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DENMARK

FINANCIAL SECTOR ASSESSMENT PROGRAM

December 2014

DETAILED ASSESSMENT OF OBSERVANCE OF THE INSURANCE CORE PRINCIPLES

This Detailed Assessment of Observance of the Insurance Core Principles on Denmark was prepared by a staff team of the International Monetary Fund. It is based on the information available at the time it was completed on December 2014.

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INSURANCE CORE PRINCIPLES

DETAILED ASSESSMENT OF OBSERVANCE

Prepared By

Monetary and Capital Markets Department

This Detailed Assessment Report was prepared in the context of an IMF Financial Sector Assessment Program (FSAP) mission in Denmark during March 2014, led by James Morsink, IMF and overseen by the Monetary and Capital Markets Department, IMF. Further information on the FSAP program can be found at http://www.imf.org/external/np/fsap/fssa.aspx

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Glossary

ALM	Asset Liability Management
AML	Anti-Money Laundering
ASB	Accounting Standards Board
BoD	Board of Directors
BoM	Board of Management
CAFI	Consumer Affairs and Financial Intermediaries Division
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CFT	Combating the Financing of Terrorism
CAB	Commercial Appeals Board
CoB	Conduct-of-Business
DBA	Danish Business Authority
DIA	Danish Insurance Association
DFSA	Finanstilsynet—Danish Financial Supervisory Authority
DIMA	Danish Insurance Mediation Act
DN	Danmarks Nationalbank
DKK	Danish Krone
DSA	Danish Society of Actuaries
EBA	European Banking Authority
EO	Executive Order
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
EFRAG	European Financial Reporting Advisory Group
ESRB	European Systemic Risk Board
ESMA	European Securities and Markets Authority
ERM	Enterprise Risk Management
EU	European Union
FIU	Financial Intelligence Unit
FBA	Financial Business Act
FTE	Full Time Equivalent
GDP	Gross Domestic Product
IAIS	International Association of Insurance Supervisors
IASB	International Accounting Standards Board
ICPs	Insurance Core Principles
IFAC	International Federation of Accountants
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
ISA	International Standard on Auditing
ISN	Individual Solvency Need
KPI	Key Performance Indicator
MoF	Minister of Finance

MCR	Minimum Capital Requirement
MoBG	Ministry of Business and Growth
MoU	Memorandum of Understanding
MMoU	Multilateral Memorandum of Understanding
NAO	National Audit Office
ORSA	Own Risk and Solvency Assessment
PCR	Prescribed Capital Requirement
OECD	Organisation for Economic Co-operation and Development
ORSA	Own Risk and Solvency Assessment
SIFI	Systemically Important Financial Institution
SRC	Systemic Risk Council
SRO	Self-regulatory Organization
VaR	Value at Risk

EXECUTIVE SUMMARY

The insurance sector is highly developed, particularly life insurance. Life insurance and occupational pension fund provision are well integrated in Denmark and the same regulatory requirements, including solvency standards, apply to both. The market has been dominated by with-profits products with guaranteed annual rates of return, but unit-linked products now accounts for an increasing share of new business as insurers adjust to the low interest rate environment. While the performance of life insurers and pension funds has been variable, nonlife companies have been experiencing more stable returns despite significant claims from weather-related events in recent years. Solvency ratios point to a strong financial position in both life and nonlife sectors.

Insurance regulation has been developing in response to the financial crisis and international developments. The Danish Financial Supervisory Authority (DFSA) regulates insurance and pension funds, for prudential and market conduct purposes. Its powers and resources have been extended following the crisis. The DFSA shares responsibility for consumer protection with a Consumer Ombudsman. In regulation, the Ministry of Business and Growth (MoBG) has lead responsibility, but delegates extensively to DFSA. The DFSA is responsible for supervision, but is required to refer the most significant decisions on individual companies to a Financial Council (to be replaced by a Board in July 2014).

Insurance regulation in Denmark has a good level of compliance with the Insurance Core Principles (ICPs). A particular strength of the DFSA's approach is its close focus on key risks in the sector and its readiness to require action by companies to address vulnerabilities. Regular, even daily monitoring of market risk sensitivities is carried out on life insurers' balance sheets. In nonlife insurance, regular testing of a number of key performance ratios helps to highlight potential weaknesses and to support early intervention. There is comprehensive oversight of the reinsurance programs of the nonlife companies in particular.

The DFSA's solvency standards are robust and already well-aligned to the EU Solvency II regime. For some years, DFSA has required the use of current market prices in the valuation of assets and liabilities and since 2007 has required companies to assess their individual solvency needs. Solvency regulation has been overhauled with effect from 2014 as part of the transition to Solvency II (to be fully implemented by January 2016). The regime is well-developed, although full implementation will take some further time. It applies at group and solo levels and includes an own risk and solvency assessment (ORSA). The framework allows for extensive discretion for the DFSA to intervene at solvency levels of its choice and DFSA's approach in practice is to intervene early; but it would benefit from a clear solvency level below which companies may not operate. Further, the DFSA does not yet require all insurers to have functions responsible for risk, compliance and internal audit, while only for life companies is there a requirement for specific actuarial capacity.

There is need to increase attention to market conduct supervision via additional resources and to reinforce the DFSA with an explicit statutory objective of policyholder protection. The

DFSA requires insurers to adopt good business practices and to act honestly and loyally with customers, but its focus has been on sales processes, including disclosure and complaints (which are, however, low) and on companies' handling of reselection offers. The powers of the Consumer Ombudsman to take cases to the Court adds strength to the consumer protection framework, at the cost of some regulatory uncertainty given scope overlap with DFSA. The regulation of intermediaries suffers from a lack of powers for onsite inspection and, in common with market conduct regulation, from low resources. The DFSA would also benefit from powers to impose administrative penalties. Giving the DFSA an explicit policyholder protection objective in the legislation, as required by the ICP, would underpin an increased emphasis on market conduct work, adding to the existing focus on fairness issues in financial supervision; so too would adding a requirement on boards of directors explicitly to have regard to policyholder protection issues amongst their other responsibilities.

Offsite supervision is well-developed, but there is scope to increase frequency of onsite inspections and to enhance the approach for assessing and recording risk judgments in a comprehensive manner. The DFSA takes a risk-based approach that takes account of business model sustainability. Offsite monitoring is based on extensive reporting and regular focused stress tests. The frequency of onsite inspections for firms not seen as high risk is long at four years (six for small firms). The planned more frequent inspections of larger life companies (reflecting Solvency II) are appropriate. The DFSA should develop its risk-based framework better to integrate offsite analysis with the assessment of governance, management and controls. There is a need to extend group supervision, which is generally well-developed, to insurance holding companies, to respond to recent changes in regulation, and to raise the priority of supervision work in relation to market conduct, insurance fraud issues and AML/CFT.

International cooperation is well-developed. The DFSA is an active member of EU supervisory colleges and has implemented relevant guidelines in respect of its role as group and host supervisor and for crisis preparedness (most of the operations of insurance companies active in Denmark are within the EU). There are no barriers to exchange of information with relevant domestic and international authorities and the DFSA exchanges information readily where required.

There is scope to strengthen the institutional framework. The composition, method of appointment and significant scope of the Financial Council in relation to supervisory decisions creates some risks to the independence of supervisory decision-making from undue political, governmental or industry influence (for example, some Council members are nominated by financial sector industry associations). The replacement, in July 2014, of the Council with a Board of Directors will eliminate the current issue of industry representatives' casting votes on supervisory policy actions. In addition, the DFSA is subject to government budgetary procedures and salary constraints that can hamper its ability to raise extra resources where necessary and recruit and retain high value skills. The Minister has responsibility for some decisions, although they are currently delegated to DFSA. There is no provision for internal audit at the DFSA. Given the breadth of its responsibilities and key tasks, in relation to Solvency II and market conduct challenges, the DFSA's insurance resources are likely to be insufficient.

ASSESSMENT OF INSURANCE CORE PRINCIPLES

A. Introduction and Scope

1. This report assesses Denmark's regulatory regime and supervisory practices against the international standards established by the International Association of Insurance Supervisors (IAIS). The assessment was conducted as part of the 2014 Financial Sector Assessment Program (FSAP) of Denmark by Mala Nag (IMF) and Ian Tower (external expert engaged by the IMF) from March 4–21, 2014.

2. The assessment is benchmarked against the IAIS ICPs issued in October 2011, as revised in October 2012 and again in 2013. The ICPs apply to all insurers, whether private or government-controlled. Specific principles apply to the supervision of intermediaries. The scope of the assessment covers the prudential and market conduct supervision exercised by the DFSA. The institutional arrangements for financial sector regulation and supervision are outlined in Section C.

B. Information and Methodology Used for Assessment

3. The level of observance for each ICP reflects the assessments of its standards. Each ICP is rated in terms of the level of observance as follows:

a) ***Observed***: where all the standards are observed except for those that are considered not applicable. For a standard to be considered observed, the supervisor must have the legal authority to perform its tasks and exercises this authority to a satisfactory level.

b) ***Largely observed***: where only minor shortcomings exist, which do not raise any concerns about the authorities' ability to achieve full observance.

c) ***Partly observed***: where, despite progress, the shortcomings are sufficient to raise doubts about the authorities' ability to achieve observance.

d) ***Not observed***: where no substantive progress toward observance has been achieved.

4. The assessment is based solely on the laws, regulations and other supervisory requirements and practices that were in place at the time of the assessment in March 2014. Ongoing regulatory initiatives are noted by way of additional comments. The authorities provided a self-assessment, supported by anonymized examples of actual supervisory practices and assessments, which enhanced the assessment process. Technical discussions with and briefings by officials from the MoBG and DFSA also enriched this report; as did discussions with industry participants.

5. The assessors are grateful to all who provided input and support for this assessment. The openness and close cooperation of the DFSA is particularly appreciated, as is the support from the DN in coordination of the program, including the arrangement of meetings with industry participants. The assessors are also grateful for the valuable inputs and insightful views provided by insurance companies, industry associations and professional bodies.

C. Overview—Institutional and Macroprudential Setting

Institutional Framework and Arrangements

6. **The Minister of Business and Growth (MoBG) is responsible for general business environment in Denmark in a number of policy areas including the financial sector, business regulation, and competition policy.** The DFSA is an agency within the MoBG functioning as an integrated authority responsible for the supervision of the financial sector including insurance companies. The Financial Business Act (FBA) gives DFSA responsibility for organizing its routine supervision activities with a view to promoting financial stability and confidence in financial institutions and markets.

7. **As an integrated regulator, the DFSA supervises all financial undertakings, including banks, mortgage-credit institutions, insurance companies and pension funds.** In addition to prudential supervisory activities, DFSA is also responsible for the supervision of code of conduct and other consumer protection regulation within the financial sector, including regulation on marketing, disclosure of information on prices and fees, fair contract terms and complaint handling. DFSA also assists the MoBG in drawing up financial legislation and issues executive orders and guidelines on both prudential and market conduct matters.

8. **Life insurance companies and pension[1] funds are covered by the same legislative framework in Denmark.** "Insurance companies" or "insurance undertaking" in this report refers to life insurers, multi-employer occupational pension funds, nonlife insurers, reinsurance and captive insurers which carry out direct insurance activities in Denmark. All these entities offer insurance and are therefore covered by the scope of application of the Insurance Core Principles. In Denmark, since majority of the multi-employer occupational pension funds provide work-related life insurance and pension savings as a combined package, the total size of the insurance industry is relatively high compared with peers from other Nordic countries. The insurance sector benefits from the country's diversified economy and high per capita income which supports high and stable insurance premium inflows.

9. **Supervisory coordination amongst the various authorities is facilitated by several institutional fora.** The DFSA acts as secretariat for the Financial Council (Council) which makes decisions on matters of principle or of far reaching significance for individual companies. The members of the Council are appointed by the MoBG and include academics, governmental and a few industry association members. The replacement, in July 2014, of the Council with a Board of

[1] The Danish pension system consists of three pillar system. The first pillar is the entitlement to an old-age pension from the age of 65 and the Danish Labor Market Supplementary Pension Fund (Arbejdmarkedets TillaegsPension, ATP) scheme. The second pillar includes the quasi-mandatory occupational pension schemes as well as the Special Pension Savings Scheme (SP) and the LD Pension Fund (the latter two are closed for new contributions). The third pillar is the private and individual pension savings. The old-age pension in the first pillar is funded by taxation and pay as you go scheme. The other schemes are funded and paid by employers and employees without any contributions from the government.

Directors will eliminate the current issue of industry representatives' casting votes on supervisory policy actions. The Board is also expected to have additional authority for setting the direction of DFSA's operations. DFSA coordinates with the Danish Business Authority (DBA), which is responsible for providing effective regulation to ensure good conditions for businesses and for company registration. DFSA liaises with the Insurance Complaints Board, a separate organization responsible for the complaints brought against insurance companies by consumers. DFSA often refers complaints to the Consumer Ombudsman, an independent authority in charge of the general regulation on fair business practices and consumer protection in Denmark. DFSA has a memorandum of understanding (MoU) with the Consumer Ombudsman on cooperation and coordination.

10. DFSA reports to the MoBG on policy matters concerning tasks relating to changes in the regulatory framework, EU negotiations and consumer supervision. The framework for the DFSA's budget is laid down in the Danish Appropriation Act. The MoBG is responsible for DFSA's budget and monitors the use of the DFSA's appropriations. As a government agency, the DFSA must comply with general regulations and guidelines which apply to all state institutions.

11. In 2013, the Danish government set-up a Systemic Risk Council to enhance monitoring of systemic financial risks and to reduce the risks of financial crises in the future. The DFSA has an operational role with regard to financial undertakings when the Council or the European Systemic Risk Board recommends new initiatives to counteract systemic risks. In addition, DFSA has expanded its supervision of systemically important financial institutions (SIFIs). The DFSA has not identified any systemically important insurance companies in Denmark, although issues in the insurance and pensions sector continue to be of interest from a macroprudential perspective.

12. The regulatory framework for insurance regulation has been developing in response to the financial crisis and international developments in regulation. The DFSA's powers and resources have been extended following the crisis. For some years, the DFSA has required companies to use a market consistent basis for valuation of assets and liabilities and since 2007 has required companies to assess their individual solvency needs. Solvency regulation has been further overhauled with effect from 2014 as part of the transition to the EU Solvency II requirements on which extensive further work, by DFSA and insurance companies, is required in the next few years (the full regime is expected to take effect on January 1, 2016). DFSA's resources have increased in line with the demands of Solvency II implementation. There have been no life insurance failures and the last nonlife company failure was in 2002.

13. Greenland and Faroe Islands are crown dependencies of the Kingdom of Denmark and are not covered by this assessment. There are self-governance agreements between Denmark and Greenland, and between Denmark and Faroe Islands. Denmark assumes some regulatory and supervisory responsibilities. However, the Danish legislative framework does not automatically cover Greenland. The supervision of insurance companies established in Greenland is defined by royal decree on the entry into force for Greenland of the Danish Financial Business Act. The Faroe Islands have separate legislation and supervisory requirements. Insurers that operate in the Faroe Islands are supervised by the Faroese Insurance Authority. The DFSA signed an agreement with the Faroese

Insurance Authority regarding the joint supervision of nonlife insurance businesses in Denmark and on the Faroe Islands. Life insurance business is expected to be included in the agreement during the fall of 2014.

Market structure and industry performance

Industry structure and recent trends

14. **Denmark's insurance sector is highly developed with a particularly high penetration and density in the life sector (Table 1).** This is due to the fact that, in Denmark, work-related life insurance and pension savings are offered as a combined package. Life insurance companies and general pension funds include mandatory pension schemes for employees, where major products are traditional life annuities with guaranteed interest rates and unit-linked policies.

15. **Denmark's insurance penetration rate (premiums to GDP) of 6.9 percent is well above the average for advanced markets (4.7 percent).** Life insurance density (premiums per capita) reached US$4,093 at the end of 2013. In the nonlife sector, insurance penetration (2.9 percent) falls short of the average for advanced markets, while insurance density (US$1,687) is slightly above the average.

Table 1. Insurance Penetration and Density in 2013

	Insurance Penetration (as % of GDP)	**Insurance Density** (US$ per capita)
Life		
Denmark	6.9	4,093
EU-27	4.7	1,620
Advanced markets	4.7	2,074
Nonlife		
Denmark	2.9	1,687
EU-27	3.1	1,060
Advanced markets	3.5	1,547

Source: World Insurance in 2013, Swiss Re.

16. **The size of the insurance industry is relatively large in Denmark, compared with peers from other Nordic countries and various other EU member states (Table 2).** This is again because life insurance company assets include mandatory pension schemes for employees. Assets managed by the insurance industry amounted to 129 percent of the GDP at end-2012 (compared with an EU average of 69 percent), which is an increase of more than 30 percentage points since 2007. Insurance assets amounted to 34 percent of banking sector assets at end-2012, well above the EU average at 21 percent.

Table 2. Size of the Insurance Sector in 2012

(in percent)

	Insurance sector assets to GDP	Insurance sector assets to banking sector assets
Denmark	129	34
EU-27	69	21
Finland	31	10
Norway	43	N/A
Sweden	93	23
Germany	66	23
France	97	29
United Kingdom	109	20

Source: EIOPA, Eurostat, ECB.

17. The number of licensed insurance companies has decreased substantially since 2008 (Table 3). This is mostly due to the consolidation in the insurance sector after the financial crisis and also as a result of low interest rate environment. At the end of 2008, a total of 174 insurance companies were operating in Denmark. This number has declined to 115 companies in 2013, of which 39 were life insurers and 76 nonlife insurers. There were 12 insurance groups operating at end-2013, down from 14 at end-2008. Only a few new entrants have been recorded over the last five years: two new licenses for life insurers were granted in 2008, as well as two for nonlife insurers in the same year. One further nonlife insurer and another four life insurers received their licenses in 2010 and 2011, respectively. A large number of foreign branches are active in Denmark (49 at end-2013).

Table 3. Trends in Insurance Market Structure (number of companies)

(end-period)

	2008	2009	2010	2011	2012	2013
Life	61	59	55	50	47	39
Nonlife	113	101	98	89	85	76
Total	**174**	**160**	**153**	**139**	**132**	**115**
Supplementary information						
Foreign branches	N/A	N/A	49	46	44	49
Local insurers' branches abroad	N/A	N/A	8	9	11	25
Insurance groups	14	14	14	12	11	12

Source: Danish FSA.

18. Most life insurance companies are owned by labor market parties such as industry associations, while only four are owned by banks. Nevertheless, in terms of assets, bank-owned life insurers account for a market share of 24 percent. Out of the 76 nonlife insurers, 14 are owned by non-financial entities, one by the public sector, while the remaining companies are owned by labor market parties. Of the ten largest groups in each of the life and nonlife sector, only four have foreign parents (from Sweden, United Kingdom and Norway). No major changes in the ownership structure have occurred over the last five years.

19. The concentration in the life insurance sector is moderately high. The three largest life insurance groups account for a market share of 38 percent in terms of assets and the largest ten groups for 72 percent. Concentration in the nonlife sector is higher—nearly 86 percent of the market share is held by the ten largest companies. The degree of concentration has slightly moved up since 2008.

20. The DFSA is the home supervisor of two financial conglomerates as defined in the EU Financial Conglomerates Directive, Danske Bank and Alm Brand. Danske Bank is a bank-dominated conglomerate with insurance subsidiaries. It is active in various jurisdictions of the EU/EEA and the supervisory authorities from Finland, Norway and the United Kingdom are members of the supervisory college. Alm Brand is a smaller conglomerate which is predominantly pursuing insurance business in Denmark—no supervisory college has been set up for this conglomerate.

21. In Denmark, most insurance mediation is done through direct sales and agents, but insurance brokers are also part of the distribution network. Brokers act for the clients while agents act for insurer/reinsurers as their principals. Most insurance products are distributed by agents and insurance sales via insurance agents and banks have increased their distribution over the last five years. In order to ensure that mediation is carried out with integrity, in July 2006, new amendments to broker legislation regarding remuneration were introduced. A broker firm is not allowed to receive any commission or remuneration from the insurance company in connection with a specific customer relationship. Most professional businesses and corporate clients deal with nonlife insurance brokers and pay broker fees. Private consumers are still adjusting to this business model. The largest five broker firms have 70 percent of the broker market and generate earnings from mediating occupational pension schemes to employed persons in professional organizations.

22. Technical provisions have increased since 2008 and amounted to DKK 2.1 trillion at end-2013. Approximately 96 percent of provisions can be attributed to life insurance (Table 4). Unit-linked life insurance policies recorded the highest growth rates, with technical provisions being more than six times higher in 2013 than in 2008. Participating life policies grew by a mere 10 percent in the same period. For the whole insurance sector, technical provisions account for 82 percent of total liabilities—this ratio has been stable in recent years.

Table 4. Trend in Technical Provisions

(in DKK billion)

	2008	2009	2010	2011	2012	2013
Life technical provisions	1,293	1,424	1,571	1,709	1,895	1,970
of which participating policies	*1,057*	*1,057*	*1,150*	*1,157*	*1,223*	*1,163*
of which non-participating policies	*144*	*175*	*163*	*154*	*186*	*218*
of which unit-linked policies	*92*	*192*	*259*	*398*	*487*	*590*
Nonlife technical provisions	77	80	84	90	89	85
Total	**1,370**	**1,503**	**1,655**	**1,799**	**1,984**	**2,055**

Source: Danish FSA

23. **The asset allocation of Danish life insurers is characterized by relatively large holdings of covered bonds and equity**. These two asset classes account for 15 and 25 percent of total assets, respectively (Table 5). Excluding the large amount of assets covering unit-linked policies (28 percent of the total), the relative shares of investments in covered bonds and equity are 21 and 34 percent. Nonlife insurers invest 50 percent of their assets in bonds and 22 percent in stocks. Assets of the life insurance industry have increased by 48 percent between 2008 and 2013, while nonlife sector assets increased by 15 percent. Danish life insurers rely largely on interest rate derivatives like swaps and swaptions in order to reduce their asset-liability mismatch.

Table 5. Composition of Assets

(in DKK billion)	Life			Nonlife		
	2008	**2013**	**2013** (% of total)	**2008**	**2013**	**2013** (% of total)
Bonds	794	623	28	82	88	50
of which government	*163*	*215*	*10*	*19*	*9*	*5*
of which financials – secured	*522*	*344*	*15*	*56*	*59*	*33*
of which financials – unsecured	*106*	*58*	*3*	*7*	*18*	*10*
of which non-financials	*3*	*6*	*0*	*1*	*2*	*1*
Equities	304	557	25	31	38	22
Real estate	29	14	1	2	2	1
Loans	5	17	1	2	2	1
Cash & deposits	29	22	1	8	3	2
Mutual funds (no look-through)	127	310	14	6	11	6
Investments supporting unit-linked policies	80	616	28	0	0	0
Other investments	66	102	5	0	1	0
Receivables	15	13	1	9	16	9
Intra-group receivables	18	9	0	3	5	3
Reinsurance recoverable	3	3	0	4	10	6
Other assets	46	55	2	4	-2	-1
Total	**1,515**	**2,236**	**100**	**153**	**175**	**100**

Source: Danish FSA

24. Unit-linked life insurance has gained importance and premiums in this type have exceeded premiums in traditional policies (Table 6). Life premiums in traditional forms of life insurance have consistently declined since 2010 and amount to less than 30 percent or DKK 54.6 billion of the total gross premiums written in 2013. Unit-linked policies, on the other hand, have increased in demand (due to reselection offers and the prolonged low interest rate environment) and account for over 38 percent of the gross premiums written in 2013. Nonlife premiums have seen low growth in real terms from 2010 to 2013. In the nonlife sector, commercial business lines comprise mainly property insurance, while the most important private lines are homeowner and household insurance. More than 99 percent in life insurance as well as accident and health is retained, while retention rates in motor, private lines and commercial lines are 92 percent, 87 percent and 82 percent respectively.

Table 6. Gross Premiums Written by Major Lines of Business

(in DKK billion)	**2010**	**2010** % of total	**2013**	**2013** % of total
Life				
"Non-unit-linked"	80.5	47.9	54.6	29.7
Unit-linked	30.7	18.3	70.4	38.3
Nonlife				
Motor	15.8	9.4	16.3	8.9
Private	13.6	8.1	14.9	8.1
Commercial	16.0	9.5	15.7	8.5
Accident & health	9.9	5.9	9.9	5.4
Other nonlife	1.4	0.8	2.2	1.2
Total	**167.8**	**100**	**184.0**	**100**

Source: Danish FSA.

25. Profitability has been maintained with positive returns on equity in both life and nonlife insurance throughout 2009 to 2013 (Table 7). Nonlife insurance is characterized by favorable underwriting results and relatively low expense ratios. In life insurance, high guaranteed interest rates in life insurance policies have led to reduced profitability, given a large (though constantly declining) legacy portfolio of contracts with guarantees of more than 4 percent; these contracts account for nearly 30 percent of all life technical provisions. Nevertheless, positive investment income, partly driven by rising stock markets, has contributed to positive returns.

Table 7. Profitability Indicators

(in percent)

	2008	2009	2010	2011	2012	2013
Life						
Return on Equity	-16.9	11.2	19.8	4.8	15.0	5.6
Nonlife						
Net loss ratio	73.3	75.9	79.3	75.2	69.6	71.0
Net expense ratio	17.9	17.4	18.1	17.8	17.3	18.1
Net combined ratio	91.2	93.3	97.3	93.0	87.0	89.1
Return on Equity	-1.4	18.0	11.2	8.2	17.7	13.7

Source: Danish FSA.

26. Solvency ratios have recovered from their lows in 2011 and have reached 328 percent in the life insurance sector and 292 percent in the nonlife insurance sector (Table 8). While this is the highest ratio observed for life insurers in the last five years, nonlife insurers are in a significantly weaker solvency position than they were in 2008. Solvency ratios under Solvency I are, however, of limited value. Both the DFSA and the industry are currently preparing for the implementation of Solvency II as of 2016. The DFSA intends to comply to a large extent with the interim measures which have been published as guidelines by the European Insurance and Occupational Pension Authority (EIOPA) in October 2013.

Table 8. Solvency Ratios (Solvency I) by Major Lines of Business

(in percent, end-period)

	2008	2009	2010	2011	2012	2013
Life	234	255	249	215	257	328
Nonlife	389	269	240	215	227	292

Source: Danish FSA

Key risks and vulnerabilities

27. The low interest rate environment is a particular risk reflecting significant past business with guaranteed rates above prevailing levels. Despite positive measures by life insurers to limit guarantees for new policies since 2000, the legacy portfolios still represent a substantial amount of liabilities. More than 30 percent of the technical provisions for traditional life policies are in respect of policies with an interest rate that is above 4 percent. The current environment of prolonged low interest rates has affected the financial resilience of the insurance and pensions industry as they struggle to maintain pricing margins and limit the impact on capital and provisions. Insurers are increasingly looking into new lines of business to generate returns required to secure their promises to policyholders. In this regard, DFSA has noted an increasing number of insurers changing their investment and product strategy, while moving away from traditionally secure assets, for example government bonds. Many insurers are moving towards high yield assets and alternative investments.

28. The search for yield has resulted in growth in certain types of transactions that are changing the risk profile of the sector. Although exposures are still limited, alternative investments (including infrastructure investments), repurchase agreements (repos) and liquidity swaps have become popular. Low-yielding government bonds are being swapped with higher yielding assets such as mortgage bonds. The counterparties (primarily banks) benefit from the access to liquidity. Increased use of repos brings additional counterparty credit risk for insurers. Some are investing in portfolios of bank loans assumed to have a higher risk-adjusted return but which require additional controls for management of risks, including concentration risks. While banks benefit from removing credit risk from their balance sheets, for the insurance sector credit risk and interconnectedness with banks is increasing. DFSA is monitoring the developments closely.

29. Within the pensions and insurance sector, competition in insurance is strong and creates additional risk. There is extensive "trading" of large company pension plans between the larger commercial insurance companies. Traditionally, savings and risk covers (such as disability or critical illness insurance) are sold as a package. Insurers have been cutting prices for insurance risk covers with a resulting loss, expecting to profit from the savings element, in part via aggressive investment management. The market is mature and growth in savings products is expected to be lower than in the past, as much business is related to company pension schemes which have high penetration and where funding is at a high level (averaging around 14 percent of salary). Most major commercial insurers are experiencing losses on their risk covers.

30. Longevity risk is also a significant risk. The rate of mortality improvement has been significantly increasing. Since 1995, the average remaining life for the 60-year-old female and male population has increased by two and three years respectively. The gap between actual mortality and mortality assumptions made by the life insurance industry has been widening because of poor statistical models based on small datasets that were infrequently updated. To address this risk, DFSA has created a benchmark for mortality assumptions, including projected mortality improvements, with the objective of eliminating the need for DFSA to analyse and evaluate a wide variety of statistical models. The impact of the mortality benchmark by the DFSA was significant: over 90 percent of life insurers and pension funds had to adjust their technical provisions to comply with the benchmark. According to the DFSA, the benchmark removed material concerns in this area. The DFSA is monitoring the continuing appropriateness of the benchmark in the light of future mortality improvements.

31. Weather-related risk is a challenge for nonlife insurance companies. The Nordic countries have experienced significant increases in weather-related damage over the last ten years mainly caused by cloudbursts, flooding, windstorms and snow pressure. The largest storm on record, Anatole in 1999, caused over DKK 13 billion in losses, while 2011 cloud bursts in Copenhagen caused losses of nearly DKK 5 billion in the nonlife insurance sector. Premium increases over the last five years and better risk management have seen the nonlife insurance sector return to profitability after losses in 2008. Administrative expenses of Danish nonlife insurers are relatively low compared to other European markets.

D. Preconditions for Effective Insurance Supervision

Sound and sustainable macroeconomic and financial sector policies

32. There is a well-established framework of fiscal, monetary and other macroeconomic policies. The policy framework reflects Denmark's position as a member of the EU. The government publishes an annual budget within the context of a medium term strategy, which has been to reduce deficits from levels prevailing during the financial crisis and maintain the general government deficit within the EU's recommended maximum of 3 percent of GDP. The monetary policy of the central bank, which has a high degree of independence from government, is based on a price stability objective, a key aim being to maintain the peg of the domestic currency to the euro. The central bank (Danmarks Nationalbank (DN)) also has a mandate to promote financial stability.

33. There is a comprehensive financial sector policy framework, involving relevant agencies. The Ministry for Business and Growth (MoBG) coordinates financial sector policy, in cooperation with the Ministry of Finance (MoF). DN oversees the financial infrastructure to promote safe and efficient payments and settlement systems. Although there is no provision for regular review of laws, financial sector legislation is updated as necessary. Coordination of financial stability issues was undertaken in the financial crisis by a group comprising the DFSA, DN and relevant ministries (MoBG, MoF, and the Ministry of Economic Affairs and the Interior). Day-to-day coordination relies on cooperation between the DFSA and the DN.

34. There are financial stability coordination arrangements within Denmark and in the region. The Systemic Risk Council, which includes independent members as well as officials, was established in 2013 to monitor systemic risks, issue warnings and make recommendations for action to the DFSA and MoBG, who are required to respond within three months. The Council meets at least four times a year. However, implementation of macroprudential policy is the responsibility of the MoBG. Insurance sector issues are considered in financial stability work, for example in recent years where the impact of the low interest rate environment on life insurance and pensions has had broader implications. There is extensive cooperation amongst the authorities in the Nordic region and Denmark is also a signatory (with Estonia, Finland, Iceland, Latvia, Lithuania, Norway and Sweden) to a cooperation agreement on cross-border financial stability, crisis management and resolution between ministries, central banks and supervisory authorities in the Nordic/Baltic region.

