prevents it from taking any action it deems necessary at any stage in the supervisory process. The LOI may also be updated in the future to reflect any changes to the intervention process or the roles/responsibilities of the Commission in the intervention process.

SUPERVISORY LADDER OF INTERVENTION (LOI)

The LOI outlines actions that the Commission may consider depending on the risk profile of the insurer and the nature and significance of prudential concerns. As a firm moves through each stage of the LOI, the intensity of supervisory monitoring and the intrusiveness of supervisory actions and contingency planning will increase. The actions indicated below are cumulative; i.e. actions indicated at lower levels of risk are implicitly included in actions that could be considered for insurers with a higher risk profile. Also, if circumstances warrant, actions can be taken at risk levels lower than that indicated in the guide. It is important to note intervention measures outlined in this Guide should not be interpreted as rigid or exhaustive as circumstances may vary significantly case by case. The intervention process is intended to be flexible in order to enable the Commission to use intervention measures that are likely to be most effective in individual cases.

<u>Stage 0- No Significant problems/ Normal Activities</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
<p>The Commission determines that the company's financial condition, policies and procedures are sufficient and that practices, conditions and circumstances do not indicate significant problems or control deficiencies.</p>	<p>Low risks to the viability of the firm</p> <ul style="list-style-type: none"> • The combination of the company's overall net risk, capital and earnings makes the company resilient to most normal adverse business and economic conditions. • The company's performance has been satisfactory to good, with most key indicators comparable with industry norms. • The company may have access to additional capital and is able to address supervisory concerns that might arise. 	<p>The firm is subject to normal supervisory risk based supervisory reviews.</p> <ul style="list-style-type: none"> • Quarterly and annual financial analysis including early warning test and solvency requirements. • Assess, monitor and update the insurer's risk profile. • Annual Independent Audited Financial Statements of licensed insurer. • Audited Group Accounts for companies belonging to a financial group of companies • Independent Actuarial review and stress testing for long-term insurers. • Reinsurance review to assess adequacy and acceptance of reinsurance programs. • Anti-money laundering onsite-review for long-term insurers.

Supervisory Ladder of Intervention

<u>Stage 0- No Significant problems/ Normal Activities</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
		<ul style="list-style-type: none"> • Periodic Prudential Meetings • Focused and thematic onsite examinations • Advise management of concerns noted and the corrective measures that the company will be required to undertake. • Monitor any corrective measures which may include requesting additional information and or conducting follow-up supervisory reviews. • Report to the Minister of Finance on an Annual Basis.

Stage 1 - Early Warning	Risk Profile	Intervention Activity
<p>If a company is categorized as Stage 1, the Commission has identified deficiencies in the company's financial condition, policies or procedures or the existence of other practices, conditions and circumstances that could lead to the development of problems described at Stage 2, if they are not promptly addressed.</p>	<p>Moderate risk to the viability of the firm.</p> <p>One or more of the following conditions exist:</p> <ul style="list-style-type: none"> • The combination of the company's overall net risk and its capital and earnings compromises the company's resilience. • The company has issues in its risk management that, although not serious enough to present an immediate threat to financial viability or solvency, could deteriorate into more serious problems if not addressed promptly. 	<p>The intensity of supervisory activities would increase. The Commission may employ one or more of following measures in addition to those noted at stage 0:</p> <ul style="list-style-type: none"> • Formally notify the insurer's management, the Board of Directors, external auditors and/or appointed actuary in writing of the deficiencies identified and remedial actions required. • Meet with the insurer's management, Board or Directors, external auditors and/or appointed actuary to discuss deficiencies identified and remedial actions required. • Require the insurer to submit a plan to rectify deficiencies within a stated timeframe. • Require the insurer's external and/or internal auditor to expand the audit scope and/ or perform other procedures. • Require the insurer's in house actuary or

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<u>Stage 1 - Early Warning</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
		<p>appointed actuary to expand the scope of his/her normal review, and/or carry out other procedures such as calculating liabilities using other assumptions.</p> <ul style="list-style-type: none"> • Escalate monitoring of the insurer as warranted, including expanding the scope, level and frequency of information to be reported to ensure concerns are being addressed on a timely basis.

