



# THAILAND

## FINANCIAL SECTOR ASSESSMENT PROGRAM

### DETAILED ASSESSMENT OF OBSERVANCE— INSURANCE CORE PRINCIPLES

October 2019

This Detailed Assessment of Observance on Insurance Core Principles on Thailand was prepared by a staff team of the International Monetary Fund and the World Bank. It is based on the information available as of February 2019.

Copies of this report are available to the public from

International Monetary Fund • Publication Services  
PO Box 92780 • Washington, D.C. 20090  
Telephone: (202) 623-7430 • Fax: (202) 623-7201  
E-mail: [publications@imf.org](mailto:publications@imf.org) Web: <http://www.imf.org>  
Price: \$18.00 per printed copy

**International Monetary Fund**  
**Washington, D.C.**

# THAILAND

## FINANCIAL SECTOR ASSESSMENT PROGRAM

June 2019

# DETAILED ASSESSMENT OF OBSERVANCE

## INSURANCE CORE PRINCIPLES

Prepared By

Thomas Finnell and  
Charles Michael Grist

Monetary and Capital  
Markets Department, IMF,  
and Finance,  
Competitiveness and  
Innovation Global Practice,  
World Bank Group

This report was prepared in the context of a joint IMF-World Bank Financial Sector Assessment Program (FSAP) mission in Thailand during February 2019, led by Alejandro López Mejía (IMF) and Brett Coleman (World Bank). The FSAP was overseen by the Monetary and Capital Markets Department, IMF, and the Finance, Competitiveness and Innovation Global Practice, World Bank. Further information on the FSAP program can be found at <http://www.imf.org/external/np/fsap/fssa.aspx>, and [www.worldbank.org/fsap](http://www.worldbank.org/fsap).



INTERNATIONAL MONETARY FUND



THE WORLD BANK GROUP

## CONTENTS

Glossary	3
<b>EXECUTIVE SUMMARY</b>	<b>5</b>
<b>ASSESSMENT OF INSURANCE CORE PRINCIPLES</b>	<b>8</b>
A. Introduction and Scope	8
B. Information and Methodology Used for Assessment	9
C. Overview—Institutional and Macroprudential Setting	9
D. Preconditions for Effective Insurance Supervision	20
<b>DETAILED PRINCIPLE-BY-PRINCIPLE ASSESSMENT</b>	<b>33</b>
<b>THE AUTHORITIES' RESPONSE TO THE ASSESSMENT</b>	<b>117</b>
<b>FIGURES</b>	
1. Summary of the Organizational Structure of the OIC	10
2. Insurance Premiums Written	12
3. Thailand Insurance Market Composition by Product	14
<b>TABLES</b>	
1. Insurance Penetration in Selected Countries in the Region during 2016	14
2. Premiums Written in 2017	14
3. Compulsory Insurance Products	17
4. Insurance Industry ROE	18
5. Industry Assets and Liabilities	19
5. Industry Assets and Liabilities	20
6. Insurer Solvency	20
7. Summary of Observance with the ICPs	24
8. Summary of Observance Level	29
9. Recommendations to Improve Observance of ICPs	29
10. Detailed Assessment of Observance of the ICPs	34
Reference	118

## Glossary

APA	Administrative Procedure Act
ALAE	Allocated loss adjustment expenses
ALM	Asset and Liability Management
AML	Anti-Money Laundering
AMLA	Anti-Money Laundering Act
AMLO	Anti-Money Laundering Office
BOT	Bank of Thailand
BE	Best Estimate
CAR	Capital Adequacy Ratio
CAS	Casualty Actuarial Society
CDD	Customer Due Diligence
CFT	Countering Financing of Terrorism
COB	Conduct of Business
ERM	Enterprise Risk Management
EWS	Early Warning System
FAP	Federation of Accounting Professions
FSAP	Financial Sector Assessment Program
FSMP	Financial Sector Master Plans
GDP	Gross Domestic Product
IAIS	International Association of Insurance Supervisors
IAA	Institute of Actuaries of Australia
ICA	Insurance Commission Act, 2007
ICP	Insurance Core Principle
IASB	International Accounting Standards Board
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
LIA	Life Insurance Act, 1992
MCR	Minimum capital requirement
MOF	Ministry of Finance
MOU	Memorandum of Understanding
MMOU	IAIS Multilateral MOU on Cooperation and Information Exchange
MR CDD	Ministerial Regulation on Customer Due Diligence
NLIA	Non-Life Insurance Act, 1992
OIC	Office of the Insurance Commission of Thailand
ORSA	Own Risk and Solvency Assessment
PAD	Provision for Adverse Deviation
ROE	Return on equity
RBC	Risk-Based Capital
RMC	Risk Management Committee
SEC	Securities and Exchange Commission of Thailand
SOAT	Society of Actuaries of Thailand
TCR	Total Capital Required

THAILAND

TFRS	Thai Financial Reporting Standards
TGIA	Thai General Insurance Association
ULAE	Unallocated loss adjustment expense
VaR	Value at Risk
WEF	World Economic Forum

## EXECUTIVE SUMMARY

**The Thai insurance sector is a relatively small but growing part of the country's financial services industry.** Insurance sector assets have grown from 10 percent of gross domestic product (GDP) in 2006 to over 22 percent of GDP in 2016, constituting 9 percent of total financial industry assets. Similarly, between 2008 and 2017, gross premiums written have grown at an average annual rate of approximately 16.9 percent, substantially above nominal GDP growth of 9.9 percent during the same period. As a result, the insurance penetration ratio (the ratio of premiums written to GDP) has gradually increased from 3.63 percent in 2008 to 5.39 percent in 2017.