A well-developed public infrastructure

35. There is a well-established legal system. The courts system and other legal infrastructure are highly developed and the independence of the judiciary is respected. There is a comprehensive body of business laws, covering insolvency as well as contractual and property rights. The Constitution recognizes a separation between judiciary, parliament and government and the principle of judicial independence is established in law and practice through security of tenure, for example. There is a body of judgments on insurance matters. As a member of the EU, Denmark implements legislative and regulatory changes to transpose European Directives into Danish law.

36. Danish accounting and auditing standards are in line with international best practices. International Financial Reporting Standards (IFRS), as applied within the EU, have been used by listed companies for group consolidated financial statements since 2005. Danish GAAP standards for use by non-financial sector companies are issued by the Danish Accounting Standards Committee (DASC), a body established by the Institute of Public Accountants in Denmark (an IFAC member), to issue technical standards and guidelines and to comment on proposals from the international standards bodies, the IASB and in the EU, EFRAG. Auditors are required by the Act on Approved Auditors and Audit Firms to use International Standards on Auditing (ISAs), which are "generally accepted auditing practices" for the purposes of the Act. Accounting rules for individual financial sector enterprises are set by the DFSA but are closely aligned to IFRS in relation to the principles regarding recognition and measurement of assets and liabilities.

37. There is also extensive oversight of auditors and audit work. Under the Act on Approved Auditors and Audit Firms, oversight of auditors and the quality of audit work on published financial statements is undertaken by the Denmark Business Authority (DBA), which is a member of the International Forum of Independent Audit Regulators. The DBA, in common with the DFSA, is an agency of the MoBG. DBA has established boards to carry out the day-to-day oversight work: the Accountancy Board deals with complaints against auditors and discipline and the Accountancy Commission undertakes investigations.

38. There is a self-regulatory actuarial professional body which issues ethical standards and adequate supply of actuarial expertise. The Danish Society of Actuaries (DSA) issues ethical/professional standards and guidance and working papers on technical issues. It is a self-regulatory professional body and has established disciplinary processes, although no disciplinary action has been taken in recent years. Technical standards on actuarial work and the role and responsibilities of the responsible actuary for life insurance companies are issued by the DFSA. The DSA had 484 members at the start of 2014. After a period when the availability of actuarial expertise was constrained, industry efforts to attract more students to actuarial courses have resulted in increased supply. However, the limited number of nonlife actuaries has been one driver of decisions not to introduce a responsible actuary requirement for nonlife companies.

39. A wide range of statistics is available to support insurance business and its regulation. Extensive economic, financial, and social statistics are published by the Government Statistical Office, the DN, the DFSA, the Danish Insurance Association and other bodies. Mortality statistics are collected by the Danish Centre for Health and Insurance, a body independent of government and insurers, which makes its database available to companies contributing mortality data as well as to the DFSA.

Effective market discipline in financial markets

40. Denmark has well-developed arrangements promoting market discipline. General corporate governance requirements are set out in the Companies Act, which prescribes a two tier board structure (Board of Directors or Supervisory Board and Executive Board or Board of Management responsible for day-to-day management). There are requirements in respect of the structure of the Board of Directors, qualifications of directors and minimum number of independent directors. The DBA administers a Code of Corporate Governance, drawing on the OECD Principles of Corporate Governance, which is aimed at public companies but applicable to all. Securities laws set out further requirements on companies issuing securities, including disclosure of governance arrangements. The Stock Exchange sets governance and disclosure requirements as conditions of listing. Financial analysis is widely available from media, rating agencies, brokers etc.

Mechanisms for consumer protection

41. There is a variety of mechanisms for consumer protection. The Insurance Complaints Board is a private complaints board authorized by the Minister for Business and Growth to adjudicate on complaints relating to the law of property and obligations from private customers against an insurance company. The board also considers all complaints concerning motor insurance. In addition, the Consumer Ombudsman, an independent authority supervising compliance of all sectors of the economy with marketing law, has jurisdiction over insurance. The Ombudsman may investigate specific complaints against an insurance company and issues of public importance relating to marketing activities and may bring civil or criminal actions on behalf of complainants.

42. Compensation for loss in case of a failed insurer is available to nonlife policyholders. The Guarantee Fund for Nonlife Insurance Companies is established under 2003 legislation and administered as a private, self-governing body by the DIA, under DFSA supervision. It covers eligible policyholders in respect of claims outstanding and premiums paid prior to a bankruptcy order being issued. Premium cover is subject to an excess of DKK 1,000 per policy, but there is no maximum on compensation payable for either claims or premiums. Insurance companies are required to contribute to the Fund in proportion to premium income, subject to a ceiling on total annual contributions of 0.5 percent of direct gross premium income in Denmark. The minimum capital of the Fund is set at DKK 300 million and the Fund may also borrow, subject to a state guarantee.

43. There is currently no guarantee scheme for life insurance. The authorities take the view that insolvency law (especially the register of assets covering technical provisions which is protected in an administration process where invoked by the DFSA, creating priority for policyholders) provides adequate protection.

Efficient financial markets

44. Danish markets offer a broad range of instruments to facilitate insurers' asset-liability management. The financial sector is well-developed, with liquid equity, bond and money markets in DKK-denominated instruments and easy access to investments issued outside Denmark. The availability of central government bonds (DKK 487 billion or 27 percent of GDP at end-2012) is limited owing to relatively low debt levels, and neither volumes nor maturities are available to match life companies' liabilities. Insurers also invest in mortgage bonds (the covered bond market is one of the largest in the world) and foreign government debt and hedge interest rate risk through euro swaps. The payment and settlement systems infrastructure, subject to oversight by the DN, provides for insurance companies' needs.

Table 9. Summary of Compliance with the ICPs

Insurance Core Principle	Level	Overall Comments
1 - Objectives, Powers and Responsibilities of the Supervisor	LO	The DFSA's mandate includes prudential and market conduct supervision. The FBA is the primary legislation and it lays out the objectives of supervision but does not explicitly include policyholder protection (ICP 1.3). Although the institutional framework and the responsibilities of the respective authorities are set out in the legislation, there is scope to improve clarity over differing responsibilities of DFSA, the Council, the MoBG, and the Consumer Ombudsman. For example, DFSA is responsible for "routine supervision activities" while the Council has the ability to opine on "supervisory matters on principle as well as supervisory matters with more far reaching significant consequences". The MoBG also retains certain powers, including approval of mergers and acquisitions. Currently, these powers are delegated to DFSA as part of a contract subject to annual review. (ICP 1.2)
2 - Supervisor	PO	The DFSA is directly accountable to the Minister and, through the Minister, to the Danish Parliament. There are risks arising from its agency status to its operational independence from undue industry and political influence. In this regard, the planned new Board governance approach, which will not include current staff from regulated companies, is a step forward. However, it could be further developed to provide for delegation to staff of all but the most significant supervisory decisions in line with agreed policies and procedures (akin to the supervisory role of boards of directors in Danish companies). The DFSA is also subject to funding and salary structures that are aligned to government norms, but can be substantially lower than industry salaries. Although there is adequate risk-based prioritization of supervisory focus with good outcomes given the current resource situation, DFSA will need additional resources to ensure robust supervision and to fulfill its broad mandate. DFSA will need to be flexible and proactive in its resource planning and to seek additional resources where necessary. This is particularly important when entering the Solvency II environment. (ICP 2.11) While the appointment and removal of the head of DFSA is MoBG's responsibility, there is no requirement for the reasons for a dismissal to be published. Explicit procedures regarding appointment and dismissal of the governing body should be in writing and publicly disclosed. (ICP 2.2) There are no internal audit arrangements within the DFSA as the DFSA has been relying on internal peer review. (ICP 2.1)
3 - Information Exchange and Confidentiality Requirements	O	Within Denmark, DFSA exchanges information with other relevant authorities, subject to confidentiality agreements. Since most of the non-domestic insurance companies operating in Denmark are based in the EU, the information exchange framework for DFSA is aligned with the relevant EU Directives and empowers the DFSA to obtain and exchange information with relevant supervisory authorities subject to confidentiality, purpose and use requirements.

		To secure efficient and effective cooperation and sharing of information with other supervisors, DFSA has written coordination arrangements in place. In general, DFSA shares information with non-EEA supervisors and reciprocity and cooperation agreements are generally required. However, it is also prepared to exchange information where requested on a case-by-case basis where it is satisfied on supervisory purpose and protection of confidentiality. To date, DFSA has not faced a situation where relevant information has not been shared with other relevant supervisors, due to confidentially issues.
4 - Licensing	O	The DFSA's licensing processes for insurance companies and foreign subsidiaries are clear. Although key persons in control functions are not explicitly covered in the licensing requirements, licensees may be subject to a requirement to have an internal auditor and responsible actuary for life insurers. (ICP 4.3) Although the DFSA has a peer review process, it would benefit from documenting a formal recommendation and approval process that is followed before a final license is granted. The formalization of the licensing process in the form of a guideline would facilitate consistency in the review of the licensing requirements and provide a clear document trail for information and knowledge within the organization. The summary document would also contribute to better offsite monitoring and onsite inspections after licensing and provide consistency of treatment and rationale of the decision to grant the license. (ICP 4.3)
5 - Suitability of Persons	LO	The legislative framework allows the DFSA to assess the suitability of members of the BoDs, BoM, general agents, and significant owners on application and on a continuing basis. Suitability is considered as part of ongoing supervision and inspections. The BoD is required to perform an annual self-assessment of the skills and knowledge of the BoD as a whole. The result of the self-assessment should be added to the minutes of the BoD's meetings. This allows DFSA to review fitness and propriety on a continuous basis and reflects DFSA's reliance on the BoD to self-evaluate and monitor their collective and individual suitability. Supervisory focus on suitability has increased since the financial crisis and DFSA has exercised its power to require members of the BoD and BoM to step down. DFSA has published such orders on an anonymized basis. The current regulations do not cover suitability requirements for Key Persons in Control Functions, there being no requirements applying to all insurers and pension funds for risk management, compliance, actuarial and internal audit functions. Such requirements are scheduled to be introduced in 2014, to be followed by related suitability requirements in 2015. In addition, the scope of senior management requirements is inconsistent, reflecting different approaches by insurance companies to BoM composition (see ICP 8).
6 - Changes in Control and Portfolio Transfers	O	There is a clear and comprehensive set of regulatory requirements for changes in significant interest, control, conversions of legal structure, amalgamations and portfolio transfers which are publicly available. The DFSA's review focuses on understanding the proposed business model and

		the financial soundness of the continuing company. In practice, DFSA does not grant approval in cases where the interests and rights of the policyholders are adversely affected. It is recommended that authorities consider empowering the DFSA with direct responsibility, instead of delegated authority from MoBG, to ensure that future decisions are always made by the regulator and are not open to undue political or governmental influence. Although in practice the DFSA takes policyholders' rights and interests into consideration when making decisions and carries out risk-based supervision focused on the business model, a clear objective relating to policyholder protection for DFSA in the law would support its decision-taking in this area.
7 - Corporate Governance	LO	The combination of general company law, the FBA and the DFSA requirements place a wide range of general and specific oversight responsibilities on the BoD, with an emphasis on risk management, including the establishment of a risk appetite. In addition to requiring self-assessments by BoDs, the DFSA has focused recently on ensuring that boards have appropriate expertise and taken action at several firms to improve board effectiveness through enhanced levels of expertise, in insurance and investment activities in particular. While protection of policyholders is clearly served by the approach, there is no explicit provision for responsibilities of the board in relation to the fair treatment of policyholders and conflicts that may arise between the interests of different groups of policyholders and policyholders' and other stakeholders' interests. There are no explicit requirements on sucession planning, while the provisions on managing directors' conflict of interests should be expanded. The absence of requirements on the composition of the BoM allows insurers to take a proportionate approach but creates a wide divergence in practice on board of management composition. There are no requirements in relation to the role of control functions in the governance structure (see ICP 8).
8 - Risk Management and Internal Controls	PO	The requirements on insurance companies include general requirements for effective risk management and internal controls. The responsibilities of the BoD in this regard are especially clear and comprehensive. The DFSA's supervisory work includes evaluation of the effectiveness of the risk management and control framework and it has taken action to require improved effectiveness of risk management or controls, especially at larger companies. However, there are no requirements for functions responsible for risk and compliance. Internal audit functions are not required of all companies and, where mandatory, are not required to be engaged in internal control, if the BoD decides that the function should be involved in the audit of financial

		statements. The requirements on life companies' boards of directors to appoint a responsible actuary ensure the provision of actuarial advice independent of general management, but do not balance actuarial expertise with independent risk management, for example through a Chief Risk Officer (CRO). Requirements on control functions, the role of such functions and the attributes of individuals holding key roles (see ICP 5) will, however, are introduced as the authorities move to implement aspects of the EU Solvency II Directive in 2014–15.
9 - Supervisory Review and Reporting	LO	The DFSA takes a risk-based approach to supervision and pays close attention to the sustainability of the business model for the specific insurer in accordance with the requirements of the legislation. The DFSA uses quarterly and annual filings, actuarial and auditors' reports, annual reports, and other communication from media or other supervisors to develop its supervisory plan. DFSA uses a system of specific stress and scenarios (the Traffic Light tests and supervisory Diamond (for nonlife)) effectively to rate the insurers and plan its onsite inspections. The gap between onsite inspections for many insurance companies can be long. For some large life insurers, the onsite inspections are normally planned to be carried out within a four-year period. (ICP 9.7) For smaller companies, the period was six years. With the advent of Solvency II, for large life insurers, the onsite inspections are being brought forward and most insurers will be inspected within the next two years. As part of solvency and ORSA capital planning, the DFSA reviews forward looking capital requirements. Although quantitative elements are well-ensconced in the supervisory work, the DFSA should consider having a risk-based supervisory framework to better integrate the quantitative and qualitative aspects of the risk assessment in its ongoing supervisory review and reporting methodology. Although offsite monitoring of solvency continues, the DFSA has not yet conducted a full comprehensive onsite inspection of holding companies. The review of group risks, including intra-group transactions, at the holding company level will provide better insights to risk management of the individual insurers as well. The DFSA would benefit from having additional conduct of business monitoring requirements to fulfill its broad mandate of supervising market participants including intermediaries.
10 - Preventive and Corrective Measures	O	The DFSA has adequate powers to initiate timely and proportionate preventive and corrective measures to adequately address supervisory concerns. Supervisors use moral suasion and enter into a dialogue with insurance companies before taking preventive and corrective actions. Since the Traffic Light system takes into consideration market stresses, DFSA is reviewing requirements to gauge whether a supervisory intervention ladder would be appropriate for life companies as well. Given DFSA's prudential

		and market conduct mandate, it would be appropriate to broaden the early intervention mechanisms to also include preventive measures for fraud risks and consumer protection issues.
11 - Enforcement	O	The DFSA and the Consumer Ombudsman have a range of powers of enforcement in relation to insurance companies, covering both financial matters and conduct of business requirements. On the latter, the powers of the DFSA, while complementary to those of Ombudsman, are relatively limited and in particular administrative penalties are not available to the DFSA. Given the DFSA's plans for increased focus on market conduct, and in line with recommendations under ICP 1 for making more explicit the DFSA's objectives in relation to policyholder protection, the DFSA should be equipped with adequate enforcement powers in relation to the conduct of business by insurers and intermediaries and these should include the power to set administrative penalties. The DFSA's powers in relation to breaches of minimum solvency and other prudential requirements are more extensive and while untested in some areas (particularly in relation to administration of portfolios of life insurance contracts), have been used as part of the DFSA's early intervention in case of emerging risk of financial weakness.
12 - Winding-up and Exit from the Market	LO	The legislation provides for exit from the market and insolvency in ways which safeguard the interests of policyholders. The requirement for a special register of assets, which are to be equal to technical provisions and to be used exclusively for the benefit of insured parties, is central to ensuring that assets will be available for policyholders whatever the financial situation of the company, providing in effect for policyholder preference. Procedures for life and nonlife companies differ, with an administration process supporting early intervention by the regulator in the case of life insurance. Register requirements apply to both life and nonlife, however, as does the objective of transferring contracts to another insurer, in order to secure continuity of benefits. Nonlife policyholders benefit from coverage by a guarantee scheme. Procedures remain untested for life companies but have been used in the case of nonlife company failures to the benefit of policyholders. A recommendation on establishing solvency control levels is included under ICP 17.
13 - Reinsurance and Other Forms of Risk Transfer	O	The DFSA exercises particularly close supervision of reinsurance cover of nonlife insurance companies, supported by the high visibility of reinsurance programs which is afforded by extensive reporting and offsite analytical capacity. There are, however, limited regulatory requirements on reinsurance. The DFSA could consider setting such requirements, drawing on its supervisory experience. These could start with an explicit requirement that cedants have reinsurance and risk transfer strategies appropriate to the nature, scale and complexity of their business, which are also part of their wider underwriting and risk and capital management strategies. There could be more specific requirements on the management of liquidity risk.
14 - Valuation	O	There is a comprehensive framework of valuation standards, with provisions to evaluate compliance by insurance companies and pension funds. Market consistent valuation has been required in Denmark for over a decade and while the valuation requirements for life insurance have since 2008 moved

		away from using current risk free rates across the yield curve, valuation continues to be carried out on an economic basis and is now closely aligned with the expected EU Solvency II approach. The DFSA's initiative to establish a longevity benchmark has led to stronger valuation standards in this area. While there is no peer review requirement for actuarial work, as in some other countries, the role of the responsible actuary in life insurance, with reporting obligations to the BoD and DFSA, provides for a balance between the responsibilities of actuary and board, which also takes into account the importance of ensuring fair treatment of policyholders. There is no similar provision for nonlife insurance, even though companies have somewhat more discretion over valuation of liabilities than in life insurance. However, DFSA can require increased actuarial input, where necessary at an individual firm (and a nonlife actuarial function will be required under Solvency II.) The DFSA could consider introducing a stochastic treatment of embedded options, if not required by Solvency II.
15 - Investment	LO	Detailed regulations on the investments that insurers and pension funds may hold against technical provisions are supported by obligations on BoDs for prudent management of investment risk, regular reporting to the DFSA, obligations on auditors and DFSA oversight through onsite supervision. The approach is flexible enough to respond to new developments, including increased use of derivatives and alternative forms of investment. In line with EU regulations, there are no requirements on investments not covering technical provisions. The investment requirements are aimed both at constraining investment risk and as the basis for a register of assets to be transferred and managed for the benefit of policyholders in case of administration (for life companies —see ICP 12). Partly for this reason, the requirements apply to individual insurers and pension funds rather than directly, on an aggregate basis, to groups, although intra-group transactions and exposures are subject to separate regulatory requirements. Group wide reporting of investments would enable DFSA to better monitor and respond to concentrations. Some additional reporting should be considered where risks have been identified from thematic work, such as that on derivatives and alternative investments.
16 - Enterprise Risk Management for Solvency Purposes	LO	There is an extensive framework of requirements in relation to risk management for solvency purposes and a process of own risk and solvency assessment. The requirements make clear that it is for the Board of Directors to carry out the risk assessment and to make the key decisions on the calculation of the Individual Solvency Need (ISN). The overall approach has been introduced only at the start of 2014 and will take time to embed, while the DFSA has not reviewed any risk assessments as yet. Insurers have been required to calculate an ISN since 2007, which will facilitate transition to the new approach, but without the target level of protection of a 99.5 percent VaR with a one year horizon that is now a key part of the requirements. Some detailed aspects of the ICP standards are not reflected in the DFSA

		approach, including the requirement for an explicit ALM policy, while the application of the DFSA requirements in the context of groups of insurance companies could be extended to cover group-related risks to individual insurance companies and risk appetite statements at group level.
17 - Capital Adequacy	LO	The capital adequacy requirements were substantially revised at the start of 2014 and will take some further time to embed. However, the framework has clearly been substantially strengthened, particularly the calculation of the Individual Solvency Need through the addition of a standard model based on the most recent draft Solvency II requirements and a target protection level corresponding to VaR with a confidence level of 99.5 percent over 12 months. The DFSA has in effect implemented much of the new EU framework. In addition, the recent development of holding company regulation with the recognition of insurance holding companies has strengthened group supervision of capital adequacy. The absence of a prior approval requirement for use of internal models is mitigated by the relatively limited appetite for model use, especially from life insurers; and by the close dialogue which the DFSA is having with model users (and, in one case, with the home supervisory authority) in the context of Solvency II preparations being coordinated across the EU (the EIOPA work stream on pre-application for internal models). The absence of a full framework of solvency control levels, for solo entities or groups, including an MCR level based on risk-based requirements, is similarly mitigated by the particularly close focus of supervisory effort on key risks to insurers. For life insurers, this process reasonably focuses on market and longevity risks as the key vulnerabilities, but is less sensitive to other sources of risks to capital adequacy. The DFSA's approach does, however, place a premium on the adequacy of expert supervisory resources and the readiness of supervisors to follow up concerns promptly and take action to close a company when at a certain level of solvency.
18 - Intermediaries	LO	The insurance industry mainly distributes via agents, but broker sales are gaining momentum. Due to recent changes in broker remuneration regulations, brokers are primarily serving corporate clients. DFSA is able to monitor insurance agents through the normal supervision processes for insurance companies for whom they act as agent. Ongoing review of brokers could be improved. (ICP 18.2) The DFSA's review of intermediaries focuses mainly on checking compliance with registration requirements, consideration of complaints from consumers and some good practice cases taken up from thematic supervisory work. There is scope for improvements, including: • Brokers should be required to provide a business plan or set up specific financial resource requirements before licence is granted • Enhancing disclosure on potential conflict of interest, bancassurance and additional disclosures on complex investment products including unit linked products • Increasing resources for supervision of large number of intermediaries (and some large companies such as the operations of the major international brokers)

		• Developing a supervisory risk-based approach, supported by explicit and proportionate corporate governance requirements for intermediaries and have the power to conduct onsite reviews. (ICP 18.5)
19 - Conduct of Business	PO	Ensuring the fair and correct treatment of customers has been regarded as mainly the insurance company's responsibility. DFSA's focus has been on good business practices and regulations requiring insurers to '*act honestly and loyally*' with their customers, and on product information and disclosures and the marketing of products to consumers. However, there is no equivalent regulation obliging intermediaries to set up written policies and procedures to ensure compliance with good practices. Broker legislation focuses more on conflict of interest with direct insurers. DFSA's should require brokers to have similar policies and procedures on the fair treatment of customers. There is no process in place to determine whether insurers are taking the interests of different types of customers into account when developing and marketing products. This should include quality and value of the financial products offered to consumers to ensure that the product is in the best interests of the consumers. (ICP 19.3) As a preventive measure, the DFSA should consider identifying categories of product which may not be appropriate or have unnecessary high risks or costs associated with them. There is a particular need to address the presentation of costs and benefits to policyholders and pension scheme members when they are offered the opportunity to exchange a product with a guaranteed interest rate for a unit linked product. The DFSA's work on new requirements in this area is important in this regard. The DFSA needs additional resources to provide appropriate oversight of brokers and legislative power to enable DFSA to conduct onsite risk-based supervision of broker intermediaries to ensure that customers are treated fairly.
20 - Public Disclosure	LO	Insurers are subject to an extensive set of disclosure requirements set by the DFSA under its authority to set accounting and disclosure standards for all regulated financial undertakings. These apply at both solo and group consolidated levels. The requirements focus principally on measurement standards (i.e., how to account for assets and liabilities) and there are some gaps in disclosure requirements in relation to qualitative information, for example on corporate governance (except for the relatively few listed companies). Financial information is readily available to policyholders and other market participants, on individual companies and groups, from the Danish Business Authority and to an extent from the DFSA website. The DFSA could also consider extending to the annual report the requirement to make the interim report available to the public.
21 - Countering Fraud in	PO	Fraud is a criminal offence under the Danish Criminal Code, but the DFSA takes no measures at present to assess fraud risk or to require insurers and

Insurance		intermediaries to take effective measures to address those risks, except for the requirement on insurers to monitor transactions or relationships (including those with intermediaries) that are not in line with the good practices policy. The authorities are advised to make changes to their legislative framework to empower DFSA to issue enforceable rules requiring insurers and intermediaries to report insurance frauds. DFSA should have a supervisory process in place to review fraud related reports received from insurance companies and broker intermediaries.
22 - Anti-Money Laundering and Combating the Financing of Terrorism	PO	There is a full set of requirements on AML/CFT applying to life insurance companies, pension funds and life insurance intermediaries. The DFSA is active in AML/CFT fora within Denmark and externally and has the necessary powers, if not the resources, to enforce compliance and exchange information with other authorities. There are plans to intensify supervision of life insurance and pensions, informed by a new, near-complete study of the risks and exposures. Pending completion of that work, however, no supervisory work is taking place and there is a risk, evidenced also by the low level of suspicious transactions reporting, that life insurers and pension funds do not adequately address compliance with AML/CFT requirements.
23 - Group-wide Supervision	LO	The supervision of insurance groups in Denmark follows the EU Directive. The DFSA has adequate powers and flexibility to determine the scope of insurance groups as well as supervise and take appropriate measures against both regulated and non-regulated entities within a group. The DFSA is actively involved in supervisory colleges, both as a home and host supervisor. Since the focus to date has been on larger risks, the smaller insurance groups are left relatively less supervised at a group level. There is reliance on BoD and management to ensure proper controls are in place. The DFSA should provide supervisory oversight to market conduct and consumer protection matters, in a group context. Oversight of key control functions from a group perspective will require greater attention. To ensure intra-group transactions are captured and monitored at an aggregate level, it is recommended that DFSA require appropriate group reporting systems to measure and monitor such aggregate risk exposures. The review of group risks, including intra-group transactions, at the holding company level will provide better insights to risk management of the solo entity as well. With banking/insurance conglomerates, the authorities are encouraged to commence joint onsite supervision with focus on intra-group exposures, and market conduct inspections.
24- Macroprudential Surveillance and Insurance Supervision	PO	While there is no specific framework at DFSA for macroprudential surveillance, DFSA does have a clear appreciation of the major sources of vulnerability for the insurance sector and targets its collection of information and intelligence, and its supervisory efforts, towards addressing them.

		The processes for sharing information and developing a view on vulnerabilities operate relatively informally, reflecting the size of the DFSA and ease of internal communication. There is a need for a more formal approach, particularly if the DFSA expands further, and for developing cross-sectoral analysis, covering the linkages between insurance and the banking sector, for example through the covered bond market. The DFSA does have a clear view of the risks to financial stability arising in the insurance sector. However, a more formal approach to occasional assessment of individual companies' systemic significance would help validate its view. Extending the work of the financial stability experts at the DN to the insurance sector would bring another perspective to macroprudential oversight of insurance, while furthering the development of cross-sector analysis.
25 - Supervisory Cooperation and Coordination	O	For insurance groups with international operations or part of international groups, the supervisory colleges have been operating in line with the EIOPA's templates and guidelines. The level of engagement bilaterally with other supervisors is high, at regional level (with other Nordic supervisors), within the EU and at wider international level. It includes informal exchanges as well as the regular meetings. As a group supervisor, DFSA leads the supervisory college process for three groups, ensuring that meetings are held following the EIOPA requirements. Nationally, the DFSA cooperates and coordinates with relevant agencies from other sectors, including the Consumer Ombudsman, DN and other government ministries as required.
26 - Cross-border Cooperation and Coordination on Crisis Management	LO	The DFSA's regime for cross-border cooperation and coordination on crisis management is based closely on the EU framework, which supports and provides guidance on coordinating the arrangements for crisis preparation, management and resolution by supervisory colleges in the EU. Coordination arrangements and emergency plans based on the EIOPA template are in place for all colleges in which the DFSA participates. It has not been necessary for the DFSA, as group supervisor or as a host supervisory authority, to manage a full solvency crisis to date. To that extent, its processes remain untested, but it has cooperated with other supervisors in the management of significant weakness at some firms.

E. Recommendations and Authorities' Response

Table 10. Summary of Observance Level

Observed (O)	8
Largely observed (LO)	12
Partly observed (PO)	6
Not observed (NO)	0
Total	**26**

Table 11. Recommendations to Improve Observance of the ICPs

Insurance Core Principle	Recommendations
1 - Objectives, Powers and Responsibilities of the Supervisor	• Consider explicit legislative requirement in the DFSA's objectives to include the maintenance of a fair and safe insurance sector for the protection of policyholders and to align the supervisory tools to achieve the intended outcome; and • Consider amendments to the legislation to improve clarity in the powers of DFSA as the primary authority responsible for the supervision and regulation of individual financial institutions.
2 - Supervisor	• Consider instituting an internal audit unit within the DFSA for auditing supervisory processes and internal controls to ensure integrity and consistency of supervisory actions; • Consider exempting the DFSA from the government's administrative rules, as in the case of the DN, to strengthen DFSA's financial and operational autonomy. Also, as indicated in the previous FSAP, in order to entrench DFSA's role as the primary supervisory authority, the authorities are encouraged to consider setting DFSA as a legal statutory body responsible for the supervision of the financial sector; • Review the adequacy of supervisory resources, training plans, succession planning of DFSA and how DFSA could be exempted from collective agreements and salary controls set by the Danish government in order to attract experienced supervisors with industry experience to fulfill its broad mandate; and • Establish explicit provisions on public disclosure of the reasons for removal of the head of DFSA and future governing Board before the end of the statutory period of appointment.
4 - Licensing	• Consider structured documentation to reflect supervisory analysis detailing how the applicant has fulfilled all of the licensing criteria under the regulatory requirements, including a process for final recommendation and approval.
5 - Suitability of Persons	• Expedite the implementation of the key control functions and suitability requirements; and • Review the application of the suitability requirements to senior management to ensure that they cover senior managers in all relevant positions, as per the ICP, rather than only members of the BoM (for example, they could be applied to members of the senior

	executive committee).
6 - Changes in Control and Portfolio Transfers	• Consider empowering DFSA with direct responsibility, instead of delegated authority from MoBG to ensure that future decisions are always made by the regulator and are not open to undue political or governmental influence, and • Consider having a clear objective relating to policyholder protection in the law to support DFSA's decision-taking in this area.
7 - Corporate Governance	• Review the FBA and Executive Order 1575 to clarify expectations on boards of directors and management in relation to protection of policyholders' interests; • Amend the governance requirements to include provisions requiring directors to act in the best interests of the insurer and policyholders and requiring boards to carry out succession planning; and • Review its expectations of the composition of the board of management and whether to set requirements in this area.
8 - Risk Management and Internal Controls	• Expedite the introduction of requirements for control functions at all insurers; • Clarify in regulations that internal audit functions must carry out a minimum of work auditing the internal controls; and • Undertake cross-firm/thematic work at an early stage to benchmark major companies against the new requirements and give feedback on practices across the sector.
9 - Supervisory Review and Reporting	• Review the strategy on supervisory cycles for insurers, considering that the gap between onsite inspections for many insurance companies can be long; • Consider having a risk-based supervisory framework to better integrate the quantitative and qualitative aspects of the risk assessment in its ongoing supervisory review and reporting methodology; • Include conduct of business monitoring requirements for full onsite inspections of large insurers; and • Equip DFSA with adequate supervisory resources to shorten the supervisory cycle and to provide better oversight of risks in the system.
10 - Preventive and Corrective Measures	• Although adequate measures are in place, a supervisory intervention ladder would be appropriate for life companies as well. • Given DFSA's prudential and market conduct mandate, broaden the early intervention mechanisms to include preventative measures for fraud risks and consumer protection issues.
15 - Investment	• Extend reporting requirements to cover group-wide aggregate investments and consider closer supervisory review of the security of custodial services provided in respect of insurers' investment portfolios; and • Carry out periodic updates to surveys of insurers' and pension funds' investments so as to monitor and respond to developments in risk profiles, for example as companies increase their unit-linked business.
16 - Enterprise Risk Management for Solvency Purposes	• Introduce a requirement for an ALM policy; • Review the application of its requirements on risk management for solvency purposes and own risk and solvency assessments to groups

	and extend the framework as necessary.
17 - Capital Adequacy	• Strengthen their capital adequacy requirements further by establishing solvency control levels in line with the expectations of ICP 17.4, including an MCR set at the minimum level below which an insurer is regarded as no longer viable and must close or have its insurance business transferred; and • Set an explicit requirement for its prior approval before a model may be used.
18 - Intermediaries	• Review and promote an appropriate regulatory framework and supervisory practices with respect to intermediaries' good conduct and to improve broker licensing and ongoing review requirements which should include financial information; • Establish proportionate governance expectations tailored for broker intermediaries, focusing on achieving fair treatment outcome for policyholders; • Ensure that DFSA has adequate resources for effective supervision of intermediaries, including brokers.
19 - Conduct of Business	• Consider additional corporate governance and fair treatment of customer's requirements to ensure controls are in place for intermediaries. Since some financial products being offered have increased in complexity, closer attention is needed on: o disclosure requirements so that customers are cognizant of the inherent risks of the product; o disclosure of potential risks emanating from group that could affect policies being sold or administered; o having a process to review the appropriateness of the financial products offered; o additional regulations obliging intermediaries to set up written procedures on fair treatment and ensure the protection of private information; o empowering DFSA with additional resources to provide appropriate oversight of brokers and legislative power to enable DFSA to conduct onsite risk-based supervision of broker intermediaries; o reviewing the adequacy of supervisory resources of DFSA for regulatory policy formulation and conduct more proactive CoB supervision.
20 - Public Disclosure	• Review and revise financial reporting requirements from the perspective of effective disclosure requirements to ensure that companies present complete information, including a full set of qualitative information such as the nature of the companies' products and their corporate governance; and • Extend to annual reports the requirement applying now only to interim reports that insurers make the report available to the public, for example on their websites.
21 - Countering Fraud in Insurance	• Change the legislative framework to empower DFSA to issue enforceable rules requiring insurers and intermediaries to report insurance frauds. DFSA should have a supervisory process in place to review fraud related reports received from insurance companies and broker intermediaries.