<u>Stage 2 – Risk to Financial Viability or Solvency</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
<p>At Stage 2, the company poses material safety and soundness concerns and is vulnerable to adverse business and economic conditions. The Commission has identified problems that could deteriorate into a serious situation if not addressed promptly, although the problems are not serious enough to present an immediate threat to financial viability or solvency.</p>	<p>Material risk to viability of the firm.</p> <p>One or more of the following conditions exist:</p> <ul style="list-style-type: none"> • The Combination of the company’s overall net risk and its capital and earnings makes it vulnerable to adverse business and economic conditions, which may pose a serious threat to its financial viability or solvency unless effective corrective action is implemented. • The company has issues in its risk management that, although not serious enough to present an immediate threat to financial viability or solvency, could deteriorate into more serious problems if not addressed promptly. 	<p>More intense supervisory actions would continue. The Commission may employ one or more of following measures in addition to those noted at previous stages:</p> <ul style="list-style-type: none"> • Increase the frequency, depth and scope of on-site and off-site supervisory reviews as warranted. • The Commission may engage an independent party to carry out an investigation at the insurer’s expense. • Require the company to undergo a special audit performed by an auditor other than the company’s external auditor at the company’s expense. • Require an external actuary to perform a special review of the company’s actuarial reserves at the company’s expense. • Require independent loan reviews for portfolio of loans . • Require appraisal of real property of a company.

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<u>Stage 2 - Risk to Financial Viability or Solvency</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
		<ul style="list-style-type: none"> • The insurer would be required to incorporate into its business plan a realistic recovery plan designed to address specific current problems and to initiate recovery action in a timely manner to address the vulnerabilities identified. Actions may include capital raising, asset disposal, business transfer or sale of the firm and reduction of contracts, etc. • Inform the insurer’s home regulator and/or other local and host regulators of the circumstances that have led to regulatory action. • Impose operating conditions on the registration including but not limited to: <ul style="list-style-type: none"> ○ Limit on asset disposal/ acquisition or capital distribution. ○ Place restrictions on planned activities. ○ Limit balance sheet growth. ○ Restrict the insurer from carrying out new business.

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<u>Stage 2 - Risk to Financial Viability or Solvency</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
		<ul style="list-style-type: none"> ○ Require increased risk transfer arrangements. ○ Require increase in capital. • Commence contingency planning for resolution.

<u>Stage 3 - Future financial viability in serious doubt</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
<p>If a company is categorized as Stage 3, Commission has identified that the company has failed to remedy the problems that were identified at Stage 2 and the situation is worsening. The company has severe safety and soundness concerns and is experiencing problems that pose a significant threat to its future financial viability or solvency unless effective corrective measures are promptly undertaken.</p>	<p>Significant risk to viability of the firm.</p> <p>One or more of the following conditions exist:</p> <ul style="list-style-type: none"> • The combination of the company's overall net risk and its capital and earnings makes it vulnerable to adverse business and economic conditions, which poses a serious threat to its financial viability or solvency unless effective corrective action is promptly undertaken. • The company has serious issues in risk management or control deficiencies, which present a serious threat to its financial viability or solvency unless effective correction action is promptly undertaken 	<p>The Commission will continue to follow up on previous supervisory directives and continue to intensify supervisory actions. The Commission may employ one or more of following measures in addition to those noted at previous stages:</p> <ul style="list-style-type: none"> • Regular meetings with the insurer's management, the Board of Directors, Board Committees, auditors, or actuaries. • Require changes to management and/or composition of the Board. • Require the insurer to engage a specialist to advise on the proper conduct of one or more aspect of its operations. • Direct specialist to assess certain areas such as quality of assets, liquidity, adequacy of reserves and adequacy and reliability of reinsurance arrangement, etc. • Communicate to management and board of directors of the company the importance of considering resolution options such as restructuring the company or seeking prospective

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<u>Stage 3 - Future financial viability in serious doubt</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
		<p>purchasers.</p> <ul style="list-style-type: none"> • Appoint a Statutory Administrator to seize management and control of the company or any part of the insurance business of the company. • Develop detailed Contingency Plan for resolution.