22 - Anti-Money Laundering and Combating the Financing of Terrorism	• The DFSA, in conjunction with the FIU and Danish Industry Association, to expedite completion of the National Risk Assessment Report on AML/CFT risks in life insurance and pension funds; • DFSA should use this report, as planned, as the basis for an enhanced supervision plan for 2014, augmenting its staffing in this area as necessary.
23 - Group-wide Supervision	• Consider increasing supervisory intensity on groups beyond solvency and ownership review to include all key control functions and group risks; • Review the supervisory cycle to ensure the smaller domestic insurance groups are not left unsupervised on a group basis; • Provide group supervisory oversight to market conduct and consumer protection matters, in a group context, including in bancassurance models; • Require appropriate group reporting systems to measure and monitor aggregate risk exposures to ensure intra-group transactions are captured and monitored at an aggregate level; • Commence joint onsite supervision for financial conglomerates with focus on intra-group exposures and related transactions; • The DFSA should carefully plan group-wide supervision for groups where no supervisory colleges are appointed. DFSA may also need to improve supervisory resources to ensure group supervision for smaller groups remains effective.
24 - Macroprudential Surveillance and Insurance Supervision	• Establish a process to consider macroprudential issues more formally on a regular basis; included in this work would be an occasional review of the potential systemic significance of large insurers, using the IAIS's assessment methodology; • Supplement their work on assessing vulnerabilities in insurance companies with periodic macroeconomic stress tests, taking into account the results of the FSAP stress test of insurers and coordinating with future EIOPA exercises; and • The Danmarks Nationalbank should extend its financial stability analysis to cover the insurance sector, starting with cross-sector linkages.
25 - Supervisory Cooperation and Coordination	• Expedite Denmark's accession to the IAIS multilateral MoU which will facilitate other cross-border cooperation with non-EEA signatories to MMoU, in case this becomes necessary to a fuller extent than at present.
26 - Cross-border Cooperation and Coordination on Crisis Management	• Seek opportunities for further testing of its arrangements and plans in line with the 2012 EIOPA test; • Review the requirements it places on insurers for crisis management and contingency plans to ensure that these provide for an appropriately wide range of crisis events and include operational procedures for handling information provision and communications to the DFSA and college of supervisors.

F. Authorities' Responses to the Assessment

45. The Danish FSA welcomes the assessment of the regulation and supervision of the Danish insurance sector. We look forward to use the observations and recommendations contained in the assessment report to further improve regulation and supervision of the insurance sector in Denmark.

46. Generally, we share the views expressed in the assessment as well as the level of fulfillment of the Insurance Core Principles in Denmark. In our view it supports the Danish FSA's ambition of being an effective risk based supervisor given the available resources. This being said, the Danish FSA has a few remarks regarding Risk Management and Internal Controls, Conduct of Business and Macroprudential Surveillance and Insurance Supervision.

47. Firstly, the Danish FSA agrees that insurers should have sufficient control functions in line with the thinking in ICP 8 and Solvency II. As a consequence the Danish insurers were informed in 2009 through the first Solvency II preparedness letter that future requirements of the four control functions would be embedded in the Danish financial regulation. With the delay of Solvency II original time plans for implementation have been modified and currently the Danish FSA is working on having the four functions formally implemented through regulation during fall 2014.

48. On market conduct, the current legislation does contain regulation of "fairness" supported by more specific regulation on the contribution principle which regulates fair treatment of customers with profit sharing products. In the supervision of life insurance and pension undertakings, this principle plays a key role of market conduct supervision. The regulation is backed up by requirements on the insurers to submit the products technical basis continuously. The technical basis is assessed and published by the Danish FSA. The regulation on fairness is not covered of the ICP's, but has substantial economical impact on policyholders.

49. In relation to the macroprudential surveillance of the Danish insurance sector it should be noted that the Danish FSA has carried out several thematic analysis with a broader view than just microprudential supervision. For example, analysis covering many aspects connected with the use of derivatives, the use of liquidity swaps and repos and an assessment of alternative investments.

DETAILED ASSESSMENT

Table 12. Detailed Assessment of Observance of the ICPs	
ICP 1	**Objectives, Powers and Responsibilities of the Supervisor** The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.
Description	*Organization* The DFSA is an agency within the Minister of Business and Growth (MoBG), functioning as an integrated authority responsible for the supervision of the financial sector including insurance companies. Although DFSA is not established as a separate legal entity with specific statutory provisions, the Financial Business Act (FBA) identifies DFSA as the authority responsible for supervising insurance companies. *(FBA s344)* DFSA is responsible to the MoBG and ultimately to the Parliament. For supervisory matters with far-reaching consequences for financial undertakings, the primary legislation grants the Financial Council (Council) specific authority to make supervisory decisions. *(FBA s344(3))* The structure was established to ensure that supervisory decisions are independent of the government. In practice, the DFSA presents issues to the Council on matters including increased requirements for technical provisions, higher solvency requirements, required changes of board members, dividend restrictions, issuance of rules, special audits, etc. The Council meets every month to discuss supervisory matters, as per the power given in the legislation, and makes final decisions on proposed actions. In relation to insurance business, as well as business and trade in Denmark generally, the Consumer Ombudsman, an independent government agency, enforces compliance with the Marketing Practices Act and the principles of fair marketing practices. *Objectives* The FBA gives DFSA the responsibility of organizing its routine supervision activities with a view to promoting financial stability and confidence in financial undertakings and markets. In its supervisory activities, DFSA is required to place importance on examining the viability of the business model of the individual financial undertakings. The organization of supervision activities has to take materiality into consideration so that the supervisory efforts are proportionate to the potential risks. *(FBA s344(3))* In addition to prudential supervisory objectives, DFSA is also responsible for the supervision of code of conduct and other consumer protection regulations within the

	financial sector, including regulation on marketing, disclosure of information on prices and fees, fair contract terms and complaint handling. *(FBA Part 6 s43)* The DFSA also assists in drawing up financial legislation and issues executive orders and guidelines for both prudential and market conduct matters. *Powers* Legislation is issued by the Danish Parliament. The legislation can grant either the MoBG or DFSA the power to issue and amend further regulations regarding specific issues. The legal framework includes the FBA, Executive Orders (EO), and guidelines. Although guidelines are not legally binding, they express DFSA's expectation on how the FBA and the EO are to be applied by the supervised entities. The legislation provides the DFSA with powers to ask for any information, including financial statements, accounting records, printouts of books, other business records, and electronically stored data, as deemed necessary for the activities of the DFSA or for deciding whether a natural or legal person is covered by the provisions under the legislation. *(FBA s347(4))* The DFSA also is empowered to enforce penalties for violations for non-compliance with the executive orders. *(FBA s373)* The DFSA initiates or proposes correction in legislation if it identifies conflicts between legislation and supervisory objectives. The Council also advises DFSA on any amendments to legislation or executive orders. The MoBG is responsible for presenting the legislative projects to the Parliament for final endorsement. Legislation is frequently updated and publicly disclosed. In Denmark, insurance and reinsurance intermediation is subject to general regulations regarding good practice, price information and contract conditions. *(FBA s43; EO 1253)* Broker are subject to the *Danish Insurance Mediation Act* which came into effect in August 2013. The Kingdom of Denmark consists of two other jurisdictions. Greenland and Faroe Islands are crown dependencies of the Kingdom of Denmark. There are self-governance agreements between Denmark and Greenland, and between Denmark and Faroe Islands. (See paragraph 13 under Section C) *Group-wide supervision* The DFSA has the legal power to gain access and enforce supervisory requirements on Danish financial undertakings, branches, financial holding companies that hold subsidiary investments in banks and insurance companies. *(FBA s 346, 347)*
Assessment	Largely Observed

Comments	The primary legislation and objectives of supervision do not explicitly include protection of policyholders. DFSA publishes its own understanding of its mission, vision and values on its website to ensure that market participants share a clear understanding of the objectives and direction of supervision. However, the objectives of the supervision do not explicitly include policyholder protection. (ICP 1.3) Although the institutional framework and the responsibilities of the respective authorities are set out in the legislation, there is scope to improve clarity over differing responsibilities of the DFSA, the Council, the MoBG, and the Consumer Ombudsman. For example, the DFSA is responsible for 'routine supervision activities', while the Council has the ability to opine on "supervisory matters on principle as well as supervisory matters with more far reaching significant consequences". The MoBG also retains certain powers, including approval of mergers, acquisitions and consumer issues. Currently, these powers are delegated to DFSA as part of a contract subject to annual review. (ICP 1.2) It is recommended that authorities: i. Consider explicit legislative requirement in the DFSA's objectives to include the maintenance of a fair and safe insurance sector for the protection of policyholders and to align the supervisory tools to achieve the intended outcome; and ii. Consider amendments to the legislation to improve clarity in the powers of DFSA as the primary authority responsible for the supervision and regulation of individual financial institutions.
ICP 2	**Supervisor** The supervisor, in the exercise of its functions and powers: • is operationally independent, accountable and transparent; • protects confidential information; • has appropriate legal protection; • has adequate resources; and • meets high professional standards.
Description	*Accountability and Governance* The DFSA is an agency under the MoBG and shares a work program with other agencies under the Ministry. In order to comply with MoBG's mission and vision, the work program of DFSA includes strategic goals, including supervision, regulation, and effective communication. The MoBG has an annual performance contract for DFSA which outlines the performance goals and obligations, budget and appropriation matters: • For supervisory matters, the MoBG requires DFSA to continue the development of risk based supervision with an increased focus on materiality, proactive supervision and sustainability of the business models. For supervisory matters,

DFSA is accountable to the Financial Council (Council).

- For regulatory matters, DFSA participates in joint projects of the MoBG to fulfill the goals regarding financial conditions and growth. The legislation allows MoBG to issue further regulations on procedures for DFSA. *(FBA s344(7)*) DFSA also reports to the MoBG on certain tasks including preparation of legislation and executive orders, EU negotiations, consumer supervision matters.

- The communication channels are clearly stated in the legislation and also articulated in the DFSA's 2015 Strategic Plan available on the website. (FBA s6) The 2015 Strategic Plan is being operationalized through annual business planning and through key performance indicators (KPIs) for departments and individual staff.

Internal Audit

There is no distinct internal audit function within the DFSA. To date, the DFSA has been compensating for the lack of an internal audit function through an internal peer review process, relying also on its limited scale and management oversight to ensure supervisory consistency. Although the National Audit Office (NAO) performs financial audit as part of the state audit system in Denmark, its main role is to audit the state accounts and to examine whether the Danish state funds are administered in accordance with the decisions made by the Danish Parliament. The scope does not include control procedures for the supervisory functions within DFSA or its governing Council.

Appointment and Dismissal

The MoBG has the power to appoint and dismiss the head of the DFSA. Like most heads in the Danish government, the head of DFSA is employed by mutual agreement between the MoF and the Danish Confederation of Professional Associations. The MoBG appoints the head of DFSA for a five year term. The terms of notice follow the Danish Employees' Act. This legislation outlines that reasons for dismissal must be objective. However, the legislation does not require the reasons for dismissal before the end of term to be publicly disclosed. The Council members are also appointed by the MoBG for a four year term (*FBA s345(3));* however, reason for dismissal before the end of term is not required to be disclosed.

Other Institutional Relationships and Operational Independence

The Council members are appointed by the MoBG, some upon nomination by industry associations, and currently comprises of 14 members with special expertise in financial, economic, and legal background. *(FBA s345)* The relationship between DFSA and the Council has been evolving since the financial crisis. In 2013, the Council replaced the Danish Securities Council and the Financial Business Council.

	The FBA grants the Council far reaching supervisory powers, including decisions regarding supervisory matters of principle as well as supervisory matters with significant consequences for individual financial undertakings and financial holding companies. *(FBA s345(2))* The Council has used its decision making powers on individual institution-specific cases including orders to increase capital, technical provisions, change of board, special investigations, etc. It also advises DFSA on the creation of new rules and regulations. Since the membership of the Council includes active industry representatives *(FBA s345)* recommended by the industry associations, there is a risk that the Council membership could be a channel for undue industry influence on supervisory decision-making. This is somewhat mitigated by the minority position of industry representatives on the Council. The DFSA is dependent on the MoBG for initiating legislative change. However, the DFSA can propose corrections in legislation when it identifies conflicts between legislation and supervisory objectives. The legislation also allows MoBG to lay down additional detailed regulations for the procedures of the DFSA in accordance with the provisions laid down in the Danish law. *(FBA s344(7))* Under pressure from the financial crisis, some decisions on core regulatory policies have been taken at the level of the MoBG. In June 2012, as part of a wide-ranging agreement with the insurance and pension industry on measures to address pressures in the market, adjustments to the yield curve, to be used by life companies and pension funds for discounting liabilities, have been decided by the MoBG. (DFSA then implemented the change in its relevant Executive Order.) The MoBG also retains certain powers, including approval of mergers and acquisitions. Currently, these powers are delegated to DFSA as part of a contract subject to annual review. *Funding* The DFSA is funded through levies on regulated entities and receives its budget approval from the MoBG. DFSA's funding needs and its levies on financial undertakings have increased following the financial crisis, including because of numerous European financial regulations being implemented in Denmark. However, resources continue to be stretched, as it will be outlined in several parts of the assessment. DFSA can make a case to the MoBG for extra funding if necessary. Its budgetary flexibility is impeded by budget law that prevents transfer of unused funds from one fiscal year to the next and forbids deficits. The 2014 Performance Contract also indicates that there is broad agreement amongst the partners that the contract is ambitious. *Transparency of Requirements and Procedures* Regulatory requirements and supervisory procedures and decisions are published on the

	DFSA's website. Since 2011, the DFSA has also published an executive summary of every inspection report of all financial undertakings, including insurance companies. The executive summary includes all major findings in the report. The DFSA is further able to order individual financial undertakings to publish DFSA's action regarding reprimands and orders. *(EO 307 Duty of Financial Undertakings to Publish DFSA's Assessment-March 2013)* *Review of Requirements and Procedures* Regulatory requirements and supervisory procedures are reviewed as necessary to ensure that they remain effective and relevant. Material changes are subjective to public consultation before final adoption. Since the crisis, significant changes in the FBA have been noted, including the issuance of a number of new EOs and guidelines, all of which were subject to prior public consultation. *Information on the Insurance Sector and the Supervisor* The DFSA publishes information on the insurance sector including summary information on inspections of insurance companies. The DFSA also publishes a strategic plan every three years with information on the financial sector. DSFA also publishes its annual report, audited by NAO, an independent public institution. *Appeal Against Supervisory Decisions* Decisions made by DFSA under the regulations issued pursuant to the FBA may be brought before the Commercial Appeals Board (CAB). The CAB is an independent body and its rulings cannot be appealed to another administrative authority. At the CAB, decisions taken by DFSA are reexamined on the merits of the appeal. The DFSA confirmed that critical supervisory measures are usually not suspended pending appeals from an insurer and, to date, have never impeded timely intervention. In a case brought before CAB, it was noted that CAB stated that according to the Act on Commercial Appeals Board, a complaint or appeal does not have a suspensive effect, unless otherwise provided by law or special reasons. *Confidentiality* All employees of DFSA are obliged to keep secret any confidential information they receive in the course of their supervisory duties. The same applies to persons performing services as part of the operations of DFSA and experts who act on behalf of the DFSA. *(FBA s354 (1) and Criminal Code s152 and s152e)* The Council members are subject to similar confidentiality requirements. The FBA allows confidential information to be shared with financial supervisory authorities in other countries within the EU or EEA area and non-EEA countries with which the EU has entered into an agreement regarding the supervision of financial undertakings. The confidential information can be shared provided that these recipients

	need the information to perform their supervisory duties. *(FBA 354 (1); s354 (6).xx))* Confidential information can also be shared with other financial supervisory authorities on the basis of an international co-operation agreement, and provided that the recipient financial supervisory authorities have confidentiality arrangements in place in their respective jurisdictions. *(FBA s354 (6), no 24; s354 (11))* *Legal Protection* Employees of the DFSA are not personally liable for the actions made in fulfilling their usual and proper exercise of their profession. The personnel policy of DFSA contains internal guidelines regarding duty of confidentiality, prohibition of the acquisition of shares, and required reporting of all personal loans excepting those from mortgage companies. Non-compliance to internal guidelines can be penalized by dismissal or even prison sentence. Criminal sanctions against the employee for actions beyond the usual and proper exercise of their profession, is not included in the employer's vicarious liability in accordance with Danish law 3-19-2. *Supervisory Resources* Currently, DFSA has 270 employees who supervise all financial undertakings: banks, mortgage-credit institutions, insurance companies, pension funds and investment companies. The insurance supervision within the DFSA is divided into three divisions according to the type of entity/product: General Insurance and Reinsurance Division, Life-Assurance Division and Pension Funds Division. The three insurance divisions consist of 39 employees. The supervision of the insurance companies is initially done by the relevant division but can, if necessary, be supported by a team of governance experts from the Operational Risk Division, who also specialize in remuneration. The DFSA utilizes in-house expertise on anti money laundering supervision in the Legal Division, good business practice in the Consumer Affairs and Financial Intermediaries Division and accounting and auditors in the Financial Reporting Division. Supervisors at DFSA also act as policy experts and include the actuarial staff. With respect to total supervisory resources, although personnel headcount has increased recently, human resources continue to be stretched primarily due to the new demands of the EU legislative initiatives including Solvency II regime which comes into effect in 2016. The DFSA has discretion to allocate its resources so that the supervision effort is proportionate to the potential risks or damage. *(FBA s344(3))* Before the financial crisis, the focus of DFSA was on compliance with financial regulatory rules. After the crisis, the DFSA has changed its focus to be in line with the risk-based supervisory approach. In

	practice, this has lead to more reliance on insurance boards and management but not to an increase of supervisory onsite visits. Although salary scales have allowed DFSA to attract and retain qualified staff, it was noted that the financial sector can pay substantially larger salaries than government and have much more flexibility in hiring practices. DFSA considers it a challenge to compete with the financial sector, particularly regarding the salaries that the DFSA can offer as it is subject to government salary scales. There are concerns within the DFSA that, when the financial sector is fully recovered, DFSA will once again experience a large migration of supervisory skills towards the private financial sector. Since more than 50 percent of DFSA's personnel have less than three years of supervisory experience, its training program, strong documentation and succession planning becomes vital to ensure a robust supervisory experience and knowledge is maintained. Currently, there is adequate risk-based prioritization of supervisory focus with good outcome given the current resource situation. However, to ensure sustainable, more robust and overarching supervision to fulfill its broad mandate, DFSA will need to be flexible and proactive in its resource planning i.e. require additional resources. This is particularly important when entering the Solvency II environment. *Integrity and Professionalism* The personnel policy of DFSA contains internal guidelines regarding duty of confidentiality, prohibition of the acquisition of shares, and required reporting of all personal loans excepting those from mortgage companies. These matters are reported to the Finance, Information and Personnel Division. Noncompliance with internal guidelines can be penalized by dismissal or even prison sentence. *Outside Experts* The DFSA also has the ability to hire or contract the services of outside experts when necessary but none have been hired to assist with insurance supervion. In the rare case of outsourcing supervisory functions to third parties, DFSA sets out expectations, assesses competence and experience, monitors performance, and ensures independence. The same confidentiality requirements apply to persons performing services as part of the operations of DFSA. This also applies after the termination of the employment contract or any other outsourcing contract. *Future Plans for Governance:* Starting July 2014, as part of an agreement between the government and opposition, the

	Financial Council will be replaced by a seven-member Board with increased powers, including powers to make strategic decisions regarding supervisory work. The MoBG will continue to appoint Board members as follows: • Three members from the relevant academic background (legal, economic, or financial); • Two members with management background from the financial sector; • One member with management experience from the business community in general; • One member from DN; • MoBG's representative will be an observer on the Board. The government agreement states that future Board members may not be employed or be a member of the board of enterprises subject to supervision by DFSA. In addition, the Consumer Ombudsman will be able to take part in the Board's discussion of supervisory matters concerning good business practices and price information. The Board will also be able to request assistance from a Panel of Experts who will jointly have broad technical knowledge of the financial sphere. The members of the Board will be appointed for two years.
Assessment	Partly Observed
Comments	As an agency within the MoBG, the DFSA is directly accountable to the Minister and through the Minister to the Danish Parliament. There are risks arising from its agency status to its operational independence from undue political influence. These are mitigated, to an extent by the role of the Financial Council in taking key decisions, although the membership of the Council, with significant (if only minority) industry representation introduces some risk of actual or perceived industry influence. In this regard, the new board governance approach, which will not include current staff from regulated companies, is a step forward. However, it could be further developed to provide for delegation to staff of all but the most significant supervisory decisions in line with agreed policies and procedures (akin to the supervisory role of boards of directors in Danish companies). The DFSA is also subject to government budgetary processes such that increases in its budget, while they have been granted in recent years in response to the crisis and in connection with the demands of EU legislation, are subject to government approval. DFSA is also subject to funding and salary structures that are aligned to government norms, but can be substantially lower when compared to the industry salaries. In practice, there are risks that even with recent increases, staffing levels and skills will be inadequate to meet growing supervisory demands in both scope and intensity. (ICP 2.4). Although there is adequate risk-based prioritization of supervisory focus with good outcome given current resource situation, DFSA will need additional resources to ensure

	sustainable, more robust and overarching supervision to fulfill its broad mandate. DFSA will need to be flexible and less strict with its risk-based prioritization. DFSA will need to be proactive in its resource planning i.e. require additional resources. This is particularly important when entering the Solvency II environment. (ICP 2.11) The legal framework and operational safeguards for the protection of confidential information are strong. However, DFSA's agency status means that it does not have similar protection as it is not an autonomous entity but organized under the MoBG. i.e. individuals have legal protection but not DFSA as a government entity. While the appointment and removal of the head of DFSA is MoBG's responsibility, there is no requirement for the reasons for a dismissal to be published. Explicit procedures regarding appointment and dismissal of the governing body should be in writing and publicly disclosed. (ICP 2.2) There are no internal audit arrangements within the DFSA as the DFSA has been relying on its internal peer review, its relatively small scale and management oversight. (ICP 2.1) It is recommended that authorities: i. Consider instituting an internal audit unit within the DFSA for auditing supervisory processes and internal controls to ensure integrity and consistency of supervisory actions; ii. Consider exempting the DFSA from the government's administrative rules, as in the case of the DN, to strengthen DFSA's financial and operational autonomy. Also, as indicated in the previous FSAP, in order to entrench DFSA's role as the primary supervisory authority, the authorities are encouraged to consider setting DFSA as a legal statutory body responsible for the supervision of the financial sector; iii. Review the adequacy of supervisory resources, training plans, succession planning of DFSA and how DFSA could be exempted from collective agreements and salary controls set by the Danish government in order to attract experienced supervisors with industry experience to fulfill its broad mandate; iv. Establish explicit provisions on public disclosure of the reasons for removal of the head of DFSA and future governing Board before the end of the statutory period of appointment.
ICP 3	**Information Exchange and Confidentiality Requirements** The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose and use requirements.
Description	As the primary supervisor of insurance companies, including financial holding companies and other non-regulated entities within the group, DFSA has the legal authority and

	power to obtain and exchange supervisory information with other relevant authorities to fulfil its supervisory duties. Information received is covered by the requirement that employees of DFSA not disclose confidential information they receive in the course of their supervisory duties. DFSA has the power under the FBA to exchange information on the basis of international co-operation agreements, subject to a statutory duty of confidentiality, and a requirement that recipients require the information to perform their duties. *(FBA s354(11))* In practice, and where the party requesting information shows it is necessary to have the information to perform their duties, DFSA shares information, with several Danish public and judicial authorities and externally with other financial supervisory authorities within the EU, EEA or non-EEA countries. However, DFSA requires a clear understanding of the basis of the request for information which explains the purpose, use and confidentiality requirements that will apply to the information once exchanged. More specifically, the legislation allows confidential information to be directly exchanged between the European Supervisory Authority (European Banking Authority), the European Systemic Risk Board, the EIOPA and the ESMA and bodies established by said authorities. *(FBA s354(8))* In respect to its membership of 10 supervisory colleges, DFSA signs a written coordination arrangement, based on EIOPA's coordination arrangement template, which covers "information exchange and professional secrecy". The coordination arrangement enables DFSA to coordinate major decisions and foster the exchange of essential and relevant information. The EIOPA coordination agreement sets out clear expectations of supervisors to exchange relevant and material information on a full and timely basis (see also ICP 25). The DFSA has in practice exchanged information with college members, for example when using the college to coordinate a restructuring and a capital plan for a group that was facing difficulties. Most of DFSA's exchanges of information are done with other members of supervisory colleges. However, DFSA also communicates with other supervisors on a bilateral basis, whenever the required information is necessary for the DFSA to fulfill its supervisory functions. DFSA also has written agreements in place aimed at securing its right to share and receive information, but does not require a written agreement or insist on reciprocity before exchanging information. In cases where there is no written agreement concerning information exchange, the request to release information is assessed by DFSA's legal office and decided on a case by case basis. The DFSA has different time limits for answering requests depending on the nature of the request and urgency. The DFSA prioritizes answering requests from supervisors

	seeking information and has not had any issue or complaints relating to delay in the exchange of information. The DFSA coordinates with the EEA supervisors where normally a written agreement is available, e.g. Coordination Arrangements for supervisory colleges or a MoU. In relation to supervisory authorities in countries outside the EU, EEA or non-EEA countries, the legislation states that information may only be divulged on the basis of an international co-operation agreement. The DFSA shares information with non-EEA supervisors where reciprocity and cooperation agreements are generally required. However, it is also prepared to exchange information where requested on a case by case basis where it is satisfied on supervisory purpose and protection of confidentiality. The legislation also requires that confidential information from countries within the EU or EU agreed countries be divulged only where the authorities submitting such information have granted express permission to do so, and the information is used for the purposes specified by the permission. (FBA s354(12)) The legislation specifies that the confidential information received by DFSA be used only for its supervisory duties, to impose sanctions, or where appeals are made against the decision of DFSA to a higher administrative authority, or where such a decision is brought before the courts of law. *(FBA s354(9))* In practice, DFSA uses standard procedures to cover confidentiality and professional secrecy matters. To date, DFSA has not experienced a situation where they have been legally compelled by court or parliamentary order to disclose information which is considered confidential.
Assessment	Observed
Comments	Within Denmark, DFSA exchanges information with other relevant authorities subject to confidentiality agreements. Since most of the non-domestic insurance companies operating in Denmark are based in the EU, the information exchange framework for DFSA is aligned with the relevant EU Directives and empowers the DFSA to obtain and exchange information with relevant supervisory authorities subject to confidentiality, purpose and use requirements. To secure efficient and effective corporation and sharing of information with other supervisors, DFSA has written coordination arrangements in place. In general, DFSA shares information with non-EEA supervisors subject to reciprocity and pursuant to cooperation agreements, but it is also prepared to exchange information where requested on a case by case basis where it is satisfied on purpose and protection of confidentiality. To date, DFSA has not faced a situation where relevant information has not been shared with other relevant supervisors, due to confidentially issues.

ICP 4	**Licensing** A legal entity which intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. The requirements and procedures for licensing must be clear, objective and public, and be consistently applied.
Description	Legislative authority outlining licensing requirements include: a) *Financial Business Act (FBA)* b) EO 956 on *Licenses for Life Assurance Companies*—December 1997 c) EO 1233 on *Licenses for Nonlife Insurance Companies and Captive Reinsurance Companies*—October 2007 d) EO 1167 on *Branches of Insurance Companies*—non EEA—December 2004 e) EO 1343 on *Solvency and Operating Plans for Insurance Companies* – November 2013 f) EO 1575 on *Management and Control of Insurance Companies and Multi-Employer Occupational Pension Funds*—December 2010 g) EO 1024 on *Auditing Financial Undertakings and Financial Groups*—August 2013 h) EO 112 on *Financial Reports for Insurance Companies and Multi-Employer Occupational Pension Funds*—February 2013 Procedures for licensing are set out in the legislation. The legislation requires entities which carry out insurance activities to be licensed as insurance companies or captive reinsurance companies. *(FBA s11, 30, 31)* The responsibility for granting a licence lies with DFSA. *(FBA s14, 64)* *Unauthorized Insurance Activity* The legislation prohibits unauthorized insurance activities *(FBA s373(1))* and any person violating this prohibition is liable to fines or imprisonment of no more than four months unless more severe punishment is incurred under other legislation. *(FBA s11(1))* *Licensing of a domestic insurance company* Licensing requirements are set out in the legislation and also detailed in the executive orders *(EO 956 and 1233)*. The classes of insurance for which the licence is granted are defined in the FBA Annex 7 for nonlife and Annex 8 for life insurance. The legislation indicates that the legal entity should be a limited company, a mutual company or multi-employer occupational pension fund. *(FBA s.12(1))* In practice, the applicant is usually invited to a meeting with DFSA where the Licensing Director outlines the general expectations and the process of licensing. Applicants are required to provide DFSA with information on various matters including details on the proposed significant owners (those that plan to own no less than 10 percent of the

	capital or voting rights or exercise significant influence over management of the company). The legislation requires the applicant's significant owners, board members and senior management to be suitable. *(FBA s61, 64)* Requirements regarding ownership and board and senior management are specified in the legislation and in the regulations. *(EO 1575)* Although the role of the responsible actuary for life insurers and the role of the external and internal auditor is outlined, the legislation does not extend to Key Persons in Control Functions (see ICP 5). Applicants must submit quarterly operating plans covering the first three years of the company's planned business. *(EO 1343 s17)* The operating plan includes an opening balance sheet, the accounting results, intended reinsurance programs, solvency projections, and a report on the investment policies of the insurance company. The legislation requires an insurance company applying for a licence to have adequate internal procedures for risk measurement and risk management and capital adequate for the risks of the entity. *(FBA s126; EO 112)* It is expected that the applicant has in place good administration and accounting practices, written procedures for all significant areas of activity, full internal control, IT control and security measures, and adequate resources in relation to their activities. For a licence for third-party motor liability insurance, the application must also include information stating whom the company intends to appoint as its claims processing representative. *(EO 1233)* Life insurance activities may not be combined with other insurance activities, except for accident and sickness insurance. However, a life insurer may carry out reinsurance of life and accident and sickness insurance. *(FBA s19)* There are currently 47 domestic life and pensions and 83 nonlife insurance companies in Denmark. The last one to be licensed was in 2011. Captive insurance companies are licensed in a similar manner and no special exemptions are granted for captive applicants. DFSA has licensed 15 captives. *Foreign insurance subsidiaries* For applications for a subsidiary of a foreign insurer, in addition to the requirements of domestic applicants, DFSA requires additional information to review the strength of the foreign insurer. DFSA requires the supervisory authorities of the home country to submit details including a solvency certificate, a list of the classes of insurance and the nature of the risks that the insurance company intends to cover in Denmark. DFSA communicates with home supervisors to assess the health of the group before granting the license.