<u>Stage 4 - Non-viability/ insolvency imminent</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
<p>If a company is categorized as Stage 4, the Commission has determined that it is experiencing severe financial difficulties and has deteriorated to such an extent that:</p> <ul style="list-style-type: none"> • the company has failed to meet regulatory capital and surplus requirements in conjunction with an inability to rectify the situation on an immediate basis; • the statutory conditions for taking advance resolution actions have been met; and/or • the company has failed to develop and implement an acceptable business plan, resulting in either of the two preceding circumstances becoming inevitable within a short period of time. 	<p>Imminent risk to viability of the firm.</p> <p>One or more of the following conditions exist:</p> <ul style="list-style-type: none"> • The combination of the company's overall net risk and its capital and earnings is impairing its financial viability. • The company has substantial issues in risk management or control deficiencies, which are adversely impacting its financial viability. 	<ul style="list-style-type: none"> ○ Suspend or Revoke the insurer's licence. ○ Advise the Minister, home, host and other local regulators of the intervention actions being taken. ○ The Commission will activate its contingency plan. <ul style="list-style-type: none"> • The Commission will make an order to the court for one of the following: <ul style="list-style-type: none"> ○ The compulsory winding-up of the company if the Commission determines that there is no reasonable prospect for the return of the company to financial soundness through reorganization or otherwise. ○ The placement of the company or any part of the company's insurance business under judicial management. ○ The approval of a plan for re-organization of the company if the Commission determines that there is a reasonable prospect of restoring the company to

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<u>Stage 4 - Non-viability/ insolvency imminent</u>	<u>Risk Profile</u>	<u>Intervention Activity</u>
		<p>financial soundness.</p> <ul style="list-style-type: none"> ○ Monitor the insurers winding up, judicial management or restructuring proceedings.

APPENDIX I – SUMMARY OF INTERVENTION POWERS

The IA and EIA provide a wide range of discretionary intervention powers that allow the Commission to intervene to address concerns that may arise with insurers. **Pursuant to section 8(1), IA, the Commission has the power to do anything which is calculated to facilitate or is incidental or conducive to the proper discharge of its functions under the IA.** The following table summarizes the Commission’s intervention powers.

Regulatory Action	Description	Powers	Reference
Frequent Onsite Examinations	Mandate to examine including access to books, records, etc.	<p><i>The Commission may examine the books and records of the insurer and the insurer must cause such books and records to be available for examination. The Commission may also require the company to produce any securities, books, accounts, documents or statistics of the company for inspection.</i></p> <p><i>The Commission may conduct an annual onsite inspection of each registered insurer or association. However, the Commission may decide on more or less frequent inspections.</i></p>	<i>IA sections 61(2), 69, and 72(a), EIA sections 41(b), and 42</i>
Additional Information and Reporting	To require any information when needed and in any form	<p><i>The Commission may require a director, manager, principle representative, auditor, actuary or others to provide information relating to any matter in connection with its insurance business. The Commission shall have power to require the filing and/ or production of any document or information and determine the form and</i></p>	<i>IA sections 8(2)(d) and (e), 63(a), 70(1), EIA sections 41(c), 43</i>

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Regulatory Action	Description	Powers	Reference
		<i>content of any document.</i>	
Information from Parent/Group Accounts	To require information from upstream entities so as to ascertain that the provisions of the Act are being satisfied and that the insurer is in sound financial condition	<i>The Commission may require the parent company of the group to prepare a consolidated balance sheet, profit and loss account and other documents as may be prescribed</i>	<i>IA sections 8 (2)(d) and (e), 59(1),</i>
Additional Capital Requirements and Liquidity Rules	To set capital adequacy and requirements. Specific requirements for individual institutions may be imposed pursuant to power to require more capital and/or liquidity	<i>No company shall be registered to carry on any class of insurance business in The Bahamas, unless it has paid-up capital and surplus of the prescribed amount.</i>	<i>IA sections 8(2)(d) and (e), 25(1) and (4), 26, 78,;</i> <i>Insurance (General) Regulations, reg. 90-92;</i> <i>EIA section 22, 31</i>
Revoking Auditor's Appointment	To revoke the appointment of an auditor	<i>The Commission may impose a penalty on the registered insurer including the rescission of the approval of a principal auditor or actuary</i>	<i>IA section 238(1)(a)(iv)</i>
Imposing Conditions on Registration of licensees	To impose conditions or limitations or vary existing conditions on the registration of licensees	<i>The Commission has the power to (a) impose any condition, limitation or restriction on companies, and (b) amend or revoke any registration, authorization or permission.</i>	<i>IA sections 8(2)(a) and (b)</i>
Designation of Related Parties	Specific description of related party transactions	<i>See Insurance (General) Regulations, reg. 34</i>	<i>Insurance (General) Regulations, reg. 34</i>