	There are currently six foreign insurance subsidiaries in Denmark and all are owned by parent companies in the EU area. *Branches of foreign insurers* According to EU law and regulation ("the single passport system"), licenses are not required for Danish branches of insurance companies licensed in another EEA-country. Branches of insurance companies licensed outside an EEA country can obtain a license in Denmark provided that Danish companies have the same right in the country in question or an international agreement has been agreed in the form of an MoU. No such licenses are in force as at the date of this assessment, although DFSA was reviewing an application at the time of this report. A branch of an EEA insurer can start insurance operations in Denmark within two months after DFSA has received notification from the supervisory authority in the home country. The branch can carry out the same classes of insurance as Danish insurers if these are covered by the company's licence in the home country. *(FBA s30)* There are currently 44 branches in Denmark and all are from the EU region. *Cross border Insurance activities* The DFSA has implemented the provisions of the EU directives regarding sharing of supervisory tasks. In addition to the general MoU between the Nordic supervisory authorities, the specific MoU on cooperation with respect to the insurance groups and conglomerates have been established. For cross border insurance and reinsurance activities, DFSA consults the home supervisor as appropriate before allowing such activities. *(FBA s30)* *Refusal of Licence* The DFSA has refused licenses in the past, for example, where submitted business plans gave rise to doubts regarding the strength of the applicant's group or the adequacy of capital. In at least one case, DFSA required a revised group structure and additional capital before granting the licence. In the event that DFSA refuses an application for a licence, the applicant is notified, with a reason for refusal, no later than six months following receipt of the application. If the application is incomplete, the applicant is notified no later than six months after the applicant has submitted the information necessary to make the decision. *(FBA s14(3))* If DFSA has not made a decision after receipt of a complete application for a licence, the applicant may bring the case before the courts.

	Over the last year, DFSA has refused at least two licence applications where the applicant did not meet the licensing requirements. Applicants were required to increase capital requirements; however, one applicant was not willing to do so and decided not to continue with the application. *Scope of the Licence* In the event that DFSA grants the licence, the legislation requires that the licence contains information about the insurance activities that the company may carry out. *(FBA s18(3))* The related regulations also indicate that the licence shall be granted for each of the approved classes and contains the name of the insurance company, its registered office, and the legal form of the company. It also includes the registration number given to the insurer after registration at the Danish Business Agency (DBA). *(EO 956, 1233)* The details of the licensed insurers and the classes of insurance are published on the DFSA website. The DFSA grants licences on the condition that the new insurer will have all systems in place to submit quarterly financial statements in such form as to make it immediately possible to compare the actual business with the submitted operating plan. Although there is no pre-commencement inspection, the new insurer is inspected within the first two years of its licence.
Assessment	Observed
Comments	The DFSA's licensing process for insurance companies and foreign subsidiaries is clear. The review includes the applicant's ownership strength, board and management, operating plans, capital and solvency requirements. Although key persons in control functions are not explicitly covered in the licensing requirements, licensees may be subject to a requirement to have an internal auditor and responsible actuary for life insurers. (ICP 4.3) Although DFSA has a peer review process, DFSA would benefit from documenting a formal recommendation and approval process before a final license is granted. The formalization of the licensing process in the form of a guideline would facilitate consistency in the review of the licensing requirements and a clear document trail for information and knowledge within the organization. The summary document would also contribute to better offsite monitoring and onsite inspections after licensing and provide consistency of treatment and rationale of the decision to grant the license. (ICP 4.3) The DFSA is recommended to consider structured documentation to reflect supervisory analysis detailing how the applicant has fulfilled all of the licensing criteria under the regulatory requirements, including a process for final recommendation and approval.

ICP 5	**Suitability of Persons** The supervisor requires Board Members, Senior Management, Key Persons in Control Functions and Significant Owners of an insurer to be and remain suitable to fulfil their respective roles.
Description	The legal basis of the regulation that defines DFSA's authority and responsibility on suitability of persons for insurance supervision include: a) *Financial Business Act (FBA)* b) EO 1024 on *Auditing Financial Undertakings and Financial Groups*—August 2013 c) EO 1575 on *Management and Control of Insurance Companies and Multi-Employer Occupational Pension Funds*—December 2010 d) Form on assessment of fitness and propriety for BoD and BoM *Board and management* The legislation requires each member of the BoD and BoM, and general agent of branch operations, to possess adequate experience (skills and knowledge) to carry out the duties and responsibilities of the position. Each member is required to be free from any criminal violations, bankruptcy proceedings, actions causing risks of losses to financial undertakings, and inappropriate behaviour that could undermine the confidence in the financial sector. *(FBA s64)* Members of board and management are required to submit information to DFSA in connection with their appointment and also of any subsequent change. With respect to any changes in the composition or suitability, the members of the board, BoM and general agents of branch operations must submit the necessary information, in the required form, to the DFSA in order for them to perform ongoing suitability assessments. In practice, the DFSA assesses this in connection with its monitoring and onsite inspections. Since the financial crisis, DFSA has issued a number of orders to remove members of the BoD and BoM from their positions when the person was considered unsuitable. Such orders, for members to step down, are approved by the Council, who makes decisions on matters of principle or of far-reaching significance. DFSA has issued 9 such orders since 2010 and published them without specific names. Other board members have stepped down before a case is presented to the Council. It is the responsibility of the BoD to make an ongoing assessment of the board's collective skills and to be able to take the relevant action if the required knowledge and skills are no longer present within the BoD. *(EO 1575)* Senior management suitability requirements apply to the BoM. Composition of the BoM varies widely across insurers and pension funds, with some having a BoM of only one or

	small numbers of members, others using the BoM as a full executive committee with business line and heads of control functions. The application of suitability requirements to senior management is accordingly inconsistent. *Self-assessment of the board* Since January 2011, regulations require BoD to annually evaluate whether they collectively possess the necessary knowledge and experience to manage the risks to ensure prudent operation of the undertaking. *(EO 1575 s4)* In November 2012, for the first time, DFSA received "self-assessments" from all the insurance companies. As a result of these assessments, DFSA informed some insurers and pension funds that they lacked sufficient board expertise in insurance and investment risks and required them to take appropriate action. DFSA's assessment of suitability is based on the person's responsibility within the insurer or pension fund. The same assessment is applied for members of the BoD, senior management and general agents, at the initial assessment and on an ongoing basis. Insurers and pension funds are also required to inform the Danish Business Authority (DBA) of any change within the BOD and senior management. When the DBA receives a registration of a change within the BOD or senior management, the authority also informs DFSA. The DFSA is able to review the relevant information for the assessment from the new member of the BoD, senior management or the general agent. *Significant owners* Significant owners, including upstream holding companies, are also required to have financial soundness and integrity. The legislation requires the assessment of significant owners to take into account the likely influence of an intended acquirer on the insurer, the suitability of the intended acquirer, and the financial soundness of the intended acquisition including reputation, experience and the financial situation of the significant owners. *(FBA s61a (i) to (v))* The legislation requires prior written notification to DFSA of any acquisition or disposal of significant interest. (FBA s 61) In its assessment of an application, DFSA reviews the reputation, suitability, financial soundness, and whether it will be possible to perform effective supervision of the group. *(FBA s61a (1) and (2)* Where significant owners of an insurer or a financial holding company fail to meet the requirements of the legislation, DFSA has the power to order the insurer to follow specific guidelines and to withdraw the voting rights associated with the equity investments of the relevant owners. *(FBA s61a, s62)* Moreover, DFSA may withdraw the

	voting rights associated with equity investments owned by natural or legal persons who do not comply with the duty to submit to DFSA prior notification of the acquisition. The legislation also requires that, every February, the insurance companies and financial holding companies submit information to DFSA of the names of the owners of capital who own qualifying interests in the financial undertaking or the financial holding company as well as information on the sizes of their interests. DFSA has documented such transactions on file. *(FBA s61c)* *Key Persons in control functions* Key Persons in Control Functions[2] are currently not covered in the suitability requirements as the functions are required only as part of Solvency II preparations. These requirements are scheduled to be introduced later in 2014. (see ICP 8) In discussions with the industry, a few large insurers have introduced these control functions and have the key persons in place. However, DFSA has not done any systematic suitability assessments as it is not part of the existing regulatory requirements. Where chief internal auditor function is established and the role includes audit of internal controls, (the BoD may choose for the internal auditor to focus on the audit of financial statements), the person is required to have academic qualifications corresponding to the qualifications required to become a state-authorized public accountant or a registered public accountant in Denmark. The chief internal auditor is required to have participated in practical auditing for a total period of no less than 3 years within the last 5 years. *(EO 1024 s18(2-3))* The DFSA is required to be informed of the appointment of a new chief internal auditor no later than 1 month after the appointment. When the chief internal auditor resigns or is dismissed, the board of directors and the chief internal auditor are required to submit separate explanations as to the reason for such termination of work to DFSA no later than 1 month after the date of termination. *(EO 1024 s20(1), s20(3)).* For actuarial control functions, currently, the FBA requires only life insurers to appoint a responsible actuary. For all insurance companies, the board of management has to ensure that the company has sufficient expertise to calculate insurance provisions. In the absence of more specific requirements, DFSA has occasionally used this provision to require a nonlife insurer to appoint an actuary. *(FBA s108)* The responsible actuary has to

[2] Control functions include risk management, compliance, actuarial and internal audit functions

	ensure that the company complies with its technical basis as set out in the FBA (basis for calculating provisions, pricing new business etc) and is required to notify the DFSA of any issues arising. *Supervisory exchange* The DFSA's standard procedures allow supervisors to ask for further information from other authorities both inside and outside the jurisdiction. In practice, the information exchange is part of regular communication with the Danish Business Authority, and with other relevant supervisory authorities as part of the review process. Sometimes, DFSA also uses the forum of supervisory colleges to discuss group structures and continued financial strength of owners, board and management.
Assessment	Largely Observed
Comments	The legislative framework allows DFSA to assess the suitability of members of the BoDs, BoM, general agents and significant owners on application and on a continuing basis. Suitability is considered as part of ongoing supervision and inspections. The BoD is required to perform an annual self-assessment of the skills and knowledge of the BoD as a whole. The result of the self-assessment should be added to the minutes of the BoD's meetings. This allows DFSA to review fitness and propriety on a continuous basis, and reflects DFSA's reliance on the BoD to self-evaluate and monitor their collective and individual suitability. Supervisory focus on suitability has increased since the financial crisis and DFSA has exercised its power to require members of the BoD and BoM to step down. DFSA has published such orders on an anonymized basis. The current regulations do not cover suitability requirements for Key Persons in Control Functions, there being no requirements applying to all insurers and pension funds for risk management, compliance, actuarial and internal audit functions. Such requirements are scheduled to be introduced in 2014, to be followed by related suitability requirements in 2015. In addition, the scope of senior management requirements is inconsistent, reflecting different approaches by insurance companies to BoM composition. (This topic is assessed in ICP 8). It is recommended that: (i) The authorities expedite the implementation of the key control functions and suitability requirements; and (ii) DFSA reviews the application of the suitability requirements to senior management to ensure that they cover senior managers in all relevant positions as per the ICP rather than only members of the BoM (for example, they could be applied to members of the senior executive committee).

ICP 6	**Changes in Control and Portfolio Transfers** Supervisory approval is required for proposals to acquire significant ownership or an interest in an insurer that results in that person (legal or natural), directly or indirectly, alone or with an associate, exercising control over the insurer. The same applies to portfolio transfers or mergers of insurers.
Description	The legal basis of the regulation that defines DFSA's authority and responsibility on changes in control, portfolio transfers and mergers of insurers includes: a) *Financial Business Act (FBA)* b) *Companies Act* c) EO 277 on *Calculation of qualifying interest*—April 2009 d) EO 1024 on *Auditing Financial Undertakings and Financial Groups*—August 2013 e) EO 1575 on *Management and Control of Insurance Companies and Multi-Employer Occupational Pension Funds*—December 2010 f) EO 112 on *Financial Reports for Insurance Companies and Multi-Employer Occupational Pension Funds*—February 2013 g) EO 1343 on *Solvency and Operating Plans for Insurance Companies*—November 2013 In addition, DFSA has issued guidelines and related forms on application for authorization for acquisition of, or increase in, a qualifying interest; application forms for assessment of members of board of directors and management in the acquirer; and procedures for handling applications for portfolio transfers. *Change in Controlling Interest* The FBA defines "qualifying interest" as direct or indirect ownership of 10 percent or more of the capital or voting rights or ownership of an interest which provides the opportunity for exercising significant influence on the management of the insurer. *(FBA s61)* Any natural or legal person planning directly or indirectly to acquire a qualifying interest of 10 percent or more in a financial undertaking or a financial holding company is required to notify DFSA in advance. DFSA makes a decision on whether to approve the acquisition after due review and analysis. Similar notification is required for an application to increase a qualifying interest which would result in the interest equaling or exceeding a limit of 20 percent, 33 percent or 50 percent of the share capital or voting rights, or would result in the insurer becoming a subsidiary undertaking. *(FBA s 61)* DFSA takes into account the implications for policyholders' interests in the review

	process. DFSA reviews the strength of BoD and management, analyzes business plans and organization structure, financial strength of the proposed owner and nature of supervision, if the owner is a foreign financial institution. The assessment criteria include: • reputation of the intended acquirer. • reputation and experience of the person(s) who will manage the insurance company or the financial holding company after the acquisition. • financial situation of the intended acquirer, particularly with respect to the nature of the business to be operated or intended to be operated in the insurance company, or the financial holding company in which the acquisition is intended. • whether the insurer can continue to comply with the supervision requirements in the legislation, in particular whether the group of which the insurer may become a part has a structure which makes it possible to perform effective supervision and effective exchange of information between the competent authorities as well as to determine how responsibilities are to be divided between the competent authorities. • whether, in connection with the intended acquisition, there are grounds to suspect that money laundering or terrorist financing will occur. *(Act on Measures to Prevent Money Laundering and Terrorist Financing s4-5)* Financial undertakings, financial holding companies and insurance holding companies are also required to submit, no later than February each year, information to DFSA of the names of the owners of capital who own qualifying interests in the insurance company or the financial holding company and the amount of the said interests. *(FBA s61c)* Since 2008, DFSA approved three life and nine nonlife acquisitions of significant interest. With regards to conversion from a mutual to a stock company, the legislation stipulates the form, content and implementation of a conversion of an insurance company which also requires approval by DFSA. The continuing insurance company is required to be subrogated to the rights and obligations of the discontinuing insurance company *(FBA s222)*. Since the crisis, two mutual life insurers received approval under this section of the legislation. *Amalgamations and Portfolio Transfer* Ministerial permission is required for an insurer to be amalgamated or merged with another insurer or a specific business function of another financial undertaking. The same applies when the continuing insurer is a foreign insurer. *(FBA s204)* This authority is delegated to DFSA under specific delegated arrangements by the MoBG. However, the

	Minister can refuse the merger, and associated transfer of portfolio, if the amalgamation conflicts with material matters of public interest. There are time limits for decision-taking which can be extended in case of incomplete submissions. *(FBA s204 (6); 204(7))* The DFSA requires the financial soundness and plans to be reasonable. In practice, DFSA reviews the strength of the acquiring insurer to ensure it has adequate capital and the necessary technical provisions, as well as appropriate administration to handle the total portfolio. DFSA makes an assessment on the basis of the material received and on any other knowledge on the specific insurer. The main purpose of the legal and actuarial assessment is to ensure that none of the policyholders involved are disadvantaged as a result of the transfer. The DFSA has documented procedures for handling such applications. It seeks to ensure that it is in possession of all relevant material before any approval is given. Normally, a preliminary meeting with the relevant insurers is held prior to the submission of the full application in order to ensure that the companies are aware of the application process and expectations of DFSA. Along with the actual application, the DFSA requests: • the relevant agreement and relevant general meeting minutes • a transfer balance • management statement from the receiving company stating that the company has sufficient capital, the necessary technical provisions and an adequate administration set up to handle the total portfolio • statement from the respective appointed actuaries that no policyholder is disadvantaged (for life insurers only) • draft letters to policyholders • documentation that the transfer is sound / reasonable for the policyholders involved Unless the Minister considers that the transfer of an insurance portfolio associated with the merger should be refused, DFSA is required to publish a report on the transfer in the Danish Official Gazette and in a national daily newspaper. Any policyholder can object to the proposal in writing to the DFSA no later than three months after the publication. At the same time, the company is required to submit a notice of the transfer and the report of DFSA to the policyholders whose addresses are known to the company. Approval is granted after due considerations of objections received. The transfer may not be invoked as a basis for cancelling an insurance contract. Similarly, if the transfer of an insurance portfolio takes place in connection with a merger of insurance companies, the

	merger may not be invoked by the policyholders as a ground for cancelling the insurance contract. For transfer of life business, the insurance conditions of the transferor company may only be modified to the extent deemed by DFSA to be a necessary consequence of the transfer, including changes in the rules for bonuses. In the past, such modifications were made to protect policyholder interests and continued viability of the business. The DFSA is required to publish notifications of the merger plan, division plan and the statement of the valuation experts, after the agreements have been signed. Since 2011, DFSA, on behalf of the Minister, approved 11 mergers in life and eight mergers in the nonlife insurance companies. DFSA has also approved 10 life and three nonlife portfolio transfers during the same time.
Assessment	Observed
Comments	There is a clear and comprehensive set of regulatory requirements for changes in significant interest, control, conversions of legal structure, amalgamations and portfolio transfers which are publicly available. DFSA's review focuses on understanding the proposed business model and the financial soundness of the continuing company. In practice, DFSA does not grant approval in cases where the interests and rights of the policyholders are adversely affected. It is recommended that authorities consider empowering DFSA with direct responsibility, instead of delegated authority from MoBG to ensure that future decisions are always made by the regulator and are not open to undue political or governmental influence. Although in practice DFSA takes policyholders' rights and interests into consideration when making decisions and carries out risk-based supervision focused on the business model, a clear objective relating to policyholder protection for DFSA in the law would support its decision-taking in this area.
ICP 7	**Corporate Governance** The supervisor requires insurers to establish and implement a corporate governance framework which provides for sound and prudent management and oversight of the insurer's business and adequately recognizes and protects the interests of policyholders.
Description	Legislative authority outlining regulatory requirements on governance are: a) The Financial Business Act (FBA) b) EO on Management and Control of Insurance companies and Multi-Employer Occupational Pension Funds (number 1575 of 15 December 2010). c) EO on remuneration policies and notification obligations regarding

	remuneration in financial undertakings and financial holding companies (EO 122 of February 7, 2012) The FBA sets out requirements on corporate governance for all financial services businesses and assigns to the DFSA certain powers exercised by the Danish Business Authority for Danish companies in general. *(FBA s70)* For insurance companies and pension funds specifically, EO 1575 sets out detailed requirements. The framework explicitly recognizes that the application of corporate governance standards should reflect the nature, scale and complexity of the business of the insurer. *(EO 1575 s1)* The FBA's requirements reflect the two tier system in Danish company legislation (a board of directors (BoD) which acts as a supervisory board and board of management appointed by the board of directors and responsible for day-to-day management). It requires the BoD to set out the main types of business activities to be performed; to identify and quantify significant risks and determine the risk profile (i.e., which types of risk the firm may accept and to what extent); and to lay down policies for how the firm is to manage its significant activities. *(FBA s70)* The BoD is further required to provide the board of management with written guidelines on risk management; regularly to decide whether the risk profile and policies of the firm as well as the guidelines for the board of management are adequate; and regularly to assess whether the board of management is performing its duties in line with the risk profile and policies laid down. *(FBA s70)* The Act also requires that insurers put in place "effective forms of corporate management," including a clear organisational structure, good administrative and accounting practices etc. *(FBA s71)* More details on these requirements are set out in EO 1575, including a non-exhaustive list of required policies, covering insurance risk, market, counterparty and credit risk, operational risks, information security, an IT contingency plan and contingency plans for other severe business disruption. Further extensive detail on the content of Board policies are set out in the Appendices to the EO, which also set out requirements on the content of the Board's rules of procedure. *(EO 1575 s5 and Appendices)* There is no explicit recognition in the framework that the BoD should take into account the legitimate interests of its stakeholders, including fair treatment of customers (see ICP 7.1.1). Companies are required to have procedures to reduce the risk of loss to customers due to non-compliance with regulations and to consider risks to policyholders when developing new product approval processes. Other regulations, including the solvency requirements, deal extensively with protection of policyholders. However, there

	is no requirement for insurers' governance frameworks to address potential conflicts between the interests of different classes of policyholders or between the interests of policyholders and shareholders. The tasks and duties of the board of management are set out in EO 1575, including day-to-day management of the company and implementation of Board-approved policies. Extensive responsibilities are allocated to the board of management in relation to the major risks of insurers and pension funds. There are no requirements on the composition of the board of management and practice varies widely, from boards comprising a full set of senior executives (from both business lines and control functions) in some companies and only the CEO in others. *(EO 1575 s9)* The EO provides that the Company shall be arranged so that there is adequate segregation of duties, both in insurance functions (e.g., separation of underwriting and claims) and investment (e.g., transactions and settlement). These provisions do not, however, clearly define the roles of key persons in control functions. *(EO 1575 s3)* The Act requires that the board of management of an insurance company ensures that the company has sufficient expertise to calculate insurance provisions. For life companies, the BoD is required to ensure that the company employ a responsible actuary to carry out the actuarial functions. *(FBA s108)* The requirements apply in the same way to boards of insurers and pension funds and to mutual insurers, foreign-owned companies and insurance companies and pension funds that are parts of groups. The BoD is required regularly to assess whether its members together possess the necessary knowledge and experience of the firm's risks to ensure sound management of the company. *(EO 1575 s3)* There are no explicit provisions requiring directors to act in the best interests of the insurer and policyholders, putting those interests ahead of their own interests. Legislation makes it a qualification for being a director that the person has not as a result of personal interests exposed the insurer to loss; and bars exposures to directors and related parties. *(FBA s74(2) and s78(1) and (4))* The Executive Order provides for management of conflicts of interests at board meetings. *(EO 1575 Annex 5, para 12)* There are no provisions regarding management of potential conflicts of interest where a director is a member of a board of another company (ICP 7.4.3). There are no explicit provisions in relation to succession planning for members of the BoD, but in the case that the self-assessment of the BoD shows a gap in skills, the board is expected to take the necessary actions – new members, additional training, change of business model etc. The BoM must establish in writing a policy for the initiatives to be implemented in the event of the resignation of key employees. *(EO 1575 s9(7))*

	BoDs may establish committees as they choose, except that some undertakings are required to put in place Audit and Remuneration committees. The Audit Committee is mandatory for listed undertakings and undertakings with a balance sum of at least 500 m. DKK. Once every year, the board of directors in undertakings without an Audit Committee is obliged to reconsider if they want to form such a committee. (Section 2 (1)-(3) of Executive Order no. 1393 of 19 December 2011 on Audit Committee in Undertakings and Groups under the supervision of Finanstilsynet issued on the 19 December 2011). At least one fully independent individual has to be appointed the Audit Committee. The Remuneration Committee is also mandatory for listed undertakings and undertakings with more than 1000 fulltime employees in two consecutive financial years (FBA s77c). There is an explicit requirement that the BoD not delegate powers to the management board in relation to its overall management responsibilities. *(EO 1575 s6)* The EO requires that the company (not explicitly the BoD) has good accounting practices, including that it can demonstrate that the published annual and interim reports are prepared in accordance with applicable rules. There is no requirement on the board in relation to systems and controls to ensure the promotion of appropriate, timely and effective communications with the supervisor and relevant stakeholders on the governance of the insurer. *(EO 1575 s16)* The FBA sets out requirements on all companies in relation to personal account dealings by staff of regulated entities. In relation to oversight of remuneration, companies are required under the FBA to put in place "a wage policy and practice which is in line with and promotes sound and effective risk management." *(FBA s71)* The Act then sets detailed requirements on remuneration, including a ceiling on variable remuneration and provision for its payment in part with equity or equity-like instruments." Application is to the board of di-rectors and board of management and other employees, whose activities significantly influence the risk profile of the undertaking. (FBA s77a-77d) According to section 4 in the EO on remuneration policies and notification obligations regarding remuneration in financial undertakings, financial holding companies and insurance holding companies (EO 285 of March 27, 2014) the BoD must set the remuneration policy of the undertaking. The DFSA focuses on governance in its supervisory work (see also ICP 9), starting with the BoD's responsibility for establishing a viable business model. Supervisors review levels of expertise of BoDs in insurance and investment activities and they have required the strengthening of expertise in some cases (see ICP 5). Supervisors examine board minutes and interview the Chair of the BoD and Audit Committee chair to test the

	effectiveness of board oversight of management. In the case of foreign-owned companies and insurers that are parts of groups, DFSA reviews the effectiveness of governance in particular cases rather than requiring, for example, a certain proportion of fully independent directors (i.e., directors who are not also employees of the same group or members of the BoD of the parent or affiliate of the insurer).
Assessment	Largely Observed
Comments	The combination of general company law, the FBA and DFSA requirements place a wide range of general and specific oversight responsibilities on the BoD, with an emphasis on risk management, including the establishment of a risk appetite. In addition to requiring self-assessments by BoDs, DFSA has focused recently on ensuring that boards have appropriate expertise and taken action at several firms to improve board effectiveness through enhanced levels of expertise, in insurance and investment activities in particular. While protection of policyholders is clearly served by the approach, there is no explicit provision for board responsibilities in relation to the fair treatment of policyholders and conflicts that may arise between the interests of different groups of policyholders and policyholders' and other stakeholders' interests. There are no explicit requirements on sucession planning, while the provisions on managing director conflict of interests should be expanded. The absence of requirements on the composition of the BoM allows insurers to take a proportionate approach but creates a wide divergence in practice on board of management composition. There are no requirements in relation to the role of control functions in the governance structure (see ICP 8 also). It is recommended that: (i) the authorities review the FBA and Executive Order 1575 to clarify expectations on boards of directors and management in relation to protection of policyholders' interests; (ii) DFSA amend their governance requirements to include provisions requiring directors to act in the best interests of the insurer and policyholders and requiring boards to carry out succession planning; and (iii) DFSA review their expectations of the composition of the board of management and whether to set requirements in this area.

ICP 8	**Risk Management and Internal Controls** The supervisor requires an insurer to have, as part of its overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial matters, and internal audit.
Description	The FBA's requirements on management and organisation of financial services businesses establish the responsibilities of the BoD to identify and quantify significant risks and to determine the risk profile of the organisation; to provide the board of management with written guidelines on risk management; regularly to decide whether the risk profile and policies of the firm, as well as the guidelines for the board of management, are adequate; and regularly to assess whether the board of management is performing its duties in line with the risk profile and policies laid down. *(FBA s70)* The responsibility for day-to-day risk management is allocated to the board of management. However, there are limited requirements on how the board of management delivers the tasks allocated by the BoD and on the establishment of functions through which risk management and effective control is to be carried out in practice. Insurance companies above a certain size are required to establish an internal audit function, and life companies' BoDs are required to appoint an actuary with responsibility for reporting to the board and to the DFSA. However, there are no requirements to establish a risk, compliance or actuarial function. New requirements on all control functions are expected to be introduced as part of Denmark's implementation of interim measures in preparation for the EU Solvency II Directive[3], scheduled to take effect in mid-2014. The responsible actuary requirement will be supplemented or replaced by a requirement for an actuarial function, also applicable to nonlife companies, while all insurers will be required to have an internal audit function. Requirements on the competencies of the holders of each role will follow in 2015 (see ICP 5). DFSA does address the effectiveness of risk management and controls in its supervision of insurers. It meets on a regular basis for the larger firms with holders of relevant positions in the organization, including the chief risk officer, where the position exists, as well as with the responsible actuary. It assesses the effectiveness of controls through discussions with the BoD and senior management. BoDs are required to include effectiveness of controls in their self-assessments.

[3] Directive 2009/138/EC of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance

	Actuary—life companies For all insurance companies, the board of management has to ensure that the company has sufficient expertise to calculate insurance provisions. In the absence of a more specific requirement, the DFSA has occasionally used this provision to require a nonlife insurance company to appoint an actuary. *(FBA s108)* The FBA also requires that the BoD of life companies appoint a responsible actuary. Only the BoD may appoint and dismiss the responsible actuary, who may not also be a member of the board of management or of the BoD. If the responsible actuary resigns or is dismissed, the BoD and the actuary have to account to the DFSA for the reasons for the termination within one month. The responsible actuary has to ensure that the company complies with its technical basis as set out in the FBA (basis for calculating provisions, pricing new business etc) and is required to notify the DFSA of any issues arising. The FBA provides for the actuary to be entitled to request from the board of management any information necessary for the execution of duties and for the DFSA to request from the actuary the information necessary to assess the financial position of the company. The responsible actuary shall submit a report to the Danish FSA annually. *(FBA s108)* The DFA's Executive Order on Responsible Actuary, no. 1089 of 29 November 2011 sets out more detailed requirements, including: • Qualifications: the responsible actuary must have completed prescribed educational programmes, for example a university degree in actuarial mathematics from a Danish university or a similar degree from another country with courses equivalent to relevant course in Denmark. *(EO 1089 s3) (see also ICP 5)* • Annual report: the responsible actuary has to send the report to the DFSA not later than one month after the adoption of the company's annual report and the report must conform to a specific format. A separate report, essentially a summary of the conclusions of the actuary's report to the DFSA must be sent to the board of directors. (See also ICP 14) *(EO 1089 s6-7)* *Internal audit* Executive Order no 1024 of 21 August 2013 on Auditing Financial Undertakings requires that all insurance companies establish an internal audit function, if the insurer or group has more than 125 employees. If an internal audit function is not established, the BoD is required regularly to discuss the need to establish an internal audit function, taking into consideration the complexity of the company. The internal audit charter shall be approved by the BoD. *(EO 1024, s 17)* However, the role of internal audit in Danish companies may in some companies be

	more focused on audit of the financial statements than audit of controls etc. Where determined by the BoD, the chief internal auditor has a responsibility to state an opinion on the financial statements, working in conjunction with the external auditor under an audit agreement that must assign to the internal auditor part of the audit work on material and high risk areas. In practice, it appears that few companies now use the internal audit function to focus only or mainly on financial statements audit. *(EO 1024, s 20, 24, 29)* *Outsourcing key functions* Insurance companies may outsource functions responsible for risk management and control. Such outsourcing is covered by the DFSA's Executive Order on outsourcing significant areas of activity (number 1304 of 25 November 2010). The EO provides that: • outsourcing of "important areas of activity" to be decided by the BoD; *(EO 1304 s2 (2))* • the responsibilities of the BoD for carrying out the activities may not be outsourced; *(EO 1304 s2 (2))* The outsourcing contract to include requirements that the DFSA may receive information about the outsourced activity. *(EO 1304 s5)*
Assessment	Partly Observed
Comments	The requirements on insurance companies include general requirements for effective risk management and internal controls. The responsibilities of the BoD in this regard are especially clear and comprehensive. The DFSA's supervisory work includes evaluation of the effectiveness of the risk management and control framework and it has taken action to require improved effectiveness of risk management or controls, especially at larger companies. However, there are no requirements for functions responsible for risk and compliance. Internal audit functions are not required of all companies and, where mandatory, are not required to be engaged in internal control, if the BoD decides that the function should be involved in the audit of financial statements. The requirements on life companies' boards of directors to appoint a responsible actuary ensure the provision of actuarial advice independent of general management, but do not balance actuarial expertise with independent risk management, for example through a Chief Risk Officer (CRO). Requirements on control functions, the role of such functions and the attributes of individuals holding key roles (see ICP 5) will, however, be introduced as the authorities move to implement aspects of the EU Solvency II Directive in 2014–15.

	It is recommended that the DFSA: (i) expedite the introduction of requirements for control functions at all insurers; (ii) clarify in regulations that internal audit functions must carry out a minimum of work auditing the internal controls; and (iii) undertake cross-firm/thematic work at an early stage to benchmark major companies against the new requirements and give feedback on practices across the sector.
ICP 9	**Supervisory Review and Reporting** The supervisor takes a risk-based approach to supervision that uses both offsite monitoring and onsite inspections to examine the business of each insurer, evaluate its condition, risk profile and conduct, the quality and effectiveness of its corporate governance and its compliance with relevant legislation and supervisory requirements. The supervisor obtains the necessary information to conduct effective supervision of insurers and evaluate the insurance market.
Description	The legal basis of the regulation and procedures that defines DFSA's authority and responsibility for supervisory review and reporting include: a) *Financial Business Act (FBA);* b) EO 1024 on *Auditing Financial Undertakings and Financial Groups*—August 2013; c) EO 1575 on *Management and Control of Insurance Companies and Multi-Employer Occupational Pension Funds*—December 2010; d) EO 112 on *Financial Reports for Insurance Companies and Multi-Employer Occupational Pension Funds*—February 2013; e) EO 1343 on *Solvency and Operating Plans for Insurance Companies*—November 2013; f) EO 307 on *Duty of Undertaking to Publish DFSA's Assessment*—March 2013; g) EO 922 on *Registration of Assets*—December 2009; h) Procedures for planning, preparing, conducting and finishing onsite inspections; i) Procedure for the Quarterly Solvency Surveillance. DFSA organizes its routine supervision activities to promote financial stability and confidence in financial markets. *(FBA 344(3))* DFSA's supervisory work is focused on assessing the viability of the business models of insurers, and identifying and reacting where financial undertakings are at risk of financial difficulties. Before the crisis, DFSA's supervision was based on whether the insurer lived up to the legislative requirements. This compliance approach is being developed into a more forward-looking and risk-based approach involving the exercise of supervisory judgment. The legislation allows the organization of supervision activities to take

	materiality into consideration so that the supervision effort is proportionate to the potential risks. *(FBA 344(3))* DFSA has authority and power to perform offsite monitoring and onsite inspections of insurers and to require insurers to submit information necessary for supervision. *(FBA 346, 347)* DFSA also has the power to perform inspections at outsourcing companies. *(FBA 347 (5) EO 1304)* With approximately 39 supervisors in the nonlife, life and pension departments, DFSA prioritises its work. Supervisory staff are responsible for both policy work in their area and actuarial analysis. DFSA focuses its resources on companies with risks that pose the greatest risk to financial stability. To do so, it assesses whether insurers are high or low risk/impact and aims to spend the greater part of its resources on high risk/impact insurers for both offsite monitoring and onsite inspections. The quarterly analysis of data and information from companies (submitted according to Procedure for the Quarterly Solvency Surveillance) combined with the annual reports, audit and actuarial reports; help DFSA detect changes in the risk profile of the insurers. Business model changes are also reviewed, including information received through dialogue with insurers and through requests for planned changes in insurance classes. DFSA's analysis focuses on solvency issues. Outliers have to be explained either through analysis or through dialogue with the relevant companies. Monitoring analysis also includes benchmarking of companies against relevant peer groups. There is broad range of reports and information that are submitted to the DFSA. Examples of submitted data include income statements, the balance sheet (quarterly and annually), data for both solvency capital and individual solvency need (every quarter) and documentation that insurers have sufficient earmarked assets (Registration of Assets) to compensate policyholders in case of bankruptcy. DFSA requires the data to be corrected without delay if validation tests reveal that submitted data is wrong. The accounting standards used for financial reports for insurance companies is detailed in the executive order and includes insurance company's review of the principal activities of the insurer and discussion on special risks which could influence the business. (*EO 112 s128)*. DFSA has the power to require additional information as needed. *(FBA 347)*. The external auditors are required to sign the annual financial statements. *(FBA s195)* The external (and internal audit if it exists) must further sign a detailed audit report as required in the EO 1024. DFSA requires off-balance sheet exposures to be described in the notes to the financial report, unless it is very unlikely that they will cause any effect on the insurer. *(EO 112 s99, s103 (3))* DFSA also requires reporting of new outsourcing contracts in less than 8 days after they have been signed. *(EO 1304)*

	Any changes in corporate governance matters for the BoD and the BoM, including the suitability status, are required to be reported to DFSA. *(FBA s64)* DFSA attaches particular importance to certain reports, including those on the assets subject to the registration requirement and the quarterly reporting of the individual solvency (see ICP 17). *Supervisory Reporting and Offsite Monitoring* Offsite monitoring is based on analysis of reports with particular emphasis on the traffic light system for life and nonlife companies. In addition, the nonlife insurers are also subject to the Supervisory Diamond consisting of eleven key ratios. <u>Traffic Light System:</u> Insurers are required to have full market consistent assessment of assets and liabilities and be fully funded. As an early warning indicator, traffic lights are reported quarterly. For life insurers, DFSA also has weekly market surveillance by traffic light stress tests. The exposures and risks reported in the traffic light system are also used for daily surveillance in periods of distressed markets. The Red Light scenario is a decrease of 12 percent in the price of stocks, a decrease of 8 percent in the price of real estate and a change of the interest rate level of 0.7 percentage points. If an insurer cannot meet the Red Light scenario, it is obligated to inform the DFSA. In such cases, DFSA normally requires monthly reporting and the insurer is not allowed to actively increase the investment risk. The statement of the Red risk scenario (medium negative market developments) reflects the supervisory consequences for the company's basic own funds and solvency requirements. In essence it takes into account the supervisory consequence for the insurance companies' collective bonus potential and bonus potential on paid-up policy benefits for changes in: • Interest-rate risk on interest-bearing assets • Interest-rate risk on life-assurance provisions • Share-price risk • Currency risk • Property risk • Credit and counterparty risk • Risk in subsidiary companies In the Red risk scenario, the effect should be indicated for both an interest-rate increase and an interest-rate decrease. DFSA supervisors keep a close eye on the insurance companies through the Traffic Lights

system. In practice, if the Traffic Light is triggered, the insurer is contacted immediately. If the insurer has not already solved the problem, they are asked to increase the reporting frequency from quarterly to monthly. If the problem persists, the frequency increases further and they are asked to come for a meeting to explain the issues and how they plan to resolve them. The insurer is also asked to work out a restoration plan and DFSA expects them to be back on track within 6-12 months. Otherwise, DFSA has the power to withdraw the license authorization. DFSA has not had to resort to withdrawal of authorization in the past 10 years.

For nonlife insurance companies, DFSA has also developed a "Supervisory Diamond" consisting of 11 different key ratios. These 11 key ratios are monitored quarterly:

- Solvency;
- Individual Solvency Assessment divided by gross written premium;
- Combined Ratio – gross;
- Combined Ratio – net;
- Growth in gross written premiums;
- Growth in gross earned premiums;
- Development in result of reinsurance;
- Receivables;
- Development in technical provisions (premium);
- Development in claims provisions; and
- Composition of highly lucrative assets.

Onsite Inspections

DFSA has internal procedures for planning, preparing, conducting and finalizing onsite inspections. The frequency of onsite inspections depends on four factors:

<u>Size</u>: Insurers are grouped by size which is determined according to the extent of the solvency need. DFSA can adjust the solvency need if it deems not to be fair.

Size of classification according to solvency needs	*Life assurance and pension funds*	*Nonlife insurance*
Small	< DKK 1 billion.	< DKK 0.1 billion.
Medium-sized	DKK 1 bn to < DKK 5 billion.	DKK 0.1 bn to < DKK 5 billion.
Large insurers	DKK 5 bn to < DKK 20 billion.	DKK 5 bn to < DKK 20 billion.
Very large insurers	DKK 20 billion and over.	DKK 20 billion and over
Source: DFSA		

	• <u>Business Model Analysis:</u>. This includes evaluation of the insurer's knowledge of business and risks and how it plans to ensure sufficiency of resources to cover its commitments and is a key driver of the rating. Supervisory judgement is exercised based on reports and data and also conclusions drawn in connection with thematic reviews, media reports, complaints or information from policyholders. • <u>Rating:</u> determined as a technical rating, it is based on the company's basic financial strength own funds in relation to the largest of the internal capital assessment and an adjusted Traffic Light. The rating can be adjusted (up or down) based on other information regarding the insurer. The rating score is *not* communicated to the insurers. DFSA's onsite inspection includes inspecting the insurer's business model, underwriting policy, governance structure, financial strength, and outsourcing contracts. For market conduct matters, the onsite inspections do not cover treatment of policyholders directly. Some matters are investigated through thematic reviews (e.g. handling client money) by the Consumer Affairs and Financial Intermediaries Division within the DFSA. Currently, the legislation does not provide direct onsite inspections of insurance broker firms. <u>Life and Pensions</u>: The risk-based approach determines the frequency of regular onsite inspections and takes into account two aspects: Size; and Rating. The technical rating, in the interval of three to nine, with higher rating meaning better solvency and management. The supervisory cycle for life insurers ranges from 2 years (for very large/large and medium large companies with a low technical rating) to 6 year (for small companies with a higher rating). The frequency of regular onsite inspections for very large/large to medium large companies is at least every 4 years. The frequency is calculated every year to determine the following year's supervisory program. For insurance companies with a low technical rating, DFSA has an additional supervisory annual activity. Supervisory judgment allows for inspection even if insurers are not due for inspection for another three years. The inspection can be in all areas, or a partial inspection. In general: • Smaller insurers with a high rating are subject to onsite inspections every six years; • Large insurers with a low rating are inspected onsite every two years; • Insurers with poorest rating are placed under intensified supervision. As such, at least one supervisory activity is carried out on either a specific offsite inspection or an onsite inspection every year. The focus is on resolving the concrete problem at the insurer which could entail a meeting with the director or additional reporting.

	Nonlife: DFSA's Rating analysis is performed once every 6 months and is based upon the quarterly and yearly reporting made by the nonlife insurers. The size of the insurer (measured on gross written premiums) is also a factor when deciding the inspection frequency. The result of the analysis is based on the Traffic Lights system among others (Supervisory Diamond) and is a value from 1 to 9. If an insurer gets a: • Low score (1 to 3 in the Rating analysis), it is placed under intensified supervision. This means that in the following year it will also be included on the onsite inspection list. • Medium score (4 to 5 in the Rating-analysis), it will be put on an observation list. This means that if an insurer was planned for inspection every four years, it will be inspected every other year instead. • High score (6 to 9), it will be put on the regular inspection list. The regular inspection list indicates if an insurer should be inspected every 4th, 5th or 6th year. During an onsite inspection, DFSA has several meetings with the insurer where they discuss significant risks and the boards' involvement and understanding of the business model. Since 2010, DFSA has had separate meetings with the Chair of the BoD regarding the business of the insurer, the strategy, the main risks, the work within the board and the cooperation with the management. Such interviews are chaired by the Director of the relevant division of DFSA and always held at DFSA's premises. DFSA also has separate meetings with the management and other senior managers, before finally communicating the findings to the board. If the board has an accounting committee, the Chair of this committee is also expected to participate in the meeting. These meetings give DFSA insights on the involvement and knowledge of the Chair and the BOD as well as management. In the supervision of the board and the management, DFSA covers various areas with no major differences between groups and solo entities. The areas include, quality of the board and management, conflict of interests, intra-group transactions, the appropriateness of the distribution of dividends, board approved policies, assessment of the delegation of powers and strategic decision making, effectiveness of oversight, adequacy of information and reporting to the board. *Conduct of Business Supervision* Given its broad mandate in supervising brokers and agents, DFSA has basic monitoring of compliance with Conduct of Business (CoB) requirements based on offsite reviews. There is minimal regulatory reporting by intermediaries, including on fraud matters, at this time. This could hinder the formulation of risk-based supervision as onsite visits are triggered by mostly by quantitative elements. (see ICP 19) The Consumer Affairs & Financial Intermediaries Division has undertaken some onsite

	thematic reviews (the most recent review included protection of client money) and some monitoring based on complaint trends, including media reports. As part of the *Strategy 2015*, DFSA will be reviewing the reporting requirements and this aspect will be strengthened in the future. *Supervisory Feedback and Follow-up* After onsite inspections, a meeting with the insurer is held where the conclusions from the inspection are presented with any corrective action plans. The insurer receives a written report with the actions to be taken. In case of critical findings, DFSA asks the Council to pass judgment over the findings. Since 2011, DFSAs supervisory reactions are also made public. In connection with onsite inspections, the insurance companies are required by law to publish a shortened version of the confidential report regarding the DFSA's findings on their website.*(EO 307)*
Assessment	Largely Observed
Comments	The DFSA takes a risk based approach to supervision and pays close attention to the sustainability of the business model for the specific insurer in accordance with the requirements of the legislation. DFSA uses both offsite monitoring and onsite inspections to evaluate the risk profile of the insurer based on extensive internal guidelines. The DFSA uses quarterly and annual filings, actuarial and auditors' reports, annual reports, and other communication from media or other supervisors to develop its supervisory plan. DFSA uses a system of specific stress and scenarios (the Traffic Light tests and the Supervisory Diamond (for nonlife)) to rank the insurers in terms of riskiness and plan its onsite inspections. The gap between onsite inspections for many insurers can be long. For some large life insurers, the onsite inspections are normally planned to be carried out within a four-year period. (ICP 9.7) For smaller companies, the period was six years. With the advent of Solvency II, for large life insurers, the onsite inspections are being brought forward and most insurers will be inspected every two years. As part of solvency and ORSA capital planning, the DFSA reviews in a forward-looking manner capital requirements. Although quantitative elements are well-ensconced in the supervisory work with the Traffic Lights and Supervisory Diamond, the majority of the qualitative risk review, including BoD and BoM review, is conducted mainly during onsite inspections. DFSA could consider having a risk-based supervisory framework to better integrate the quantitative and qualitative aspects of the risk assessment in its ongoing supervisory review and reporting methodology. (ICP 9)

	Revisions to FBA and EO 1343 have introduced the concept of an 'insurance holding company' which gives DFSA direct power to inspect upstream insurance holding companies. (ICP 9.1) Although offsite monitoring of solvency continues, DFSA has not conducted a full comprehensive onsite on holding companies. The review of group risks, including intra-group transactions, or at the holding company level will provide better insights to risk management of the individual insurers as well. In addition, DFSA will benefit from having additional conduct of business monitoring requirements to fulfill its broad mandate of supervising market participants including intermediaries. Currently, the requirements are basic and have a potential to increase fraud related risks that could affects both insurers and policyholders negatively. (ICP 9/9.5) This matter is covered under ICP 19 and ICP 21. It is recommended that: i. The authorities review the strategy on supervisory cycles for insurers, considering the gap between onsite inspections for many insurers can be long. ii. DFSA consider having a risk-based supervisory framework to better integrate the quantitative and qualitative aspects of the risk assessment in its ongoing supervisory review and reporting methodology. iii. Full onsite inspections of large insurers should include conduct of business monitoring requirements to fulfill its broad mandate of supervising market conduct matters. iv. Equip DFSA with adequate supervisory resources to shorten the supervisory cycle and to provide better oversight of risks in the system.
ICP 10	**Preventive and Corrective Measures** The supervisor takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.
Description	The legislative powers allow DFSA to take timely preventive and corrective measures that are suitable and necessary to achieve the objectives of insurance supervision. *(FBA s349, s350)* The DFSA has the power to order the management of an insurer to prepare an account of the financial circumstances and future prospects of the company. The BoD and management, the responsible actuary, the external auditor and the chief internal auditor of such an insurer are required to confirm that they have been made aware of the contents of the order issued by DFSA by signing the order. (FBA s349(1)) The DFSA has the power to order that an insurer take necessary measures within a time limit particularly if the financial position of the insurer has deteriorated to such a degree that the interests of the insured parties are at risk, or if there is a significant risk that, because of internal or external conditions, the financial position of the insurer will

	develop so that the insurer loses its licence. *(FBA s350 (1); s248 to252)* If the measures ordered have not been taken within the time limit specified, DFSA has the power to withdraw the insurer's licence. *(FBA s350(2))* However, DFSA has not had the need to do so in the last 10 years. In practice, with the help of preventive and corrective actions through the monitoring process, DFSA successfully restructured an insurance group through the change of board members and capital injections. The DFSA also has the powers to take preventive and corrective actions against a group of companies where the parent is a financial holding company, if there is a significant risk that the financial position of the group will not comply with the capital requirements for the group.*(FBA s350(4))*. DFSA has taken action against one group and also ordered changes in management and secured an additional capital commitment. The DFSA prohibits unauthorized insurance activities and has the power to take action against individuals or entities, both foreign and domestic that conduct insurance activities without the necessary licence. *(FBA s11(1))* In the past, FSA has taken actions against some entities which were taking client money as brokers without placing the actual insurance on time. *Penalties* Any person violating a legislative requirement is liable for fines or imprisonment of no more than four months unless more severe punishment is incurred under other legislation. *(FBA s.373(1)* Most preventive and corrective measures in market conduct related matters were detected by consumer complaints or media reports. *Supervisory intervention ladder* The DFSA follows up with insurance companies on issues, shortcomings and supervisory concerns detected during its ongoing supervision. If an insurance company breaches a requirement or there are supervisory concerns about its internal controls or solvency, DFSA will require rectification within a specified time limit. For life companies, DFSA uses its Traffic Light system to institute supervisory intervention. (ICP 9) For <u>Nonlife</u> insurers, DFSA also has a supervisory ladder of intervention based on the supervisory Diamond and early warning solvency calculations. If Solvency is less that 115 percent, DFSA intervenes using the powers described above. If solvency is less than 100 percent, DFSA intervenes in the following manner *(FBA s248):* DFSA requires the company to draw up a plan for restoration of its financial position and present the plan to the DFSA so that DFSA can assess whether the plan contains the necessary measures. *(FBA s127)* DFSA has the power to lay down more detailed provisions on the information to be included in the restoration plan and on the period for which the plan shall be prepared.

	DFSA requires the plan to aim at restoring the financial position of the insurer over a shorter period determined by DFSA, when the capital base of an insurance company is less than one-third of the solvency requirement, or the capital base of an insurance company is less than the minimum capital requirement. In case of a financial deterioration of the company's financial position, DFSA, in consultation with the Council, makes a decision regarding the necessary measures to be taken. In such cases, DFSA has required a new operating plan to be prepared for the next three financial years. Life insurance: For life insurers, the above requirements also apply. However, no specific solvency level intervention has been set for life insurers that are above 100 percent. Section 248 applies if the solvency level is less than 100 percent. DFSA can also take preventive measures such as declining license applications, addition of another line of business, new product, portfolio transfers, acquisition of significant interests in another insurer and mergers. DFSA typically uses moral suasion and enters into a dialogue before resorting to formal intervention. DFSA is empowered to propose a range of options that could be applied in a manner that is proportionate to the potential risks or damage. The MoBG has also recently established the SRC with the objective of monitoring systemic risks and issuing observations, warnings and recommendations. (ICP 24)
Assessment	Observed
Comments	The DFSA has a broad range of preventive and corrective measures. In practice, DFSA relies principally on dialogue and persuasion to obtain corrective action. The approach is supported by its supervisory processes, including the traffic lights system and supervisory Diamond, which support the early detection of risks. The DFSA has been nevertheless prepared to intervene early in a number of cases with positive results. Nonlife supervisors in addition set an intervention threshold of 115 percent of the minimum capital requirement. Although it is considered that the traffic lights system provides the basis for early intervention at appropriate levels, the DFSA is also contemplating whether a specific supervisory intervention point would be appropriate for life companies. Given DFSA's prudential and market conduct mandate, the authority could be more proactive in its preventive intervention mechanisms for consumer protection matters especially for brokers, bancassurance products, and re-selection of guaranteed products. This is covered under ICP 19. It is recommended that: i. Although adequate measures are in place, a supervisory intervention ladder

	would be appropriate for life companies as well. ii. Given DFSA's prudential and market conduct mandate, it would be prudent to broaden the early intervention mechanisms to also include preventative measures for fraud risks and consumer protection issues.
ICP 11	**Enforcement** The supervisor enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.
Description	The DFSA's enforcement powers are set out in the FBA. Key sanctions in addition to removal of an insurer's license under the Act are: • The DFSA can and does restrict the business of an insurance company where it is concerned about financial condition. *(FBA s349-350)* • The DFSA can require an increase in capital requirements, although it has not used this power as yet for an insurance company. *(FBA s127(9))* • In the case of life insurers, DFSA may place a portfolio of insurance contracts under administration pending transfer to another insurance company, where this can be arranged. *(FBA s249 (2))* • The DFSA can trigger liquidation of a nonlife company and seek the transfer of portfolio of insurance contracts. *(FBA s250)* • DFSA may order that matters be rectified which are contrary to the FBA's section 43 requirements that insurers act in accordance with honest business principles and good practice *(FBA s348(2))* • DFSA may withdraw the insurer's licence if it wilfully or repeatedly violates the FBA, or if it fails to meet the licensing conditions. (FBA s224) The DFSA does not have powers to impose administrative penalties, i.e., fines, or to require companies to pay redress. It can refer breaches of laws and regulations which it identifies in the course of its supervision to investigative and prosecuting authorities and to the Consumer Ombudsman (see below). In one case involving a nonlife insurer, this process has led to convictions and penalties on both the company (which had failed) and members of the senior management. However, DFSA cannot itself impose penalties on individuals or bar individuals acting in responsible positions from holding such roles in future, although it may of course find those in relevant positions to be not fit and proper to hold their current role (ICP 5). In addition, and in relation to issues of business conduct, the Consumer Ombudsman (see ICP 19) may bring a case against an insurance company to the Court (something which the DFSA cannot do) and seek either criminal sanctions or civil penalties, including redress for affected consumers. The Consumer Ombudsman has had full powers in relation to the financial sector only since 2009 and most cases brought have been against banks. Cases are generally settled before going to the Court. The Consumer Ombudsman is apprised of issues which may lead to its bringing cases before the Court

	from various sources including the Insurance Complaints Board and the DFSA (which has authority in the FBA to share information with the Ombudsman) and can also hear complaints from consumers directly. *(FBA s348(1))* Typically, enforcement action taken by the DFSA relates to concerns over the financial position of an insurer (see ICP 10). In the case of life insurance, the DFSA responds to companies which fail to satisfy the traffic light test by intervening to require action to bring the risk profile back within a level where the traffic light test will be met. This action may include, depending on the scale of the breach and the supervisory view of the company, restrictions on business while the problem is being corrected. The DFSA has no explicit power of conservatorship over an insurer that is failing to meet regulatory requirements. However, in relation to life insurers, the FBA does give the DFSA powers to place a portfolio of insurance contracts under administration in a range of circumstances. In particular, it can trigger administration after (i) it has satisfied itself that a company is not complying with the FBA; or that funds allocated for coverage of insurance provisions are inadequate; or that the company's financial position has deteriorated to such a degree that the interests of the insured parties are at risk (amongst other conditions); and (ii) any measures required by the DFSA have not been complied with. While administration of a portfolio of insurance contracts does not give control of the company to the DFSA, it does have the effect of safeguarding policyholders' interests (see also ICP 12). *(FBA s249)* In the case of a nonlife company, where the DFSA has required a company to take necessary measures and these measures have not been complied with, the DFSA may order the company's liquidation; and may, in consultation with the liquidators, seek the transfer of the portfolio of insurance contracts fully or partly to another insurer. *(FBA s250)* Although not an enforcement power per se, the DFSA's power to publish the summary of inspection reports and "supervisory reactions" (actions taken in regard to particular companies such as imposing additional capital requirements) may have the effect of a public reprimand, depending on the nature and severity of the findings published and the actions required in response. Companies are given due opportunities to comment on the statements before they are published. The DFSA has significant powers of investigation under the FBA. It has rights to require information to be provided to it and rights of access without court order. Most recently, it has been given the power to order an insurer (or other regulated business) to procure and pay the costs of an impartial investigation of one or more aspects of the company, as the DFSA may choose, provided that the investigation covers an important issue and is not part of routine supervision. It has not commissioned such investigations on

	insurers as yet. *(FBA s347 and s 347a)* The DFSA has effective means to address management and governance problems, including power to change BoD and BoM members and significant owners and external auditors. Since the financial crisis, DFSA has issued a number of orders to remove members of the BoD and BoM from their positions when the person was considered unsuitable (see ICP 5). Consistency in decision-taking with regard to the imposition of sanctions and other enforcement measures is delivered in part through the mechanism of the Financial Council (See ICP 2) and otherwise through internal decision-making processes at the DFSA, which include peer review. Decisions regarding supervisory matters of principle as well as supervisory matters with significant consequences for individual companies are referred to the Council, which has used its powers to increase capital, raise required technical provisions, change boards, commission special investigations etc. *(FBA s345(2))* Decisions made by the DFSA may be appealed to the Company Appeals Board no later than four weeks after the company has been notified of the decision. A fee is payable for making an appeal. *(FBA s372(1))* In practice, the enforcement process has not resulted in any delays.
Assessment	Observed
Comments	The DFSA and Consumer Ombudsman have a range of powers of enforcement in relation to insurance companies, covering both financial matters and conduct of business requirements. On the latter, the powers of the DFSA, while complementary to those of Ombudsman, are relatively limited and in particular administrative penalties are not available to the DFSA, putting it in the position of supervisor more than enforcement body for important regulatory requirements in relation to market conduct. Given DFSA's plans for increased focus on market conduct, and in line with recommendations under ICP 1 for making more explicit the DFSA's objectives in relation to policyholder protection, the DFSA should be equipped with adequate enforcement powers in relation to the conduct of business by insurers and intermediaries and these should include the power to set administrative penalties. DFSA's powers in relation to breaches of minimum solvency and other prudential requirements are more extensive and while untested in some areas (particularly in relation to administration of portfolios of life insurance contracts), have been used as part of the DFSA's early intervention in case of emerging risk of financial weakness.

ICP 12	Winding-up and Exit from the Market
	The legislation defines a range of options for the exit of insurance legal entities from the market. It defines insolvency and establishes the criteria and procedure for dealing with the insolvency of insurance legal entities. In the event of winding-up proceedings of insurance legal entities, the legal framework gives priority to the protection of policyholders and aims at minimizing disruption to provision of benefits to policyholders.
Description	The framework for winding-up and exit from the market is set out in the Financial Business Act. There are provisions for cessation of business (Part 15), which provides the framework for licence withdrawals; and crisis management (Part 16), which focuses on interventions by the DFSA in case of financial stress or risks to policyholders. In relation to insurance companies' register of assets (see below), there are relevant provisions in: • Executive Order on Registration of Assets in Direct-Business Insurance Companies, Multi-employer occupational pension funds, Company Pension Funds and Branches in Denmark of Foreign Direct-Business Insurance Companies (number 922 of 28 September 2009); and • Executive Order on Localisation of Assets of Company Pension Funds and Insurance Companies and Matching Currencies in Relation to Technical Insurance Provisions (number 1122 of September 17, 2007). *Cessation* Under Part 15, the DFSA may withdraw a licence if the company so requests. *(FBA s223)* It may withdraw the licence if the insurer wilfully or repeatedly violates the FBA, if it fails to meet the licensing conditions or if it does not carry out financial activities for a period of more than six months. *(FBA s224)* It may withdraw the license where an insurer has not carried out the measures required in a restoration plan within the time limits set by the FSA. *(FBA s248(1)-(2))* It may also withdraw a license where the company has not complied with rectification measures required under FBA section 349. The FBA further provides that when Danish FSA withdraws the licence of an insurance company, it will decide whether the insurance company shall attempt to transfer its portfolio of insurance contracts to one or more insurance companies carrying out insurance activities in Denmark, or whether it should attempt to terminate its portfolio of insurance contracts in another way. For life insurance, the FSA may decide that the portfolio of insurance contracts is to be taken into an administration process. *(FBA s226(3))*

	The FSA may, in connection with withdrawal of the licence of an insurance company, prohibit or restrict free disposal of the insurance company's assets. *(FBA s226(4))* *Crisis management/intervention* The procedures for administration and liquidation of insurance companies are set out in the FBA, sections 248-258. Central to the process, and to the safeguarding of the assets of a failing insurance company for the benefit of the policyholders, are the FBA requirements that all insurers at all times hold sufficient assets to cover their insurance obligations; and that they keep at their head office a special register of the assets used to cover the technical provisions as calculated and invested in accordance with the regulations. Assets for these purposes include financial contracts that reduce the risk that assets do not cover insurance obligations and any charged assets must be excluded. The special register is provided for (although not required by) EU legislation, both the directive on the winding-up of insurance companies and Solvency II. *(FBA s 159, 160 and 167)* In addition, the assets covering the technical provisions (except those related to risks outside the EEA) must be situated in a country within the EEA. *(EO 1122 s8)*. External auditors are required to make unannounced audits to ensure the existence of the registered assets and that they have a value that, as a minimum, corresponds to the technical provisions. *(EO 922 s9)* In case of intervention, the procedures for life and nonlife companies differ. In the case of a <u>life</u> insurer, the process is that: • where the DFSA has satisfied itself that a company is not complying with the provisions of the FBA; or that funds allocated for coverage of insurance provisions are inadequate; or that the company's financial position has deteriorated to such a degree that the interests of the insured parties are at risk, the DFSA shall order that the company take the steps necessary within a time limit (no minimum time limit is prescribed, which would enable the DFA to move immediately to the next stage, if necessary); • where the measures required by the DFSA have not been complied with within the time limit, the portfolio of insurance contracts of the company may be placed under administration and the DFSA appoints the administrator. The register of assets is then transferred immediately to the estate under administration. *(FBA s254)* The DFSA may take the registered assets into its own custody to increase their security. Contracts that are to cover insurance provisions must be pledged as collateral in favour of the DFSA. *(FBA s167(6))* If the company is declared bankrupt at a later stage, as is likely to be the case, this has

	no impact on the estate under administration, i.e., the administration process continues. In addition, the FSA may submit a petition for bankruptcy when a financial undertaking becomes insolvent. *(FBA s224)* In the case of a <u>nonlife</u> company, the process is: • if the company has not allocated sufficient funds to cover its insurance liabilities; or the DFSA judges the way in which the company's funds are placed is not adequate; or the company does not comply with the FBA, the DFSA may require a company to take necessary measures within a time limit; • where these measures have not been complied with within the time limit, the DFSA may order the company's liquidation; and • DFSA may, in consultation with the liquidators, seek the transfer of the portfolio of insurance contracts fully or partly to another insurer. *(FBA s250)* The legislation does not provide explicitly for the determination of the point at which it is no longer permissible for an insurer to continue its business (See ICP 17).
Assessment	Largely Observed
Comments	The legislation provides for exit from the market and insolvency in ways which safeguard the interests of policyholders. The requirement for a special register of assets, which are to be equal to technical provisions and to be used exclusively for the benefit of insured parties, is central to ensuring that assets will be available for policyholders whatever the financial situation of the company, providing in effect for policyholder preference. Procedures for life and nonlife companies differ, with an administration process supporting early intervention by the regulator in the case of life insurance. Register requirements apply to both life and nonlife, however, as does the objective of transferring contracts to another insurer, in order to secure continuity of benefits. Nonlife policyholders benefit from coverage by a guarantee scheme. Procedures remain untested for life companies but have been used in the case of nonlife company failures to the benefit of policyholders. A recommendation on establishing solvency control levels is included under ICP 17.
ICP 13	**Reinsurance and Other Forms of Risk Transfer** The supervisor sets standards for the use of reinsurance and other forms of risk transfer, ensuring that insurers adequately control and transparently report their risk transfer programmes. The supervisor takes into account the nature of reinsurance business when supervising reinsurers based in its jurisdiction.
Description	DFSA's approach to reinsurance is based on intensive oversight of the reinsurance programs of cedant companies, informed (in the case of nonlife insurers) by extensive data collection. (There are no companies licensed in Denmark to offer reinsurance).