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Regulatory Action	Description	Powers	Reference
Divestment Order	Order divestiture of ineligible loans and investments in respect of which an insurer is in contravention of an undertaking.	<i>The Commission has the power to impose any condition, limitation or restriction on companies operations or their investments.</i>	<i>IA section 8(2)(a)</i>
Direction of Compliance	Order to cease or refrain from actions that are deemed to be an unsafe or unsound business practice (either by an act or a course of conduct), and to order the taking of necessary action to remedy the situation	<i>The Commission may require that licensees take or refrain from taking any action as it deems necessary. The Commission also has the power to make rules and issue directives as necessary</i>	<i>IA sections 8(2)(c) and (m)</i>
Regulatory Valuation of Assets	To establish the appropriate value of assets and so inform an Insurer	<i>See Insurance (General) Regulations, regs. (68-72), (83-89) and (93-94)</i> <i>The Commission may substitute the appraisal value of an asset.</i>	<i>Insurance (General) Regulations reg. 68-72 (Admissible and Inadmissible assets),</i> <i>Insurance (General) Regulations reg. 83-89 (Valuation of Assets and Investments)</i> <i>IA section 8(2)(g)</i>
Dividend Restriction	Requirement for regulatory permission before declaring dividends	<i>No dividend or return of capital shall be paid by any company without the Commission's prior consent in writing where its assets are less than the amount required for solvency or it is observed that such payment</i>	<i>IA sections 8(2)(a) and 55</i>

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Regulatory Action	Description	Powers	Reference
		<i>would impair its capital.</i>	
Suspension or Cancellation of Registration or Revocation or Suspension of Licence	The power of the Commission to suspend, cancel or revoke registration or licence	<i>The Commission has the power to amend or revoke any registration, authorization, permission, condition, restriction or limitation.</i>	<i>IA sections 8(2)(b), 33 and 34; EIA section 12</i>
Expanded Audits and Special Audits	To require that the scope of an external audit be enlarged or expanded or that it include a particular procedure. A special audit may also be required	<i>The Commission may require the production of any information from any company or intermediary including its auditors</i>	<i>IA section 8(e)</i>
Rescind Approval of Actuary	Superintendent may remove	<i>The Commission may impose a penalty on the registered insurer including the rescinding of the approval of a principal auditor or actuary</i>	<i>IA section 238 (1)(a)(iv)</i>
Prudential Directives	Explicit authority to direct insurers to rectify problem situations	<i>The Commission has the authority to make rules and issue directives providing for matters as may be necessary or expedient for the carrying out of its responsibilities</i>	<i>IA sections 8(2)(a),(c) and (m)</i>
Judicial Management/ Statutory Administration	Under specific circumstances, power to take control of the assets of, or take control of, an insurance	<i>The Commission has the power to petition the Court for a winding-up order or to place a company under judicial management or in</i>	<i>IA sections 75, 77,</i>

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Regulatory Action	Description	Powers	Reference
	company	<i>statutory administration</i>	
Winding-up Order	Authority to seek a winding up order.	<i>See IA section 77</i>	<i>IA section 77</i>
Object to the Appointment of Directors and Senior Officers	Superintendent may object to the appointment of Directors and Senior Officers who are not fit and proper to hold the position.	<i>Directors and senior officers must be fit and proper to carry out their functions. The Commission is required to be notified of any material changes in the company particulars specified in the application for registration within 30 days of the change.</i>	<i>IA sections 28 (g) and (h), 30 (1)</i>
Removal of Directors and Senior Officers	Authority to remove directors and senior officers in certain circumstances	<i>The Commission may impose a penalty on the registered insurer including the removal of a director, responsible officer or other senior manager</i>	<i>IA sections 238(1)(a) and (v)</i>
Requiring Board Meetings	To require an insurer Board of Directors to meet with representatives of Commission to address specific matters. and	<i>The Commission has the authority to make rules and issue directives providing for matters as may be necessary or expedient for the carrying out of its responsibilities</i>	<i>IA section 8(m)</i>
Administrative Sanctions including fines	Power to impose penalties against licensees in certain circumstances	<i>All offences against this Act for which no other penalty is prescribed shall be punishable by a monetary fine, upon summary conviction.</i>	<i>IA sections 237 and 238; EIA section 60</i>