	The approach, in the case of nonlife insurance, involves: • analysis of reports that have been required from all cedant insurers annually since 1997, using an analytical tool (known as REMOS) to evaluate companies' programs, the proportion of business ceded, the net risks retained, the extent of credit and counterparty risk mitigation etc; • evaluation of renewal material and reinsurance contracts, which are collected from companies and used to support assessment of reinsurance strategies against underlying insurance portfolios; and • analysis of aggregate exposure to single reinsurers so as to identify risk concentrations, drawing on REMOS data and annual reporting by companies on receivables from reinsurers and claims payment records. The approach is aimed at identifying outlying practices and changes in approach. Issues are then raised with firms, taking into account the wider risk assessment of the company and risk-based supervisory approach. There is a particular focus on coverage for catastrophe risk, with windstorm the most severe risk. Onsite supervisory work includes evaluation of reinsurance strategies with the BoD and management in the context of the firm's business model and overall capital and risk management approach. Onsite supervisory work includes detailed discussions where, as in the case of most nonlife insurers, reinsurance is material. Requirements in law or regulation relating to reinsurance are limited. In line with the DFSA's emphasis placed on responsibilities of the BoD and board of management, the insurance risk policy which BoDs (of all insurers and pension funds) are required to establish must cover reinsurance cover, including risk mitigation measures in relation to capital relief; determination of retained limits seen in relation to the capital strength of the undertaking; choice of reinsurers, including assessment of credit risk; and the maximum risk that may be placed with individual reinsurers. *(EO 1575, Annex 1)* There are few other detailed requirements on reinsurance. Approval of reinsurance contracts is not required. Significant cases of intragroup reinsurance can be identified by the reporting systems and have been investigated by DFSA in at least one recent case. Cedants are not required to hold collateral from reinsurers for reinsurance to be recognized in the calculation of their required technical provisions. In the case of life insurance, the responsible actuary is required as part of the annual report to the DFSA to describe the company's reinsurance principles and the actuary's assessment of such principles, to state and comment on the profit or loss for the year from reinsurance and to state the expectations for the future, including assessing whether less/more reinsurance should be written to ensure stability. (See ICP 14) Life insurance supervisors do not collect information on reinsurance to the same extent

	and with the same frequency as for nonlife insurance. However, supervisors review companies' use of reinsurance, including for catastrophic risks (extreme mortality events such as an influenza epidemic) as part of their supervision. All reinsurance is provided by companies outside Denmark given that there is no domestic capacity and reinsurance providers do not have to be licensed by the DFSA where providing cover on a cross-border basis. DFSA monitors, as part of its supervisory work, the strength of reinsurers providing significant cover to insurance companies licensed in Denmark, including credit ratings, and apprises itself of the home country supervisory system when evaluating the security of reinsurance. DFSA has approached foreign reinsurance companies directly and their supervisors when requiring information on developments of supervisory interest and maintains contacts with relevant foreign supervisors. Its reporting systems would enable it to identify any instances of significant reinsurance cover being provided by companies from jurisdictions where it has no contact. DFSA has responded to developments in other markets in recent years by ensuring that documentation is signed promptly, to secure contract certainty. Through its REMOS system and collection of individual contracts, it has oversight of practices in relation to contracts. REMOS is also used to monitor the brokers' sourcing of reinsurance cover and DFSA has approached brokers in case of concerns over the quality of cover that brokers source. There are no requirements in relation to liquidity management in reinsurance. DFSA is, however, apprised of the risks of liquidity strain in reinsurance. As part of its supervision, DFSA evaluates whether cedant companies manage their liquidity risk. It monitors cash flow related to reinsurance against investment portfolios as part of its analysis. The prevalence of cash claims and downgrade clauses in reinsurance contracts used in the Danish market mitigate the risks. Risk transfer to the capital markets is permitted in Denmark, but DFSA has no experience of actual arrangements. There is provision in the FBA for the DFSA to license SPVs as a form of savings institution ("sparevirksomheder"), but no licenses have been granted or even sought. *(FBA s334)* The DFSA has no experience of financial (or finite) reinsurance being offered.
Assessment	Observed
Comments	DFSA exercises a particularly close supervision over reinsurance cover of nonlife insurance companies, supported by the high visibility of reinsurance programs which is afforded by extensive reporting and offsite analytical capacity. There are, however,

	limited regulatory requirements on reinsurance. The DFSA could consider setting such requirements, drawing on its supervisory experience. These could start with an explicit requirement that cedants have reinsurance and risk transfer strategies appropriate to the nature, scale and complexity of their business, which are also part of their wider underwriting and risk and capital management strategies. There could be more specific requirements on the management of liquidity risk.
ICP 14	**Valuation** The supervisor establishes requirements for the valuation of assets and liabilities for solvency purposes.
Description	The requirements for valuation of assets and liabilities are set out in: a) Executive Order on Solvency and Operating Plans for Insurance Undertakings (no. 1343 of 27 November 2013); and b) Executive Order on Financial Reports for Insurance Companies and Multi-Employer Occupational Pension Funds (no. 112 of 7 February 2013). These apply to all insurers. The Executive Order on Auditing Financial Undertakings etc. as well as Financial Groups, number 1024 of 21 August 2013, sets out relevant requirements on audit. There are also relevant provisions for life insurers only in the Executive Order on Responsible Actuary, no. 1089 of 29 November 2011; and Executive Order number 368 of 6 April 2010 on the Contribution Principle, which sets out the basis on which, in relation to the allocation of returns on with-profits guaranteed policies, insurers are required to ensure that different groups of policyholders are treated fairly (in practice that bonuses are allocated in proportion to the extent to which different groups of policyholders have contributed to the returns). There are provisions enabling smaller insurers to take simplified approaches to liability valuation. *(EO 1343 Annex 5, paragraphs 19-22 (life), 32-34 (nonlife))* The Danish Society of Actuaries (DSA) issues guidance and discussion papers on aspects of valuation practice, but does not issue technical standards. The provisions for valuation were the same for the financial statements and solvency calculations until 1 January 2014, but variations have been introduced as part of DFSA's reforms designed to achieve equal protection for policyholders. Annex 5 of EO 1343, which draws on the draft Solvency II requirements, now sets out key provisions of the valuation approach for solvency purposes (see also ICP 17). The DFSA expects to revert to a single set of requirements at or around the time of full implementation of Solvency II in 2016.

	The key principle underlying the valuation requirements, for both financial statements and solvency, is the application of market consistent valuation to both assets and liabilities, with some adjustments to reflect valuation uncertainties for life insurance and pension liabilities at the long end of the yield curve.
	
	Assets and liabilities are required to be recognised in the balance sheet when it is probable that future financial benefits will flow to and from the insurer and the value of the asset or liability can be measured reliably. *(EO 112 s41)*
	
	Market-based valuation is required for both assets and liabilities, reflecting policyholder options (including surrenders) in the cash flows. The value of the technical provisions, for both life insurers and nonlife, has to be calculated as:
	• (for all types of policy) the best estimate, i.e. the mean value of the technical provisions calculated:
	  o for life insurance, as the value of guaranteed benefits and bonus provisions, taking into account insurance risks (mortality and disability) as well as costs and making use of a prescribed discount rate; and
	  o for nonlife, the probability-weighted average of future cash flows for insured events which take place after the time of calculation (premium provisions) or which took place before that date (claims provisions); *(EO 1343 Annex 5, paragraphs 3 and 30 & 35, EO 112 s66)*
	• (except in the case of the unit-linked products with no guarantees) the risk premium ("margin over the current estimate" in ICP 14.7), which is to be calculated to ensure that together with the best estimate provision, the value of technical provisions equals the amount which a third party would be expected to require in order to acquire them, assuming a cost of capital for the acquirer of 6 percent. *(EO 1343 Annex 5, paragraphs 11–22)*
	
	The risk premium for nonlife insurance liabilities was not required before 1 January 2014. Establishment of the risk premium must be done by deduction in the calculation of the adequate capital base.
	
	The best estimate and the risk margin are calculated independent of and do not reflect the insurer's own credit standing.
	
	In the valuation of liabilities (life and nonlife), insurers are required to discount liabilities using a prescribed yield curve set out in the Executive Order on Financial Reports. Whereas before 2008, a risk free yield curve was required, various adjustments have been made in response to market circumstances during the financial crisis. In 2008 insurers were permitted to take into account the spread between Danish swap rates and mortgage-backed securities and in June 2012 a new yield curve was introduced allowing the use of rates for the long end of the curve in line with long term projections for growth and inflation rather than prevailing market rates. *(EO 112, Annex 8)*

	The effect has been to align the DFSA's requirements more closely in this respect to the expected approach of Solvency II, under which there will also be a prescribed yield curve. In particular, insurers shall have reference to an ultimate forward rate (UFR), set at 4.2 percent, as an input to calculating the required spot rate curve when valuing liabilities over 20 years, using a Smith-Wilson extrapolation method. *(EO 112, Annex 8, paragraph 3)* The prescribed yield curve for life and pensions was established in June 2012 by agreement between the Ministry of Business and Growth and the Danish Insurance Association representing the industry, but with DFSA technical support. At the instigation of the DFSA, the agreement included provisions for supervisory oversight of the potential redistributive effects (from one generation of policyholders to another) of the use of assumed rather than actual market rates over 20 years. Annual reporting requirements have been introduced to enable the DFSA to assess these risks in practice and require action, if necessary to ensure fair treatment of policyholders (it has not needed to take action to date). Insurers are required to value embedded options, for example, in life insurance in relation to paid-up policies (lapses) and surrenders. Valuation may be carried out on a deterministic basis, i.e. stochastic techniques do not have to be used. *(EO 1343 Annex 5, paragraphs 4, 5 and 31)* For life insurers and pension funds, the DFSA has since 2010 established a longevity benchmark comprising both a current mortality rate and an expected rate of future life expectancy improvement. Insurers are required to use the benchmark, but based on a specified statistical test they may deviate from it subject to a requirement to inform DFSA whether their own assumptions correspond to the benchmark. If they deviate from the benchmark, they must explain how their assumptions deviate, setting out results from the statistical tests that justify the deviation. Assets have to be valued at fair value, defined as current market value or, if there is no active market, an appropriate valuation method encompassing all data available which market participants are assumed to want to take into account when setting prices. There are provisions for using a cost basis plus impairment in certain defined and limited circumstances (including unlisted equity investments). (*EO 112 s42-62)* The DFSA has issued guidance on the valuation of potentially illiquid alternative investments in the context of its recent survey (see ICP 15). In particular, its report (published in February 2014) set out the DFSA's expectation that insurers value such investments taking account of all relevant parameters and that they quantify the liquidity premium explicitly.

	There are a number of mechanisms for ensuring that the valuations, including of the technical provisions, are appropriately undertaken. • For life insurance companies, the responsible actuary is required to report to the DFSA no later than one month after the adoption of the company's annual report. The report must use a prescribed format requiring the actuary to present information and analysis on the business of the insurer, the annual profit, the distribution of the realised investment results between shareholders and policyholders for each group of policyholders under the EO on the Contribution Principle, the financial standing of the company and technical provisions. The actuary must also present information on the assumptions used for the calculation of technical provisions. *(EO 1089 s7 and Annex I)* • The responsible actuary is also required to report a summary of the report to the DFSA to the BoD, also stating whether the actuary's review reveals that, in the actuary's opinion, the company's annual report does not present a true and fair view of the actuarial conditions of the company. (The responsible actuary is not otherwise required to sign off on the adequacy of the technical provisions.) The actuary's report has to be signed by the responsible actuary and presented to and signed by all members of the BoD. *(EO 1089 s6)* • The external audit of insurance companies must cover insurance liabilities; auditors must issue an opinion on whether it is reasonable to believe that, taking into account what can reasonably be foreseen, the insurance provisions made are sufficient to cover all of the company's insurance liabilities on the reporting date, but at the same time are no larger than is necessary. *(EO 1024 s38)* Evaluation of the adequacy of technical provisions, including valuation issues, is addressed in DFSA's offsite supervisory process. The supervisory teams include a small number of qualified actuaries who specialise in actuarial reviews as part of their supervisory duties. They review and report to supervision management on the annual statements, drawing on companies' reports on the technical basis of their business, the report of the responsible actuary for life insurance and other relevant input. They are required to follow up issues and questions with actuarial staff at the insurers and to report on their conclusions. There are internal processes to ensure that such reviews and reporting take place.
Assessment	Observed
Comments	There is a comprehensive framework of valuation standards, with provisions to evaluate compliance by insurance companies and pension funds. Market consistent valuation has been required in Denmark for over a decade and while the valuation requirements for life insurance have since 2008 moved away from using current risk free rates across the yield curve, valuation continues to be carried out on an economic basis and is now closely aligned with the expected EU Solvency II approach. The DFSA's initiative to

	establish a longevity benchmark has led to stronger valuation standards in this area. While there is no peer review requirement for actuarial work, as in some other countries, the role of the responsible actuary in life insurance, with reporting obligations to the BoD and DFSA, provides for a balance between the responsibilities of actuary and board, which also takes into account the importance of ensuring fair treatment of policyholders. There is no similar provision for nonlife insurance, even though companies have somewhat more discretion over valuation of liabilities than in life insurance, where the yield curve is prescribed and DFSA has set its longevity benchmark. However, DFSA can require increased actuarial input, where necessary at an individual firm (and a nonlife actuarial function will be required under Solvency II.) The DFSA could consider introducing a stochastic treatment of embedded options, if not required by Solvency II.
ICP 15	**Investment** The supervisor establishes requirements for solvency purposes on the investment activities of insurers in order to address the risks faced by insurers.
Description	Requirements on the mix and diversification of investments covering technical provisions are set out in the FBA. There is a general requirement that such assets be selected so that, "viewed in relation to the nature of the company's insurance contracts with regard to security, return and liquidity", they are of a suitable type and composition to ensure that obligations to the insured parties are met. There may not be disproportionate dependence on a specific category of assets, a specific investment market, or a specific investment. *(FBA s 159 (2))* There is also a requirement that the funds under management by an insurer shall be invested in an appropriate manner and a manner advantageous to policyholders, such that there is adequate security that the company can meet its obligations at all times. *(FBA s158)* BoDs are required at least annually to set the risk profile on the assets (equity, bonds, currency, credit and counterparty risk, derivatives). Investment expertise at boards has been a focus of recent supervisory work (see ICP 5). *(EO 1575 Annex 2)* A key requirement on investments is a list of 14 classes of permitted assets required to be used to cover technical provisions except for those relating to unit-linked contracts (Class III business under the FBA). (The limitation to investments covering the technical provisions reflects the scope of EU legislative requirements). The requirements apply to individual insurance companies with provision to look through to investment subsidiaries subject to certain conditions.

	The asset categories are: • Zone A government debt (EU and OECD countries); • bonds of international organisations; • mortgage-credit bonds, covered mortgage-credit bonds and covered bonds issued by mortgage-credit institutions, banks or the ship finance institution; • amounts receivable from credit institutions and insurance companies under public supervision in countries within Zone A; • land, residential property, offices and commercial property, as well as other property, the value of which is independent of any specific commercial use; • loans secured by registered, mortgaged property for an amount of up to 80 percent of the most recent property valuation for residential property and up to 60 percent for other property; • loans secured on own life-assurance policies within the repurchase value of these policies; • units in certain investment undertakings; • other bonds and loans admitted to trading on a regulated market in a country in the EU or EEA or corresponding markets in other countries within Zone A; • equity investments admitted to trading on a regulated market in a country in the EU or EEA or corresponding markets in other countries within Zone A; • property not covered above and loans secured by registered, mortgaged property not covered above; • equity investments and other securities admitted to trading on a market in a country outside Zone A, if the market corresponds to a regulated market within the EU; • other loans and securities; and • reinsurance contracts and amounts receivable from reinsurance companies under public supervision in countries within Zone A or reinsurance companies under public supervision, which have achieved a rating by a recognised rating undertaking corresponding to no less than investment grade. *(FBA, s162(1))* There are various limits on the share of asset classes and single counterparties. Higher risk assets, including equities, are subject to a limit of 70 percent of the total (items in the second half of the above table are higher risk for these purposes). There is a limit on exposure to a single counterparty (or counterparties in the same group) of 3 percent of the total. Exposures to banks and equities traded in markets outside Zone A are each limited to 10 percent, and for investments in properties there is a limit of 5 percent of total assets in each property. *(FBA s163, 164)* Assets lent under securities lending are included as assets. Pledged assets are not eligible for inclusion in assets backing technical provisions. *(FBA s160)* Insurers and pension funds are not permitted to have subsidiaries (other than on a temporary basis) doing business outside core insurance business. *(FBA s24–26, 29)*

	There are no requirements in relation to the custodians which may be appointed by the insurer to provide custodial services. (ICP 15.3.7) However, there are requirements for identification and location of the assets backing technical provisions, which are aimed at ensuring that the DFSA can always locate, identify and, if necessary, remove the assets backing technical provisions under administration. *(EO 922, s4 and EO 1122).* Transactions with related parties and intra-group exposures are permitted, subject to limits on the latter, and there are other requirements, including prior approval by DFSA of intra-group exposures other than those to subsidiaries. (See also ICP 23) *(FBA s181-2)* DFSA requires quarterly reporting of actual investments by all insurers (Form PP). Auditors are required to certify these reports twice a year and to carry out spot audits of controls of assets covering technical provisions. In addition, the annual report which auditors are required to provide to the DFSA in connection with the annual audit of financial statements (the long form report) must include a certification of compliance with the rules of investment and a statement that the undertaking has written procedures in all important areas, including investments. *(EO 1024 Annexes 1 and 2)* During onsite inspections, DFSA requires a full list of all assets and assesses investment strategy and diversification policies. In the course of onsite inspections DFSA assesses the adequacy of the investment guidelines given the actual investments held. Offsite supervision is focused on the development of the overall risks of insurers and vulnerability to future stresses, to which the investment portfolio is a key contributor alongside asset and liability management generally. The DFSA has also been increasing its monitoring of derivatives use, including thematic work and, in 2013, ad hoc reporting by life companies of interest rate derivatives. There has been increasing interest from some life insurance companies in investment in high-yielding assets, including alternative investments such as infrastructure and other non-public investments. DFSA requires that BoDs set limits for the exposures towards special types of risks associated with complex or unusual products. *(EO 1575 Annex 2, s5)* DFSA has also carried out a survey of practices in this area, based on a survey, and provided detailed feedback to the sector through a February 2014 publication covering observed practices and recommendations on good practice including liquidity management. The report noted that total alternative investments accounted for 7 percent of total assets of survey participants, with the largest insurers and pension funds accounting for most. No quantitative limits or separate reporting requirements have been established for such investments, but they are captured by the limits and reporting of investments covering technical provisions.

	Other thematic work in recent years has included interest rate risk, spread risk and liquidity swaps (where assets are exchanged with banks).
Assessment	Largely Observed
Comments	Detailed regulations on the investments that insurers and pension funds may hold against technical provisions are supported by obligations on BoDs for prudent management of investment risk, regular reporting to the DFSA, obligations on auditors and DFSA oversight through onsite supervision. The approach is flexible enough to respond to new developments, including increased use of derivatives and alternative forms of investment. In line with EU regulations, there are no requirements on investments not covering technical provisions. The investment requirements are aimed both at constraining investment risk and as the basis for a register of assets to be transferred and managed for the benefit of policyholders in case of administration (for life companies—see ICP 12). Partly for this reason, the requirements apply to individual insurers and pension funds rather than directly, on an aggregate basis, to groups, although intragroup transactions and exposures are subject to separate regulatory requirements. Groupwide reporting of investments would enable DFSA to better monitor and respond to concentrations. Some additional reporting should be considered where risks have been identified from thematic work, such as that on derivatives and alternative investments. It is recommended that: • the DFSA extend reporting requirements to cover group-wide aggregate investments and consider closer supervisory review of the security of custodial services provided in respect of insurers' investment portfolios; and • the DFSA carry out periodic updates to surveys of insurers' and pension funds' investments so as to monitor and respond to developments in risk profiles, for example as companies increase their unit-linked business.
ICP 16	**Enterprise Risk Management for Solvency Purposes** The supervisor establishes enterprise risk management requirements for solvency purposes that require insurers to address all relevant and material risks.
Description	The requirements on Enterprise Risk Management for Solvency Purposes are set out in: a) The Financial Business Act, sections 70 and 71; b) The Executive Order on Solvency and Operating Plans for Insurance Companies (no. 1343 of November 27, 2013); and c) The Executive Order on Management and Control of Insurance Companies and Multi-Employer Occupational Pension Funds (no 1575 of December 15, 2010). The FBA sets out the high level expectations with regard to the responsibilities of the

	BoD and board of management for effective risk management. *(FBA s70)* Additionally, insurers are required to have methods and procedures that ensure that material present and future risks are identified, quantified, handled, monitored and controlled as well as included in relevant reporting. *(EO 1575 s19)* The key requirements in relation to risk management for solvency purposes are set out in EO 1343 in connection with the Individual Solvency Need (ISN—see ICP 17). Introduced with effect from January 1, 2014, the DFSA's approach integrates the requirements for companies to undertake a comprehensive assessment of risk with the capital adequacy standard, with the objective of requiring insurers to meet a target level of protection equal to a 99.5 percent Value-at-Risk (VaR) with a one year horizon. All insurers and pension funds are required to prepare risk assessments, including a quantification of risks, at least once a year. The assessment must be reported to the DFSA. (The different provisions applying to smaller companies are described in the assessment of ICP 17.) *(EO 1343 s5 and Annex 4)* The EO requires that risk assessments: • be undertaken with a forward-looking perspective, expressing the likelihood of meeting the capital requirements within a time horizon of one year and within the company's strategic planning period (between three and five years); • be based on methods, assumptions, parameters, etc. chosen by insurers themselves; • take account of the choice of approach to the calculation of the ISN (see ICP 17); for example, if the standard model is used, the risk assessment must identify differences from that model due to risks not included or over/underestimated in the standard model compared with the company's risk profile; • reflect the results of sensitivity analysis and reverse stress tests; and • are supported by adequate documentation. *(EO 1343, Annex 4, paragraphs 2–8, 12–14)* Insurers are also required to have a policy on the calculation of the ISN and risk assessment covering all relevant aspects, including a description of the methods, assumptions, processes and procedures to be used, a description of the relationship between the risk profile, the approved risk tolerance limits and the individual solvency need; policies on how and how often the calculation of the solvency need, sensitivity analyses and reverse stress tests shall be carried out; and requirements for data quality. *(EO 1343, Annex 4, paragraphs 9–10)* The requirement for a risk assessment policy also applies at group level and the group policy must include identification of the opportunities for raising capital at the group, if there is a need for additional capital, assessment of the availability, marketability or exchangeability of capital, planned transfers of the group's capital of material

	importance for the entities of the group, relationships between the individual entities' strategies and the group's strategy, and specific risks to which the group may be exposed. *(EO 1343, Annex 4, paragraph 11)* However, individual insurers are not required to take into account group risks when developing their risk assessment (i.e., the risk from membership of a wider group, including financial or reputational contagion (ICP 16.1.18)). Nor is there a requirement for an insurance group to establish and maintain a risk tolerance statement covering risks relevant and material to the group (ICP 16.8.3). Other risk management requirements are covered in regulations, in line with the approach in the FBA and DFSA's requirements of setting requirements on BoDs and the board of management, as described in the assessment of ICP 7: • The FBA requires the BoD to set out the main types of business activities to be performed; to identify and quantify significant risks and determine the risk profile (i.e., which types of large risks the firm may accept and to what extent); and to lay down policies for how the firm is to manage its significant activities. *(FBA s70)* • The EO requires the BoD to establish policies (for implementation by the board of management) for the management of insurance risks, the investment area, operational risks, IT security risks (including continuity plans in case of business interruption). *(EO 1575 s5-7, Annexes 1–4)* There is no explicit requirement for an Asset and Liability Management policy that specifies the nature of ALM activities and their relationship with product development, pricing and investment management (ICP 16.5). Other requirements, including the focus on management of risks across the balance sheet, and the nature of insurance products in effect require companies to undertake ALM activities rather than, for example, managing investments in isolation from liability management. There is no explicit requirement referring to an Own Risk and Solvency Assessment (ORSA). (This term is not used in the planned Solvency II framework.) However, the DFSA's approach to the ISN incorporates an own risk assessment requirement, as mentioned above, and relates this to an own assessment of capital adequacy through the requirement on insurers to take the risk assessment into account in calculating the ISN. *(EO 1343 s5 (7))* Implementation of the DFSA's new approach to solvency, including the risk assessment requirements, is at an early stage and the DFSA has not examined risk assessments or the calculation of ISNs as yet. The DFSA plans to start its review of ISN calculations by examining the implementation of the standard approach and the process used by insurers in the development of their risk assessments.

	All insurers are also required in addition to have in place: • a capital plan (with a strategic planning period of between three and five years) designed to ensure that the capital base will be adequate to cover the risks expected to arise under the insurer's strategy *(EO 1343 s4)*; and • a capital contingency plan setting out operational procedures for application in case of failure in the assumptions underlying the capital plan. *(EO 1343 s4)* The DFSA assess compliance with these requirements and the adequacy of the plans as part of onsite inspection work. In addition, the DFSA has issued guidance (in December 2012) on best practices in relation to capital plans and capital contingency plans, based on DFSA's experience of reviewing them. Capital contingency plans in particular were assessed as needing attention and development.
Assessment	Largely Observed
Comments	There is an extensive framework of requirements in relation to risk management for solvency purposes and a process of own risk and solvency assessment. The requirements make clear that it is for the Board of Directors to carry out the risk assessment and to make the key decisions on the calculation of the Individual Solvency Need. The overall approach has been introduced only at the start of 2014 and will take time to embed, while the DFSA has not reviewed any risk assessments as yet. Insurers have been required to calculate an ISN since 2007, which will facilitate transition to the new approach, but without the target level of protection of a 99.5 percent VaR with a one year horizon that is now a key part of the requirements. Some detailed aspects of the ICP standards are not reflected in the DFSA approach, including the requirement for an explicit ALM policy, while the application of the DFSA requirements in the context of groups of insurance companies could be extended to cover group-related risks to individual insurance companies and risk appetite statements at group level. It is recommended that: (i) the DFSA introduce a requirement for an ALM policy; (ii) the DFSA review the application of its requirements on risk management for solvency purposes and own risk and solvency assessments to groups and extend the framework as necessary.
ICP 17	**Capital Adequacy** The supervisor establishes capital adequacy requirements for solvency purposes so that insurers can absorb significant unforeseen losses and to provide for degrees of supervisory intervention.
Description	The requirements on capital adequacy are set out in:

	a) The FBA, particularly sections 126–127;
	b) Executive Order on Solvency and Operating Plans for Insurance Companies (no. 1343 of 27 November 2013); and
	c) Executive Order on Calculation of Capital Base, number 915 of 12 September 2012.
	For the purposes of the capital adequacy requirements, companies are defined as either Group 1 or Group 2 companies, based on the size and nature of their business and whether they carry out cross-border business. The smaller, domestic insurers and pension funds (Group 2 companies) may take a simplified approach to the calculation of capital adequacy and the assessment of own risks and are subject to annual rather than quarterly reporting to the DFSA on the individual solvency need. In particular, the Group 2 companies are not subject to the DFSA's solvency requirements based on the EU's Solvency II framework. *(EO 1343, s 1, 5, 11)*
	
	The requirements apply to all insurers and pension funds licensed to do business in Denmark, including branches of companies incorporated in non-EEA jurisdictions (how they would be applied in practice to a non-EEA branch would need to be elaborated in an actual case - there is none at present). Branches of companies incorporated in an EEA jurisdiction are subject to prudential regulation by the home country supervisor.
	
	Capital adequacy requirements comprise a two part test:
	• Requirements drawn from the current EU regulations (Solvency I):
	    ○ a fixed minimum capital requirement of EUR 1.2 to 3.7 million depending on the type and class of insurance offered *(FBA s 126(2) (vi) to (x));* and
	    ○ the solvency capital requirement—a factor-based requirement calculated as a percentage of risk weighted technical provisions and operational expenditure. *(FBA 126(2)(i) to (v), EO 1343 s 7–12)*
	• The calculation of a risk-based individual solvency need (ISN), based (since January 1, 2014 and applying to Group 1 companies only) on the draft Solvency II requirements, i.e. those used in the most recent quantitative impact study (Solvency II itself does not take effect until January 1, 2016). *(FBA s127(8) and EO 1343 s 5)*
	
	Insurers and pension funds are required to meet the higher of the two requirements. *(FBA s127 and EO 1343 s 4)*
	
	The DFSA also has powers to require an insurer to meet a higher individual solvency requirement than that required by the FBA. This power has not been used as yet for an insurer. *(FBA s127(9))* An equivalent power has, however, been used to require additional capital of banks. *(FBA s124(5))*
	
	In calculating their ISN, all insurers and pension funds are required to take into account

	their own assessments of risk (see also ICP 16). Such assessments, including a quantification of risks, must be undertaken at least once a year and if there are changes to the company's strategy, business model, risk profile or risk appetite, and must be reported to the DFSA. Group 1 insurers must also assess in this context whether their calculated solvency need adequately covers all their significant risks (an Own Risk and Solvency Assessment (ORSA) process – see ICP 16). In the case of Group 2 insurers, the solvency need identified through their risk assessment is their ISN. *(EO 1343 s5 and Annex 4)* In the calculation of capital adequacy, insurers are required to use valuation requirements set out in the Executive Order on Solvency and Operating Plans for Insurance Companies *(EO 1343 s5a and Annex 5);* and the Executive Order on Financial Reports for Insurance Companies and Multi-Employer Occupational Pension Funds (see also ICP 14). *(EO 112)* A key principle of the DFSA's approach since January 1, 2014 is that, for Group 1 insurers, the solvency requirement is targeted at a protection level equal to a 99.5 percent Value-at-Risk with a one year horizon (EO 1343 is also known as the executive order to promote an equal level of policyholder protection, as no such target protection level was in place before 2014). Solvency control levels are not set out in EO 1343 and interventions in relation to the capital requirements covered by that EO are a matter of supervisory discretion. In practice, the DFSA's approach is: • for nonlife insurers, to regard a level of 115 percent of the overall capital requirement as the threshold for intervention to force corrective action; but supervisors also respond to early warning indicators arising from the application of the supervisory Diamond approach (see ICP 9); and • for life insurers and pension funds, not to set such a threshold but to rely on the regular, generally daily, stress tests ("traffic lights"—see ICP 9) to identify and require insurers to address risks to capital adequacy (those related to market risk) at an early stage. In practice, DFSA intervenes at various levels, and for both life and nonlife, the application of the Diamond and traffic light tests, which are operated on a regular basis, are key drivers of supervisory action on capital. The FBA sets out some specific intervention levels, but expressed in relation to the capital requirements set out in sections 126–7 of the FBA rather than the higher of those requirements and the ISN (see above). The FBA's intervention levels require the DFSA to require an insurer to draw up a plan for restoration of its financial position and present it to the DFSA for assessment where the company's capital base is smaller than the capital requirement under section 127. The timeframe for submission of the plan has to be

	accelerated where the capital base is less than one-third of the solvency requirement or less than the minimum capital requirement (i.e., levels of severe shortfall). *(FBA s248–50)* In addition, the FBA gives the DFSA the power to order that an insurer takes necessary measures if its financial position has deteriorated to the point where the interests of the insured parties are at risk (see also ICP 10). *(FBA s350)* There is no specified minimum capital requirement below which the strongest actions are triggered and which functions as the minimum level at which an insurer is regarded as viable (MCR – as defined in ICP 17.4, in contrast to the Prescribed Capital Requirement, the PCR). The DFSA takes the view that the traffic light approach (which is based on stress testing the impact of changes in key market variables) guarantees that it will intervene to rectify a risk to capital inadequacy before the solvency capital requirement or ISN can be breached. The definition of capital resources eligible to meet the capital requirements is set out in the Executive Order on Calculation of Capital Base, number 915 of 12 September 2012. EO 1343 on Solvency sets out additional requirements: • Core capital includes equity, member accounts in mutual companies and pension funds and special bonus provisions in life insurers and pension funds subject to conditions that make these provisions available to absorb loss. Proposed dividends, intangibles, tax assets and investments in subsidiaries and associates must be deducted. *(EO 915, s 33–36)* • Allowable additional capital may take the form of subordinated debt and certain other special bonus provisions and may be included in capital base up to a maximum of the lower of 100 percent of the core capital after deductions and 50 percent of the capital requirement. *(EO 915, s 37-41)* Insurers and pension funds may, for the purposes of calculating the ISN, choose between: • applying the standard model, which prescribes capital requirements by risk type based on specified stress levels including 39 percent fall in equities and a 20 percent improvement in longevity experience; *(EO 1343, s5(4) and Annex 1)* • using company specific parameters to replace certain of the specific stresses within the framework of the standard model *(EO 1343, s5(5) and Annex 2)* • using a full or partial internal model *(EO 1343, s5(6) and Annex 3)* The choice must be made by the BoD. *(EO 1343, s5(5) and (6))* In relation to internal models, there is no requirement for DFSA's prior approval before a model may be used (ICP 17.13). The insurer is required to write to the DFSA stating that it meets the requirements for use of an internal model, including a statement that the model is used in its own risk assessment and risk management system, and that it

	reflects its risk profile to a greater extent than the standard model. The insurer must also confirm that the ISN calculated using the internal model as a minimum uses a protection level corresponding to VaR with a confidence level of 99.5% over 12 months. It must confirm that validation tests are carried out. The insurer may then make use of the model. *(EO 1343, Annex 3, paragraphs 2.1, 2.2)* A similar approach is required where the insurer chooses to use company-specific parameters within the standard model framework. *EO 1343, Annex 2, 2.1–2.5)* The requirements on internal models also include: • a statistical quality test, data adequacy requirements and calibration standards *(EO 1343, Annex 3, paragraphs 6.1-6.20, 7.1-7.6, 8.1-8.6);* • If a partial internal model is to be used, a requirement for the insurer to explain to the DFSA in its statement why the model's limited scope is appropriate; *(EO 1343, Annex 3, paragraphs 2.2)* • provisions requiring a model change policy and notification to the DFSA of changes which make the insurer's original letter to the DFSA on its compliance with model standards inaccurate. *(EO 1343, Annex 3, paragraphs 2.3, 4.1–4.7)* The DFSA can require that an insurer uses the standard model, if it believes the requirements for model use are not met. It has not done so as yet (the new requirements took effect only at 1 January 2014). A small number of nonlife insurers, all of them larger companies, are using or are planning to use an internal model for significant parts of the business and a number of life insurers are developing models for use in calculating longevity risk capital requirements. *(EO 1343, Annex 3, paragraph 2.6)* If the insurer chooses to use company-specific parameters or a full or partial internal model, it must still report quarterly on the basis of the standard model. *(EO 1343, s 5(10))* The capital adequacy requirements apply to groups as well as regulated entities. A deduction-based methodology is used, in summary (see also ICP 23): • Where an individual insurance company has a subsidiary or associate, the capital requirements of the subsidiary or associate (or the parent insurer's share of those requirements) is deducted from capital of the parent. *(EO 915, s36(2))* • In the case of an insurance company which is part of a group headed by a holding company, a banking capital test has until recently been applied to all holding companies and continues to apply where the insurer is part of a financial conglomerate headed by a financial holding company (the term financial conglomerate is not used in Danish law and regulations). *(FBA, s 170)* Where the group is headed by an insurance holding company (holding only insurance companies), the holding company is now subject to a requirement that the capital base

	is positive after deduction of all the subsidiaries' capital requirements. *(EO 1343, s 4(2))*
Assessment	Largely Observed
Comments	The capital adequacy requirements were substantially revised at the start of 2014 and will take some further time to embed. However, the framework has clearly been substantially strengthened, particularly the calculation of the Individual Solvency Need (ISN) through the addition of a standard model based on the most recent draft Solvency II requirements and a target protection level corresponding to VaR with a confidence level of 99.5 percent over 12 months. The DFSA has in effect implemented much of the new EU framework. In addition, the recent development of holding company regulation with the recognition of insurance holding companies has strengthened group supervision of capital adequacy. The absence of a prior approval requirement for use of internal models is mitigated by the relatively limited appetite for model use, especially from life insurers; and by the close dialogue which the DFSA is having with model users (and, in one case, with the home supervisory authority) in the context of Solvency II preparations being coordinated across the EU (the EIOPA work stream on pre-application for internal models). The absence of a full framework of solvency control levels, for solo entities or groups, including an MCR level based on risk-based requirements, is similarly mitigated by the particularly close focus of supervisory effort on key risks to insurers. For life insurers, this process reasonably focuses on market and longevity risks as the key vulnerabilities, but is less sensitive to other sources of risks to capital adequacy. DFSA's approach does, however, place a premium on the adequacy of expert supervisory resources and the readiness of supervisors to follow up concerns promptly and take action to close a company when at a certain level of solvency. It is recommended that: i. the authorities strengthen their capital adequacy requirements further by establishing solvency control levels in line with the expectations of ICP 17.4, including an MCR set at the minimum level below which an insurer is regarded as no longer viable and must close or have its insurance business transferred. ii. the DFSA sets an explicit requirement for its prior approval before a model may be used.
ICP 18	**Intermediaries** The supervisor sets and enforces requirements for the conduct of insurance intermediaries, to ensure that they conduct business in a professional and transparent manner.

Description	The legal basis of the regulation and supervision of intermediaries include: a) *Financial Business Act* (FBA); *b) Danish Insurance Mediation Act (DIMA);* c) EO 928 on Good Business Practice for Financial Undertakings; d) EO 1253 on Good Practices for Insurance Brokerage—April 2007; e) EO 1256 on *Insurance Intermediaries Indemnity Insurance: guaranties and treatment of entrusted Funds*—November 2013. In Denmark, insurance and reinsurance intermediation is subject to general regulations regarding good practice, price information and contract conditions. *(FBA s43; EO 928; EO 1253)* It is an offence to conduct insurance and reinsurance intermediation activities in Denmark without being registered by DFSA or by the relevant supervisor in another EU State. Agency relationship is prevalent in Denmark although broker[4] business is gaining market share. Brokers are subject to the DIMA which came into effect in January 2000. <u>Agent Registration:</u> Insurance companies and insurance management agencies conducting insurance agency activities are required to be registered. Danish agents for foreign insurance companies are registered by DFSA. Danish agents for Danish insurance companies are registered by the Danish Insurance Association. They are also required to comply with matters, including educational[5] conditions, mandatory liability insurance, and be subject to the fit and proper requirements. *(DIMA s27 to s35)* Currently, Danish insurance companies have registered 2335 individual agent contracts and 1453 insurance agencies in Denmark. <u>Broker Licensing:</u> According to DIMA, insurance brokers, both at the entity level and at the individual level, are required to be licensed by DFSA. As a condition for licensing, brokers are required to have special education, with at least two years of practice as an assistant broker, mandatory liability insurance, and fulfill fit and proper requirements. *(DIMA s4 to s7)* Prior to the license of brokers, DFSA does not require a business plan nor does it set financial resource requirements other than the general requirements under Danish Company Law. Instead brokers are required by law to take out an indemnity insurance cover and to have separate customer accounts in place for each customer. *(EO 1256)*

[4] Brokers act for the clients while agents act for insurer/reinsurers as their principals.

[5] The level of qualification is in line with the Insurance Mediation Directive at the European level.

	The DFSA grants the license to life or nonlife insurance brokers (can be licensed for both activities) and pays particular attention to the education which is tailored for life or nonlife insurance. All licensed brokers have to include 'insurance broker' in their names and are registered in DFSA's Insurance Intermediaries Register which is available to public. *(DIMA s10)* In 2012, a total of 150 legal persons were licensed, out of which 61 are registered as sole proprietorships. In addition, 549 natural persons were licensed as insurance brokers employed by licensed insurance broker companies. The DFSA has implemented EU legislation giving passport rights to firms or individual persons licensed in an EU member country. Firms or individuals from outside EU wishing to do mediation activities in Denmark have to be licensed by the DFSA. *(DIMA s43)* DFSA collaborates with other authorities in the registration of insurance intermediaries. The DFSA supervises intermediaries by reviewing regular reports on income earned in the year. These reports also specify the insurance companies dealt with in every calendar year. *(DIMA s21; EO 442)* With the information gathered through this report, DFSA evaluates whether brokers are independent of any insurance company or not. <u>Ongoing review</u> For supervision of direct sale by insurance companies and agents, DFSA has the power to conduct onsite inspections to assess if agencies are complying with rules of good practice. However, only few thematic onsite supervisory exercises have taken place. The insurance companies are required to submit an annual declaration to DFSA stating that processes, internal controls and administrative procedures are appropriate. *(DIMA s30)* DFSA does not have the power to conduct onsite inspections of insurance brokers (except under the law relating to AML/CFT—see ICP 22) and relies on information submitted for ongoing supervisory review. <u>Broker fees</u> In July 2006, amendments in legislation regarding broker remuneration were made to ensure that mediation is carried out with integrity. Brokers are now not allowed to receive any commission or remuneration from an insurance company in connection with the specific customer relationship. *(DIMA s14a(2))* Professional businesses and corporate clients generally buy insurance through non–life insurance brokers and pay the broker fees. Private consumers are not yet accustomed to this mode of business. For life assurance, the most of the broker earnings are generated from mediating occupational pension schemes to employees of professional business undertakings.

	The regulations require that every person working in intermediation in a broker firm has adequate professional knowledge and experience, integrity and competence. A specific theoretical education was developed which secures that the insurance brokers are able to give fair and correct advice to their clients. The education is available at the *Forsikringsakademiet*, a private institution approved by the DFSA to offer the education. *(DIMA s7; a9)* Furthermore, a person wishing to be licensed as an insurance broker has to prove at least two years of practical training as a broker assistant at a licensed insurance broker firm. *(EO 825)* Two professional bodies oversee their member broker firms' compliance with ethical and professional standards regarding integrity and competence and have disciplinary sanctions in case of severe breaches. Intermediaries are required to disclose their relationships with the insurers and provide the basis for their fees. Since brokers are not remunerated by the insurance companies any longer, the disclosure requirements are centred on any types of relationships, including any direct or indirect ownership interests, complaints procedures, details of the insurance contract, and information about the firm. *(DIMA s13 to s15)* There are rules regarding insurance brokers safeguarding the handling of client money. The brokers are required to have special customer accounts if they handle client money and to have an indemnity insurance policy safeguarding the entrusted funds. *(EO 1256)* DFSA reviews these at the time of licensing and registration but ongoing review is limited. DFSA has sufficient regulatory power to revoke the license of an insurance broker (or firm) if the broker is no longer considered suitable, or does not have adequate indemnity insurance, or there is evidence of serious non-compliance of the legislation. *(DIMA s22)* The regulations specify penalties that may be imposed on insurance brokers for violation of the legislation or regulation. *(DIMA s54)* Although review of reports submitted by brokers is ongoing, DFSA detects unauthorised intermediations activities mostly through complaints filed and media reports. Minor offences in the past have been dealt with by written communication to management and followed up to ensure compliance. Where DFSA has found significant deficiencies, public warnings have been issued and details posted on the DFSA website. The DFSA keeps record of broker fraud, misrepresentation and lack of proper advice given to customers that the staff investigated as a result of such reviews.

Assessment	Largely Observed
Comments	Denmark's approach reflects the EU Directive[6]. The insurance industry mainly distributes via agents, but broker sales are gaining momentum. Due to recent changes in broker remuneration regulations, brokers are primarily serving corporate clients. DFSA is able to monitor insurance agents through the normal supervision processes for insurance companies for whom they act as agent. Ongoing review of brokers could be improved. (ICP 18.2) DFSA's review of intermediaries focuses mainly on checking compliance with registration requirements, consideration of complaints from consumers and some good practice cases taken up from thematic onsite work. There is scope for improvements, including: • brokers should be required to provide a business plan or set up specific financial resource requirements before licence is granted; • enhancing disclosure on potential conflict of interest, bancassurance and additional disclosures on complex investment products including unit linked products; • increasing resources for supervision of large number of intermediaries (and some large companies such as the operations of the major international brokers); and • developing a supervisory risk-based approach, supported by explicit and proportionate corporate governance requirements for intermediaries and have the power to conduct onsite reviews. (ICP 18.5) The authorities are recommended to: i. Review and promote appropriate an regulatory framework and supervisory practices with respect to intermediaries' good conduct and to improve broker licensing and ongoing review requirements which should include financial information; ii. Establish proportionate governance expectations tailored for broker intermediaries, focusing on achieving fair treatment outcome for policyholders; and iii. Ensure that DFSA has adequate resources for effective supervision of intermediaries, including brokers.
ICP 19	**Conduct of Business** The supervisor sets requirements for the conduct of the business of insurance to ensure customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.

[6] Insurance Mediation 2002/92/EC of 9 December 2002

Description	Within the DFSA, Consumer Affairs and Financial Intermediaries Division (CAFI) manages behavioral supervision (good business practice) of nonlife insurance companies, life assurance and pension companies. Behavioral supervision includes reviewing complaint trends, taking up matters at its own initiative to promote good behaviour, conducting targeted inspections and investigations on conduct of business (CoB) matters. Insurance companies and their agents must comply with the regulations on good business practices which require all financial undertakings not to use unfair contract terms, misleading business practices and provide appropriate information both before the contract is entered into and during the life of contract. *(EO 928 on Good Business Practices for Financial Undertakings)* The regulations require insurers to '*act honestly and loyally*' with their customers. This includes an obligation to ensure that staff has adequate skills to fulfill their obligations. Ensuring the fair and correct treatment of customers is the insurance company's responsibility, including the duty to ensure that staff has appropriate knowledge and ability to carry out their duties. *(EO 928 s3)* All insurance companies are required to have written procedures for all substantial areas of their business. *(FBA s71)* However, there is no equivalent regulation obliging intermediaries to set up written policies and procedures to ensure compliance with good practices. Such procedures have not focused to date on fair treatment of customers. The focus has been primarily on ensuring that no conflict of interest with direct insurers exists including indirect ownership interests or related investments. *Insurance Products* To date, DFSA's supervision has been focused on product information and disclosures and the way products have been marketed to consumers, rather than to ensure that the product is in the best interests of the consumers. By 2015, DFSA is planning a new supervisory initiative focusing on supervising products and product categories. This will include requirements to set up governance procedures when designing new insurance products, including taking into account the suitability of the product and the nature of the target customers. Current regulations prohibit misleading, aggressive or incorrect statements that expose customers to improper influence and could materially distort their economic behaviour. *(EO 928 s4)* The same applies to insurance intermediaries. *(EO 1253 s3)* For non life insurance, the regulations are in place for specific information required before entering into a contract, in the contract itself, and during the life of the contract.

	(EO 928 chapter 8) Similar information is included for life insurance in the equivalent regulations for life insurance products. *(EO 1132: Information Requirements for Life Insurance Products)* An insurance company is required to offer advice to customers on their demand or when circumstances require it. The advice is required to be based on information regarding the customer and the financial situation of the customer. *(EO 928 s7, s8)* The regulation requires that, based on the information provided by the customer, an intermediary must carry out an analysis of the customer's needs and base the advice to the customer on that analysis. *(EO 1253 s8)* Current regulation does not have specific requirements to manage conflicts of interest adequately. Insurance companies have a general obligation to treat customers honestly and loyally, which implies managing any real or potential conflicts of interest. For intermediaries, the new rules for intermediaries help significantly to address conflicts of interest. An intermediary can only represent the consumer if the intermediary is not dependent on the insurer *(DIMA s17)* and does not receive any remuneration or other forms of financial compensation from an insurance company. (DIMA s14a) The bancassurance model accounts for significant amounts of distribution. Banks offer all types of financial products, e.g. when making a car loan they offer insurance for the car and life insurance. There is some risk that full disclosure of pricing or conflict of interest is suppressed at the benefit of the interests of the group. Since the general obligation for insurance companies is to treat customers honestly and loyally, they are expected to advise their customers, service the policies and disclose relevant information concerning the insurance product on an on-going basis. *(EO 928)* The obligation has been in place since 2003 and the DFSA reviews compliance in connection with thematic inspections only. *Complaints resolution* Insurance companies and insurance intermediaries are required to set up a complaints handling unit. *(EO 1264)* In Denmark, DFSA does not look at consumer complaints directly. Complaints are typically referred to the insurance company's own complaints unit or to the Insurance Complaints Board. DFSA regularly oversees decisions made by the Insurance Complaints Board in order to detect general trends in the complaints. According to DFSA's records, typical complaints (apart from individual disputes) are over marketing material, terms of policies and lack of information received by the consumer.

Complaints	Life	Nonlife
2010	28	32
2011	46	37
2012	92	49
2013	73	43

Consumer Ombudsman

In some cases, DFSA will forward the complaint to the Danish Consumer Ombudsman, an independent authority in charge of the general regulation on fair business practice and consumer protection in Denmark. The Consumer Ombudsman also participates as a non-voting member in deliberations of the Financial Council dealing with consumer protection issues.

The FBA requires DFSA to notify the Consumer Ombudsman if it comes to its attention that an insurance client may have suffered a loss as a consequence of the insurer having violated the provisions of the Act regarding good practice and honest business principles. *(FBA s348a)*

DFSA has an MoU with the Consumer Ombudsman to ensure collaboration and biannual meetings with the DFSA on complaints and consumer protection policy matters.

Most of the good practice cases addressed by DFSA that result in a decision aimed at a specific insurance company are initiated by complaints and in some cases information from the Consumer Ombudsman. Some cases are also raised by the press, politicians, or are identified by DFSA itself when it becomes aware of possible violations of good practices.

The Ombudsman has the power to bring a court action against a financial company that violates the rules of business ethics and good practice. A case taken up for consideration in accordance with the FBA typically involves a civil claim, e.g. claims for compensation to one or more consumers.

DFSA's offsite monitoring includes research on complaints, overseeing life insurance and pension fund information when they are changing product characteristics from a guaranteed life product to a product without guarantees. Since 2010, DFSA has carried

	out some onsite inspections (but only on insurance agents) concerning information requirements, complaints handling and responses to claims arising from severe weather-related events. DFSA does not have direct power to inspect brokers. However, it can carry out thematic reviews through surveys and onsite reviews. Most recently, DFSA conducted a thematic review to assess compliance with protection of client money. *Privacy Protection* The legislation requires financial undertakings to keep customers' personal information confidential and this information cannot be used or communicated in an inappropriate manner. *(FBA s117) (DIMA s18)*. The Personal Data Protection Act also deals with collecting and holding personal information in an appropriate way. Insurance companies must have written procedures for all substantial areas of their business. This includes an obligation to have procedures to ensure protection of private information. *(FBA s71)* However, there is no equivalent regulation obliging intermediaries to set up policies and procedures to ensure the protection of private information.
Assessment	Partly Observed
Comments	Traditionally, ensuring the fair and correct treatment of customers has been regarded as the insurance company's responsibility, including the duty to ensure that staff have appropriate knowledge and ability to carry out their duties. The DFSA's focus has been on good business practices and regulations requiring financial undertakings to '*act honestly and loyally*' with their customers, and on product information and disclosures and the marketing of products to consumers. However, there is no equivalent regulation obliging intermediaries to set up written policies and procedures to ensure compliance with good practices. Brokers legislation focuses more on conflict of interest with direct insurers (e.g. ownership interests or related party investments) and not on fair treatment of consumers. DFSA's should require brokers to have similar policies and procedures on the fair treatment of customers. (ICP 19.2) DFSA should have a process in place to determine whether insurers are taking the interests of different types of customers into account when developing and marketing products. This should include quality and value of the financial products offered to consumers and to ensure that the product is in the best interests of the consumers. (ICP 19.3) As a preventive measure, DFSA should consider identifying categories of product which may not be appropriate or have unnecessary high risks or costs associated with them.

	There is a particular need to address the presentation of costs and benefits to policyholders and pension scheme members when they are offered the opportunity to exchange a product with a guaranteed interest rate for a unit linked product. The DFSA's work on new requirements in this area is important in this regard. (ICP 19.4) It is recommended that DFSA establish additional requirements to ensure controls are in place for intermediaries to treat customers fairly. Since some financial products being offered have increased in complexity, closer attention is needed for: • disclosure requirements so that customer are cognizant of the inherent risks of the product; • disclosure of potential risks emanating from group that could affect policies being sold or administered; • having a process in place to review the appropriateness of the financial product offered; • additional regulations obliging intermediaries to set up policies and procedures to ensure the protection of private information. DFSA should consider additional resources to provide appropriate oversight of brokers and legislative power to enable DFSA to conduct onsite risk-based supervision of broker intermediaries to ensure that customers are treated fairly.
ICP 20	**Public Disclosure** The supervisor requires insurers to disclose relevant, comprehensive and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities, performance and financial position. This is expected to enhance market discipline and understanding of the risks to which an insurer is exposed and the manner in which those risks are managed.
Description	The requirements for disclosure are set out in: a) The FBA, sections 183-198; and b) The Executive Order on Financial Reports for Insurance Companies and Multi-Employer Occupational Pension Funds (no. 112 of February 7, 2013). The FBA sets out high level requirements, including that the annual financial statements give a true and fair presentation of the insurer's and the group's assets and liabilities, financial position and results; and that the annual reports are prepared so as to disclose information about matters normally relevant to users and which is also reliable in relation to users' normal expectations. *(FBA s183–199)* EO 112 requires that for each financial year, insurers prepare and publish an annual report and a half-year interim report. *(EO 112 s2)* It then sets out detailed requirements and guidance on how to comply with the FBA requirements. The EO requirements reflect the authority of the DFSA to set the accounting standards and associated disclosure

	requirements for financial undertakings, except to the extent that listed companies are subject to group consolidated reporting requirements based on the use of IFRS. *(FBA s196)* EO112 requires that annual and semi-annual reports cover the recognition and measurement basis applied to items in the balance sheet, income statement and notes. The requirement applies to all insurers individually and at group level, where the company is a parent company at the head of a group, in which case annual reports containing consolidated accounts are required. *(EO 112 s89, s133-141)* In relation to technical provisions, the EO requires companies to set out: • the measurement methods applied, the approach to discounting, if applied, the most important assumptions and estimates used, the process applied to determine the assumptions that have the greatest effect on measurement and significant correlations between different assumptions; *(EO 112 s89(5)* • detailed analysis by segment, for example in life insurances the different portfolios of policies in regard to whether or not the EO on the Contribution Principle applies. *(EO 112 s100-102)* The EO requires insurers to make a set of quantitative disclosures as well as financial information. The management review section of the financial report has to include: • information on the principal activities of the undertaking; • the expected development of the undertaking, including specific assumptions; • foreign activities and branches; and • in annual reports comprising consolidated financial statements, the group's legal, managerial and organisational structure. *(EO 112 s128)* Companies which have issued listed securities are subject to a requirement in the EO to include a report on corporate governance, including whether the undertaking is covered by a corporate governance code and a description of the main elements of the internal control and risk management system in connection with the process of presentation of accounts. *(EO 112 s131)* The information on corporate governance that has to be published by unlisted insurers is limited: disclosure of corporate governance is required only of listed insurers under the EU requirements of companies traded on regulated markets. There is no requirement specifically to disclose a description specifically of key products or the external environment (ICP 20.8), although insurers must disclose (in the management review section of their reporting) developments in the activities of the undertaking and financial conditions, and describe the particular risks, including the commercial and financial risks, which may influence the undertaking. *(EO 112 s128 (4) and (8))*

	Insurers are also required to make a disclosure in the notes to the accounts of their financial risks and insurance risks and policies and of their objectives for managing those risks. *(EO 112 s91b)* The EO also requires that the management's review includes information on the size of the capital requirement applying the end of the financial year and the individual solvency need (see ICP 17) and account for how the amounts have been calculated. The corresponding amounts for the previous year also have to be disclosed for comparison. Information on the basis for calculation of the capital requirements is readily available in the FBA as well as the DFSA's EO number 1343 on Solvency and Operating Plans for Insurance Companies. *(EO 112 s128a)* Requirements for the disclosure of financial instruments and other investments are set out in the detailed requirements on financial reporting including sensitivity analysis setting out the impact on the company's equity of prescribed changes in market variables and also in insurance risk developments. *(EO 112 s91b, 92, 96, 97; and Annexes 11, 13, 15 and 16)* Until January 1, 2014, valuation requirements for financial reporting and solvency purposes were closely aligned. Differences have been introduced, at least on a temporary basis, as a result of the major revision to the solvency regime to reflect the latest draft Solvency II requirements and are set out in Annex 5 to EO 1343 (see ICP 17). The financial impact of these differences has to be disclosed in accordance with EO 112, s 129, which requires insurance companies to disclose any difference between core capital and capital base. Insurers are required to include in financial statements information on their financial performance. The EO sets out the elements of the income statement and how they are to be presented. Extensive analysis of returns on investment has to be disclosed using standard templates. For nonlife insurance, run-off results for claims must be disclosed on both a gross basis and net of reinsurance. However, insurers are not required to disclose a quantitative source of earnings analysis or information on pricing adequacy. *(EO 112, s22–39, Annex 9, 10 and 11)* Annual reports prepared in accordance with the requirements of the EO must be sent to the DFSA, which is responsible for forwarding them to the Danish Business Authority (DBA), the body responsible for company registration. The DBA makes company reports available on its website together with other company information. As the initial recipient of company reports, the DFSA is responsible for enforcing the requirement to submit and monitors for, and takes action on delayed submission. *(EO 112 s195)* Detailed financial information is thereby available to policyholders and other

	stakeholders on each licensed insurance company as well group consolidated accounts where there is an obligation to prepare them. In addition, information on solvency ratios and other performance data (including claims ratios, returns on investments) is available on the DFSA website (data up to the end of 2012 available as at March 2014). The DFSA has no specific requirements in relation to making annual reports directly available to policyholders or members of the public. In the case of the interim report, however, insurers are required to make the report available to the public, for example on their websites or by sending it to interested parties who request it. *(EO 112 s145(7))*
Assessment	Largely Observed
Comments	Insurers are subject to an extensive set of disclosure requirements set by the DFSA under its authority to set accounting and disclosure standards for all regulated financial undertakings. These apply at both solo and group consolidated levels. The requirements focus principally on measurement standards (i.e., how to account for assets and liabilities) and there are some gaps in disclosure requirements in relation to qualitative information, for example on corporate governance (except for the relatively few listed companies). Financial information is readily available to policyholders and other market participants, on individual companies and groups, from the Danish Business Authority and to an extent from the DFSA website. The DFSA could also consider extending to the annual report the requirement to make the interim report available to the public. It is recommended that DFSA: (i) review and revise its financial reporting requirements from the perspective of effective disclosure requirements to ensure that companies present complete information, including a full set of qualitative information such as the nature of the companies' products and their corporate governance; and (ii) extend to annual reports the requirement applying now only to interim reports that insurers make the report available to the public, for example on their websites.
ICP 21	**Countering Fraud in Insurance** The supervisor requires that insurers and intermediaries take effective measures to deter, prevent, detect, report and remedy fraud in insurance.
Description	DFSA requires insurers to have good administrative practices, internal control procedures, and resources necessary for carrying out of its activities. *(FBA s71)* Licensed insurance brokers are obliged to allocate appropriate resources and implement effective procedures and controls to deter, detect, record and report fraud. There are no specific requirements on insurance fraud in the FBA legislation. Nor has the

	DFSA issued any guidance to insurers and intermediaries on countering fraud. The Danish Criminal Code addresses fraudulent conduct relating to insurance. Fraud-related crime is subject to criminal proceedings and punishable under the Criminal Code. *(Chapter 28, s279)* If the policyholder deceitfully submits misleading information, the insurance contract is not binding for the insurer. DFSA considers fraud prevention and compliance with criminal law to be the responsibility of insurers and intermediaries and has not set any specific regulatory or supervisory requirements. It undertakes no work to understand fraud risks and trends in the incidence of fraud across the sector. The insurance industry and Danish Insurance Association have initiatives on fraud prevention and plan additional measures to detect and deter insurance fraud. Insurance companies and insurance intermediaries are not required to inform DFSA about fraud-related matters. However, based on complaints received, DFSA may detect and act upon fraud-related risks. The DFSA has mechanisms enabling it to cooperate, coordinate and exchange information with other authorities, including criminal law enforcement authorities, which would cover prevention and detection of fraud, but fraud-related complaints and information exchanges with other agencies have been minimal. In practice, DFSA assesses, as part of its conduct of business supervision, insurers' compliance with rules aimed at protecting consumers, which include the illegal offer of insurance products, misuse of client money or other insurance-related fraud. If supervisors become aware of fraudulent activities, DFSA may issue public warnings in case of illegal provision of insurance activities and cooperate with other involved authorities, including the Consumer Ombudsman, as necessary. For insurers, fraud risk has not been a priority area and no reports are currently reviewed that include measures taken by insurers to deter, prevent, detect, report and remedy fraud.
Assessment	Partly Observed
Comments	Fraud is a criminal offence under the Danish Criminal Code, but the DFSA takes no measures at present to assess fraud risk or to require insurers and intermediaries to take effective measures to address those risks, except for the requirement on insurers to monitor transactions or relationships (including those with intermediaries) that are not in line with the good practices policy. The authorities are advised to make changes to their legislative framework to empower DFSA to issue enforceable rules requiring insurers and intermediaries to report insurance frauds. DFSA should have a supervisory process in place to review fraud related reports

	received from insurance companies and broker intermediaries. (ICP 21.2/21.3/21.4)
ICP 22	**Anti-Money Laundering and Combating the Financing of Terrorism** The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and the financing of terrorism. In addition, and the supervisor takes effective measures to combat money laundering financing of terrorism.
Description	The DFSA is the authority responsible for regulation and supervision of AML/CFT in the financial sector. DFSA coordinates AML/CFT work with a separate Financial Intelligence Unit (FIU) and other Danish authorities responsible for AML/CFT regulation of other sectors. Since 2010, AML/CFT work, including the development of regulation, coordination with other domestic agencies and international policy work, has been concentrated in a specialist unit of four staff within DFSA, part of the Legal Division. This specialist unit covers AML/CFT issues related to all financial institutions supervised by the DFSA. Requirements on AML/CFT applying to the financial sector are set out in the Act on Measures to Prevent Money Laundering and Financing of Terrorism (number 1022 of 13 August 2013) (AML/CFT Act). DFSA provides the main technical input to this legislation, which implements relevant EU law. The DFSA has also issued extensive guidelines on the AML/CFT Act. The AML/CFT Act applies to life insurance companies and pension funds subject to regulation by DFSA under the FBA and to insurance brokers regulated by DFSA under the Insurance Intermediation Act, in relation to life insurance (nonlife insurance is regarded as not posing significant risk in relation to AML/CFT). Insurers and brokers are thereby subject to requirements on investigation and reporting, on customer identification and internal rules and training. *(AML/CFT Act, Parts 3, 4 and 5)* There are exemptions from customer identification requirements for certain products, reflecting the perceived low risk of such products in relation to AML/CFT – for example, insurance and pension contracts with an annual premium of EUR 1,000 or less or a single premium amount of EUR 2,500 or less. *(AML/CFT Act, s20(1))* The AML/CFT Act requires the DFSA to ensure that insurance companies, pension funds and brokers subject to regulation under the FBA comply with the Act and related requirements. It also provides DFSA with powers to require firms to provide it with information necessary for supervision of compliance, to investigate firms subject to its regulation and to order them to take the necessary measures within a time limit in case of violations of the AML/CFT Act. Certain requirements are subject to penalties or imprisonment up to six months. *(AML/CFT Act, s34 and Part 11)*

	The DFSA takes the view that AML/CFT risks in the life and pension sectors are low compared with risks in other parts of the financial sector (it has a rating system for AML/CFT risk by sector). Their view is based on international evaluations, experience of regulating the financial sector over recent years and the business model of the sector (only 5 percent of life business is transacted with individual customers direct, most being originated by corporates, labor market associations etc). To update their assessment and to validate their view, the DFSA is undertaking, with FIU and insurance industry input, an assessment of AML/CFT risks associated with the life insurance and pension sectors (a National Risk Assessment Report). This will include a review of the effectiveness of the measures that insurers and intermediaries and DFSA itself are taking on AML/CFT. The DFSA plan to follow-up the report, which is close to completion (as at March 2014) with a self-assessment exercise (companies will be required to identify where they have business with (the small number of areas of higher AML/CFT risk); and with targeted onsite supervisory work where risks have been identified. In recent years, and until completion of the risk assessment exercise, DFSA has not been undertaking supervision of compliance with AML/CFT requirements in the life and pension sectors. The DFSA has extensive mechanisms in place for cooperation with other domestic authorities, including the FIU and with supervisors in other jurisdictions. It receives quarterly reports from the FIU on suspicious transactions reporting. It is open to requests for cooperation on AML/CFT investigations from foreign regulatory and supervisory agencies. There have been no such requests in relation to insurance. In 2006, Denmark was subject to a comprehensive assessment conducted by the Fund for the purposes of the FATF Mutual Evaluation process and the most recent follow-up report was issued in October 2010. The follow-up report noted that the negligible level of suspicious transaction reporting (STR) by life insurance companies and pension funds highlighted in the 2006 report had not been addressed. It also noted that the DFSA intended to issue guidance, drawing on FATF guidance for the insurance sector, and to enhance its outreach to relevant firms, but that no action had been taken. As at March 2014, no STRs had been submitted by life insurance companies and pension funds for many years.
Assessment	Partly Observed
Comments	There is a full set of requirements on AML/CFT applying to life insurance companies, pension funds and life insurance intermediaries. The DFSA is active in AML/CFT fora within Denmark and externally and has the necessary powers, if not the resources, to enforce compliance and exchange information with other authorities. There are plans to

	intensify supervision of life insurance and pensions, informed by a new near-complete study of the risks and exposures. Pending completion of that work, however, no supervisory work is taking place and there is a risk, evidenced also by the low level of suspicious transactions reporting, that life insurers and pension funds do not adequately address compliance with AML/CFT requirements. It is recommended that DFSA, in conjunction with the FIU and Danish Industry Association, expedite completion of the National Risk Assessment Report on AML/CFT risks in life insurance and pension funds and that DFSA use this, as planned, as the basis for an enhanced supervision plan for 2014, augmenting its staffing in this area as necessary.
ICP 23	**Group-wide Supervision** The supervisor supervises insurers on a legal entity and group-wide basis.
Description	Legislative authority outlining group-wide supervision requirements include: a) *Financial Business Act (FBA);* b) EO 1343 on *Solvency and Operating Plans for Insurance Companies*—November 2013; c) EO 1575 on *Management and Control of Insurance Companies and Multi-Employer Occupational Pension Funds*—December 2010; d) EO 1024 on *Auditing Financial Undertakings and Financial Groups*—August 2013; e) EO 112 on *Financial Reports for Insurance Companies and Multi-Employer Occupational Pension Funds*—February 2013; j) EO 922 on *Registration of Assets*—December 2013; k) EO 904 on *Intra-group Transactions*—September 2004. The legislative framework allows DFSA to supervise insurance companies and financial holding companies on a group-wide basis. *(FBA s1, s5)* The legislation empowers DFSA to examine the circumstances of financial holding companies, insurance holding companies and shared data centers. This includes reviews of regular reports and inspection of individual insurance companies. *(FBA s346)* Until recently, the definition of financial holding companies included insurance groups, banking groups and mixed financial groups that had both banking and insurance operations. In general, the banking solvency regime was applied to such financial holding companies. Recent legislative changes in EO 1343 have introduced the concept of insurance holding company where an insurance solvency regime will be applied at group level.

	In Denmark, a parent undertaking together with one or more subsidiary companies comprises a group. Only those undertakings that actually exercise the controlling influence over the financial and operating decisions are deemed to be the parent undertakings. *(FBA s5a)* The DFSA has broad powers to gain access to all Danish financial undertakings, branches, and financial holding companies. *(FBA s347)* Organization of supervision takes materiality into consideration such that supervision effort is proportionate to the potential risk or damage. (FBA s344(3)) *Solvency of Group* For supervision of insurance groups, prudential regulation and solvency regulation are applied both on solo and group level: *(FBA s70; s71 (governance), s126 (Capital-solo level); s170 (Capital-group level)*. Financial holding companies must, on the basis of their consolidated situation, calculate the individual solvency need of the group. The solvency need is required to be expressed as the adequate capital base as a percentage of the risk-weighted items. *(FBA s171-174)* At the insurance holding company level, the group's individual solvency must be informed by a risk assessment policy (see ICP 17) that takes into account 1) identification of the opportunities for raising capital at the group, if there is a need for an additional capital, 2) assessment of the availability, marketability or exchangeability of the capital, 3) every planned transfer of the group's capital which will be of material importance for the entities of the group, 4) relationships between the individual entities' strategies and the group's strategy, and 5) specific risks to which the group may be exposed. *(EO 1343 Annex 4 s11)* The DFSA has the power to demand the group be restructured if the solvency or structure is a problem *(FBA s179)* or order the parent to divest its financial subsidiaries. In practice, the DFSA monitors the solvency and changes in group structure through reports submitted by the groups. Any change in ownership requires notification and approval under the legislation. However, DFSA has not performed full onsite inspections on any of the holding companies. Some targeted reviews (e.g., on investments and intra-group transactions) are planned for one of the groups. *Intra-group* Financial undertakings require prior approval from DFSA to have exposures within the same group except for exposures to subsidiaries. *(FBA 182(1))* In some cases, approval has been denied and in other rare cases amounts exceeding the limits have been allowed.

	In 2013, DFSA approved approximately 50 applications. Permission to allow intra-group exposures is based on the updated assessment by DFSA of the risk profile of the group in question and granted on basis of offsite reports of exposure limits. Most often, insurance companies apply for permission to allocate intra-group exposures within an upper limit. Permission is typically given for one year's duration. The DFSA has laid down more specific rules in "Guidelines—practice on permission to have exposures within the same group" (March 2011) The purpose of the regulation on intra-group exposures is to protect a financial undertaking from the effects of financial difficulties emanating from within the same group. The main purpose is to limit the total size of intra-group exposures in order to reduce the impact of intra-group risks. In general, the specific permission stipulates the responsibilities of the undertaking. The permission is stipulated on the fact that the financial undertaking has sufficient internal procedures to handle intra group exposures, in order to monitor and control relevant changes, etc. DFSA monitors intra group exposures as part of onsite inspections as well. If the assessment made by the DFSA does not give rise to any concerns, the permission is given either as an allowance for a specific relationship of a certain size or as a framework within which the financial undertaking itself decides on the specific exposures. DFSA has also laid down more specific rules for intra-group transactions: (EO 904). *Supervisory Colleges* DFSA follows the EIOPA guideline on assessment of group solvency. The review includes, among other matters, intra-group transactions, group risk management and internal controls, group reporting, governance and organization structure. (Procedures for preparation of onsite inspections) When DFSA is the group supervisor, DFSA is responsible for drafting the Coordination Arrangement[7] of the group and follows the EIOPA template where flexibility is incorporated in the coordination. On a quarterly basis, DFSA performs Early Warning Indicator analyses for groups and entities. Changes in the key ratios impact the supervisory activities including timing of onsite inspections.

[7] EIOPA template regarding Coordination Arrangement: "College Members share all essential and relevant information regarding the related undertakings of the Group under its supervision with the Group Supervisor and the other Members of the College, particularly considering dependencies and interlinkages between the subsidiary and the Group and the contribution of the other related undertakings to the Group's risk profile."

	The DFSA participates in at least 10 supervisory colleges and assists as group supervisor or a host supervisor with bilateral meetings with EU, EEA and non-EEA supervisors. The legislation also allows DFSA to monitor branches and assist the competent supervisory authorities whenever there is a significant branch or a subsidiary review. *(FBAs344(4))*) *Insurance groups and conglomerates* In Denmark, there are a total of 11 large insurance groups, with upstream holding companies. Included in the 11 insurance groups, are 2 financial conglomerates that include banking institutions. DFSA is planning joint inspections for these conglomerates but none have taken place to date. The scope of the group, for the purpose of group-wide supervision, has built in flexibility based on DFSA's risk assessment which takes into consideration changes in the risk profile within the group and its macro-economic environment. Since the crisis, the Danish Parliament has adopted legislation which provides DFSA with stronger tools such as the ability to intervene earlier in holding companies with risky behaviour or dismiss board and management members. DFSA's emphasis has changed to more risk-based supervision, understanding the sustainability of business models, and on enhanced participation on supervisory colleges. To ensure that the insurance group structures are sufficiently transparent, DFSA has legal authority to restructure and can order a parent entity to separate financial institutions from non-financial entities if the structure of the group makes the tasks of the DFSA difficult. (FBA s179) DFSA has the power to order the parent to divest its financial subsidiaries. (FBA s180) DFSA has used such power in two cases in the last two years. Starting 2014, the legislative framework incorporated a new risk-based group-wide solvency requirement which would be in line with the upcoming Solvency II. (EO 1343). The requirements are still new and DFSA has not yet performed full onsite inspections of insurance holding companies to review all group risks. The current reviews are limited primarily to solvency and changes in ownership reviews. Under the FBA, there is no difference between measuring capital adequacy for financial holding companies and other groups. The institutions must, on the basis of their consolidated situation, satisfy the following own funds requirements (FBA s170): • Common Equity Tier 1 capital ratio of 4.5 percent • Tier 1 capital ratio of 6 percent • Total capital ratio of 8 percent. To prevent double gearing of capital, the banking group's capital is measured on a consolidated level. However, insurance companies are not directly included in the consolidation but adjusted for in the calculation of group capital. The parent insurance

	company deducts the proportion of the capital requirement in the financial undertaking that corresponds to directly or indirectly owned proportion of the share capital. This is in compliance with Directive 2002/87/EC on financial conglomerates section 6-(1), which states that the capital adequacy of the regulated entities in a financial conglomerate shall be exercised in accordance with annex 1, wherein three calculation methods to prevent double/multiple gearing of capital are described. *Market Conduct* For consideration of any market conduct issues, including reputational and contagion risk, DFSA requires the insurer's BoD and management to assess and manage the risks. No particular group oversight on market conduct matters is currently undertaken as this has not come up as a systemic risk in DFSA's risk assessment. Group wide supervision efforts have yet to have a full supervisory onsite on market conduct matters e.g. treatment of policyholders and pension fund members, fraud or adequacy of disclosures to public). DFSA has the power to ask for any information from insurance companies and financial holding companies, including financial statements, accounting records, business records, outsourced activities, as is necessary for the performance of its duties. (FBA s347) (EO 112)
Assessment	Largely Observed
Comments	The supervision of groups in Denmark follows the EU Directive and is facilitated by the coordination framework at the EU level organized by EIOPA. DFSA has adequate powers and flexibility to determine the scope of insurance groups as well as to supervise and take appropriate measures against both regulated and non-regulated entities within a group. To date, the supervision of groups and solo entities were reviewed from a solvency perspective and any ownership changes affecting the group solvency. Only the larger groups received proper group oversight. Since the focus to date has been on larger risks, the smaller insurance groups are left relatively less supervised at a group level. The reliance on BoD and management to ensure proper controls are in place is excessive. DFSA should provide supervisory oversight to market conduct and consumer protection matters, in a group context. (ICP 23.7) Oversight of key control functions from a group perspective will require greater attention. To ensure intra-group transactions are captured and monitored at an aggregate level, it is recommended that DFSA require appropriate group reporting systems to measure and monitor such aggregate risk exposures. (ICP 23.9) Current processes primarily deal with intra-group exposures which captures solo level exposures.

	Group-wide supervision should also ensure that groups take a view of intra-group exposures and group wide transactions via group controls at the holding company level and that group control functions are comprehensive. With banking/insurance conglomerates, the authorities are encouraged to commence joint onsite supervision with focus on intra-group exposures and related transactions.
ICP 24	**Macroprudential Surveillance and Insurance Supervision** The supervisor identifies, monitors and analyses market and financial developments and other environmental factors that may impact insurers and insurance markets and uses this information in the supervision of individual insurers. Such tasks should, where appropriate, utilize information from, and insights gained by, other national authorities.
Description	As required by the FBA, section 344, the DFSA's supervision activities are focused on the business model of the individual financial undertaking. However, supervisory work is carried out in part through thematic work (for example, the recent examination of insurers' practices with regard to alternative investments) and supervisory tools, including the traffic light system for life insurers (measuring the impact on capital of defined stresses) and special analyses for the nonlife insurance sector (the "Supervisory Diamond") which help to identify risks across the whole market. (See also ICP 9) Information received from other supervisory authorities, including through colleges of supervisors and regional cooperation arrangements, is shared by supervisors within the DFSA. The DFSA liaises with the Danish Society of Actuaries on market developments. The DFSA collects data on the performance, capital position and balance sheet information on insurance companies, which is most detailed in the case of the Annual Report. Data are collected only at the individual company and group level. As part of DFSA's supervisory process, it seeks to identify and take action on issues of potential concern arising from its understanding of the market, the macroeconomic and other vulnerabilities and financial market risks. These risks are measured directly, particularly through the traffic light system for life insurance and supervisory Diamond for nonlife and through the individual solvency need for both life and nonlife insurance. The DFSA does not have a market intelligence or risk function and does not have any specific governance arrangements (such as a risk committee) for pooling information on market developments, developing an analysis and agreeing action. There is no formal framework of macroprudential surveillance applying specifically to insurance or the linkages and interrelationships between insurance companies and other parts of the financial sector; nor are there regular internal reports. However, information and intelligence is shared across divisions, taking advantage of DFSA's cross-sector set of responsibilities to address issues such as liquidity swaps (exchanges of assets between banks and insurers aimed at exploiting their differing needs for highly liquid assets).

	An annual report is prepared and published on market developments in the insurance sector and the results of theme based analysis may also be published. The DFSA website presents aggregate information on the sector and information on the balance sheet, performance and financial strength indicators of individual companies and pension funds (data up to the end of 2012, as at March 2014). DFSA also participates in the annual collection of statistics by EIOPA, which is published on the website of EIOPA. The DN publishes a regular Financial Stability Review, but this does not address insurance sector issues. In recent years, in life insurance supervision, the DFSA has sent a letter to insurers late in the year outlining an issue where it believes further study is required and seeking input from the companies in the middle of the following year. Its work usually leads to a publication feeding back to the industry as well as action in relation to individual companies, if necessary. The DFSA's work on alternative investments (see ICP 15) is an example of work that was handled through this process. The DFSA contributes to EIOPA's financial stability work on the European insurance sector and takes part in the surveys undertaken by EIOPA, for example its survey on the impact of the low interest rate environment; and it will participate in EIOPA stress testing exercises. The DFSA is not aware of any non-core activities being undertaken by insurance companies in Denmark. If the companies were to engage in such business, it believes that it would be able to identify and react to it through routine supervision. The DFSA takes the view that insurance companies in Denmark are individually not systemically significant, but that the sector as a whole can have wider stability implications, as in 2008 and 2012 when there was pressure on life insurers to change their investment portfolios significantly and action was taken by the MoBG in agreement with the industry giving relief to insurers on valuation requirements. The sector is therefore of interest to the new Systemic Risk Council (established in 2013), although it has not yet reviewed any insurance issues. In line with its view that insurers are individually not systemically significant, the DFSA has not developed or applied a methodology for assessing systemically significant institutions in the insurance sector. Where issues have arisen with implications for financial stability, these have been sector-wide concerns and the DFSA and MoBG have reacted accordingly. Were a serious threat to arise at an individual company, intervention and administration of the company and the provisions to safeguard for the benefit of policyholders investments included in the register (see ICP 12) would both protect

	policyholders and prevent wider shocks to financial stability.
Assessment	Partly Observed
Comments	While there is no specific framework at DFSA for macroprudential surveillance, the DFSA does have a clear appreciation of the major sources of vulnerability for the insurance sector and targets its collection of information and intelligence, and its supervisory efforts, towards addressing them. The processes for sharing information and developing a view on vulnerabilities operate relatively informally, reflecting the size of the DFSA and relative ease of internal communication. There is scope for taking a more formal approach, particularly if the DFSA expands further, and for developing cross-sectoral analysis, covering the linkages between insurance and the banking sector, for example through the covered bond market. The DFSA does have a clear view of the risks to financial stability arising in the insurance sector. However, a more formal approach to occasional assessment of individual companies' systemic significance would help validate its view. Extending the work of the financial stability experts at the Danmarks Nationalbank to the insurance sector would bring another perspective to macroprudential oversight of insurance, while furthering the development of cross-sector analysis. It is recommended that: (i) the DFSA establish a process to review the systemic significance of large insurers; and (ii) the Danmarks Nationalbank extend its financial stability analysis to cover the insurance sector, starting with cross-sector linkages.
ICP 25	**Supervisory Cooperation and Coordination** The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements.
Description	DFSA has confidentiality requirements for cooperation and coordination with other supervisors and authorities. The legislative framework empowers DFSA to conduct group supervision of insurance companies and financial holding companies. *(FBA s344, s346, s354)* There is an established process through EIOPA for EU supervisors to determine the need for group-wide supervision and, where the need arises, to agree on the group-wide supervisor. The legal basis for the framework is based on the EU Directive[8] transposed

[8] Directive 98/78/EC of the European Parliament and the Council on supplementary supervision of insurance undertakings in an insurance group.

	into the FBA and the Helsinki Protocol[9]. All insurance groups, where the DFSA participates as Group Supervisor or Host Supervisor are listed in EIOPA's Helsinki List which is updated once a year or when a change occurs. The Helsinki List is a list of all EEA insurance groups and their EEA and non EEA subsidiaries and branches, with contact details of the supervisors involved in the supervision of the group and some basic supervisory information. The list is administered by EIOPA. The relevant subsidiaries and branches are identified from the Helsinki List and the coordination arrangement follows the EIOPA template together an agenda for supervisory college discussions based on the EIOPA College guideline. *International Arrangements and Supervisory Colleges* Currently, DFSA participates in the following supervisory colleges:

Life	**Home Country**
SEB Trygg Liv	Sweden
Skandia Liv	Sweden
Nordea Life & Pension	Sweden
Danica	Denmark
Nonlife	
Tryg Forsikring	Denmark
Alpha Insurance A/S	Denmark
Codan Forsikring A/S	UK
Topdanmark A/S	Finland
Europæiske Rejseforsikring A/S	Germany
Gjensidiges Arbejdsskadeforsikring	Norway

As a group supervisor for three groups, DFSA identifies the relevant subsidiaries and branches from the Helsinki List and drafts a coordination arrangement that follows the EIOPA template and an agenda for the college meeting. College meetings are held minimum once a year. As the group supervisor, DFSA chairs the meetings. Depending on the complexity of the group, the college meeting can vary between one and two days.

[9] The Protocol relates to the collaboration of the supervisory authorities of EU member states pursuant to the Directive 98/78/EC on the supplementary supervision of undertakings in an insurance group

	DFSA follows EIOPA's template for the coordination arrangements, which lays out the basis for the cooperation between the participants, including the list of college members and the role and responsibilities of the Group and other supervisors. The supervisory activities covered by the college arrangements include: • information exchange and professional secrecy; • cooperation among the Group Supervisor and the other Members and Participants in on-going supervision and in time of crisis; • the consultation and decision making process among the Group Supervisor and the other Members and Participants; • the Work Plan; • the sharing and delegations of tasks; • setting up specialised teams within College of Supervisors; • organising joint inspections; • assessing the compliance of the Group with the requirements on Solvency, Risk concentration and Intra Group transactions; • if applicable, (pre-) approval decision making process for the Group internal model for article 231 of the SII Directive; • determining the imposition of a group capital add-on; • making a choice of calculation method and determination of proportional share; and • application for applying the centralized risk management provisions. The coordination arrangement should reflect the organisation and business plan for the group and the entities in the group are reflected in the coordination arrangement. To assess risks stemming from other financial sectors, DFSA will be inviting banking and/or securities supervisors to participate in some aspects of the meetings this year, subject to satisfactory arrangements being made to protect the confidentiality of the information exchanged. In line with the EIOPA College guideline, as group supervisor, DFSA ensures that a mapping of the group and its financial undertakings is in place. The mapping takes the assessment made by host supervisors into account. This mapping ensures that all members of the group (both group supervisor and host supervisors) are aware of the structure and business model of the group. The understanding of the structure and the business model of the group and individual insurers are part of the agenda to the college meeting. As member of EIOPA, DFSA also participates in work to develop IT tools to support effective information sharing among supervisors. *Domestic Arrangements* Within Denmark, the DFSA also cooperates and coordinates with other relevant

	authorities, including with other ministries, police and enforcement authorities, subject to bilateral confidentiality arrangements. DFSA also coordinates and cooperates with the Consumer Ombudsman for review of market conduct matters through an MoU which details all processes and information sharing arrangements. The DFSA cooperates with the DN on the basis of arrangements to share information where the DN has due purpose for making the request.
Assessment	Observed
Comments	For insurance groups with international operations or part of international groups, the supervisory colleges have been operating in line with the EIOPA's templates and guidelines. The level of engagement bilaterally with other supervisors is high, at regional level (with other Nordic supervisors), within the EU and at wider international level. It includes informal exchanges as well as the regular meetings. As a group supervisor, DFSA leads the supervisory college process for three groups, ensuring that meetings are held following the EIOPA requirements. Nationally, the DFSA cooperates and coordinates with relevant agencies from other sectors, including the Consumer Ombudsman, DN and other government ministries as required. The authorities are advised to expedite Denmark's accession to the IAIS multilateral MoU which will facilitate other cross-border cooperation with non-EEA signatories to MMoU, in case this becomes necessary to a fuller extent than at present.
ICP 26	**Cross-border Cooperation and Coordination on Crisis Management** The supervisor cooperates and coordinates with other relevant supervisors and authorities such that a cross-border crisis involving a specific insurer can be managed effectively.
Description	The DFSA's focus on cross-border crisis management is on cooperation with other EU supervisors, within the framework of the colleges of supervisors and the EIOPA guidelines and templates which support their work in this area. This reflects the mainly EU focus of the operations of insurance companies doing business in Denmark. In general, the crisis coordination arrangements within the EU focus on crisis preparedness, including the maintenance of contact details and ensuring access to the information about a cross-border group that would be required to manage a crisis effectively. DFSA's approach has not been tested by a full crisis involving an insurance company, although it has had experience (from a host supervisor perspective) of exchanging information on companies in stress. It also participated in EIOPA's testing of its crisis coordination arrangements in 2012.

	EU colleges of supervisors The EU arrangements for college of supervisors include cooperation on crisis preparedness. The DFSA prepares an Emergency Plan for each company subject to college of supervisors arrangements (see ICP 25), in line with EIOPA guidelines on preparation for management of a financial crisis. A list of contact persons is maintained by EIOPA as part of the Helsinki List arrangements (see ICP 25). Following the EIOPA guideline, DFSA as the group supervisor ensures that a mapping of the group and its undertakings takes place, which ensures that all supervisors are aware of the structure and business model of the group and of each insurer within the group. It also has the responsibility to maintain group plans and tools for dealing with emergencies. These include the relevant coordination arrangements as part of cooperation among the group supervisor and the other members and participants in time of crisis as well in normal supervision. Meetings of the colleges of supervisors review the crisis management arrangements and would identify potential systemic implications of an insurance company failure. The reviews are done based on the EIOPA's template and include contagion channels, conflict of interest, intra-group exposures and changes in group risks. As a group supervisor of three groups with supervisory colleges, DFSA has procedures to inform other supervisory authorities and EIOPA of any potentially serious financial disturbance at group level or any facts and events that may give rise to significant problems for the group or subsidiaries. The communication would follow the EIOPA template. *(EIOPA's template for the Emergency Plan, 2.2)* The EIOPA template also contains procedures for crisis assessment, requiring the group supervisor to assess the nature of the crisis in cooperation with other supervisors and EIOPA. The objective is to assess the overall impact of the crisis, including "systematic implications", and provide a basis for the decision of whether and how to intervene. Guidance is provided on how to assess potential systematic implications of a crisis. *(EIOPA's template for the Emergency Plan, 2.3)* The EIOPA framework also provides for the handling of public communication, which is the responsibility of the group supervisor, and for a role for EIOPA in providing advice and mediation in case of barriers to agreements within the college of supervisors on coordinated supervisory action. *DFSA's crisis preparedness* The DFSA maintains a crisis manual which includes provisions on insurance companies reflecting the approach taken in colleges of supervisors and the powers which the DFSA

	has to intervene in case of concerns over the financial condition of a particular company (see ICPs 10, 11 and 12). The manual sets out different scenarios and policy actions, including the response to cases where the DFSA is intervening in relation to inadequate capital, including where it has required a recovery plan from the company under FBA section 247 or an account of the financial circumstances and future prospects of the undertaking under FBA section 349. *(Joint Crisis Manual, Chapter 5)* The DFSA focuses on ensuring that it would be able to take effective measures to manage a financial crisis at the level of each legal entity and does not formally assess barriers to efficient and internationally well-coordinated resolutions as part of its work (ICP 26.2). It would identify and raise potential issues affecting the ease with which a crisis could be managed such as intra-group exposures and dependencies on shared services. DFSA has reviewed the information that it would need in case of a crisis in relation to the groups for which it is group supervisor and has compared this to the information which it receives from its regular reporting and information available through the college of supervisors (on group structures etc). It has not identified a need for additional information. DFSA has the necessary provision in legislation for the sharing of confidential information to facilitate cooperation and coordination with other supervisors and authorities (see ICP 3). *(FBA s354)* *Requirements on insurers* DFSA has no specific requirements on insurance companies in relation to the availability of information which the DFSA would need to manage a crisis. There is a general requirement that insurers be organised so that the BoD has access to all relevant information when required, but this does not refer specifically to information that would be needed in a crisis. *(EO 1575 s11)* In connection with the DFSA's solvency requirements on insurers (see ICP 17*),* DFSA requires the BoDs of insurers to prepare capital contingency plans containing operational procedures which can be applied in practice if the assumptions of the capital plan (the medium term capital planning strategy) fail. DFSA supervisors review the capital contingency plans during onsite inspection and the DFSA has provided feedback on the limitations on existing documents (see ICP 17). *(EO 1343 s12)* However, insurance groups are not required to establish full crisis management or contingency plans addressing the range of emergencies to which they could be subject, although there is a requirement for continuity plans in case of business interruption. *(EO 1575 Annex 4, paragraph 3(g))* *Crisis management in practice*

	While DFSA has limited recent experience of serious crisis at an insurer, it has used the EIOPA emergency plan template in one case where the DFSA and one other EU supervisor were able to undertake effective coordinated action. It has also been proactive in seeking information from a group supervisor of a company with a subsidiary in Denmark when there were indications that a crisis could develop. DFSA alerts other supervisors to emerging issues affecting the insurance sector and its responses at the appropriate time (for example, the changes in life insurance regulations in June 2012 – see ICP 14).
Assessment	Largely Observed
Comments	DFSA's regime for cross-border cooperation and coordination on crisis management is based closely on the EU framework, which supports and provides guidance on coordinating the arrangements for crisis preparation, management and resolution by supervisory colleges in the EU. Coordination arrangements and emergency plans based on the EIOPA template are in place for all colleges in which the DFSA participates. It has not been necessary for the DFSA, as group supervisor or as a host supervisory authority, to manage a full solvency crisis to date. To that extent, its processes remain untested, but it has cooperated with other supervisors in the management of significant weakness at some firms. It is recommended that the DFSA seek opportunities for further testing of its arrangements and plans in line with the 2012 EIOPA test. It should also review the requirements it places on insurers for crisis management and contingency plans to ensure that these provide for an appropriately wide range of crisis events and include operational procedures for handling information provision and communications to the DFSA and college of supervisors.