**In recent years, the government of Thailand has made a concerted effort to develop the insurance sector.** The government has implemented a series of insurance development plans towards this end. A major component of this work involves systematic efforts to improve regulation and supervision of insurance. Over the last seven years there have been major changes and improvements in several areas of supervision. These include: the development and retention of a strong, effective supervisory staff, governance and internal control requirements, a risk based supervisory framework, and capital adequacy, valuation, reserving, investment, and reinsurance requirements. A well-developed macroprudential framework has been put in place, as have improvements in information exchange and cross-border cooperation. These changes have helped move Thailand forward towards international standards significantly.

**In addition, several major initiatives have been commenced to strengthen other areas of supervision.** Many of these have involved extensive, systematic and meaningful consultation with industry to ensure that requirements are consistent with international standards but are appropriate to the market. These include new requirements in areas like enterprise risk management, regulation and supervision of intermediaries, and conduct of business regulation. Full assessment of these areas is premature as some requirements have only recently come into force and implementation is still underway. While the outlook for these areas looks very promising, full verification can only occur through regular supervisory processes over the next few years.

**Some significant regulatory and supervisory challenges remain, however, if Thailand is to continue to meet the pressures of a changing market and to continue to build the trust on which future growth depends.** Thailand's insurance market is evolving. Products and distribution channels are becoming more sophisticated, particularly in the life insurance area. There are many small insurers for the volume of insurance business written, and interest of foreign participants is increasing. A continued program of strong supervision is important for the country's future. Major recommendations intended to improve supervision follow for consideration by the Office of the Insurance Commission (OIC), and where applicable, by other involved government agencies whose approval would also be necessary.

**Consideration should be given to vesting more supervisory authority for key supervisory decisions with the Commission rather than with the Minister and Cabinet.** Vesting authority with the Commission will help to ensure that the insurance supervisor has adequate powers to meet the objectives of insurance supervision. Specific authorities and powers which should be considered include:

- The power to approve licensing decisions.
- Authority to waive foreign shareholder and director requirements.
- Authority to amalgamate.
- The power to revoke licenses.
- The power to take control of a life insurance company.

**In addition, the operational independence of the supervisory authority is not fully consistent with the Insurance Core Principle (ICP) standards.** Although much progress was made with the establishment of the OIC as a separate supervisory organization, the independence of the OIC should be further improved. Consideration should be given to the following:

- Repealing or amending Section 45 of the Insurance Commission Act, 2007 (ICA), which allows the Minister to override any decision of the OIC.
- Moving toward appointment of all commissioners based on suitability criteria rather than on positions in other government organizations.
- Giving the OIC, rather than the Minister, the authority to set fee levels on industry.

**Improving independence of the OIC should be accompanied by measures to increase its formal accountability to government.** This should include a more formal and elaborate accountability framework including, for example, a publicly-available annual multiyear strategic and operational plan that would include performance measures, and inclusion in OIC's publicly-available annual report progress in meeting the goals and objectives set out in its strategic and operational plan.

**Licensing, suitability, and control requirements should be reviewed and strengthened.** It is recommended that the OIC be encouraged to continue its review of licensing requirements with a view to increasing the clarity, consistency and timeliness of licensing decisions and procedures. Suitability requirements for all real person controlling beneficiaries of insurers should be strengthened, particularly with respect to identifying such individuals and assessing their integrity. Consideration should be given to developing more specific competency requirements for individuals in some control functions (e.g., risk management). The insurance legislation does not include general provisions requiring ongoing approval of all changes in control, other than those

with respect to foreign shareholders; the primary insurance legislation should also include an appropriate definition of control.

**In regard to supervisory preemptive action and enforcement, consideration should be given to the following:**

- Creating a legislative power for the OIC to take control of non-life insurers. The ability for the supervisor to take control of a troubled insurer is an important tool to minimize losses when an insurer is headed towards insolvency.
- Modifying the ladder of intervention to add an additional stage focused on preparing for the orderly wind-up of the insurer as a gone concern.
- Consideration should also be given to strengthening some enforcement powers related to intermediaries, such as the power to suspend intermediary licenses.

**With respect to winding up and exit from the market, the insurance legislation should be amended to clearly establish a point at which it is no longer permissible for a troubled insurer to continue in business (e.g., a capital adequacy ratio (CAR) of less than 100 percent).**

**In regard to reinsurance, the OIC should seek more certainty as to collection of amounts recoverable from foreign reinsurers, even the largest global reinsurers, which could be of concern if a domestic insurer were to become insolvent.** While regulations provide incentives for insurers to cede risk to higher-rated reinsurers and also require some collateral, it is recommended that the OIC consider how the legal framework might be strengthened to improve the security of reinsurance recoverables owed to an insolvent domestic insurer from a foreign reinsurer with no domestic presence.

**Risk-based capital (RBC) should include provision for all relevant material risks.** RBC currently excludes provisions for operational and catastrophe risks. As the OIC moves toward "RBC2" and possible recalibration of RBC over the next few years, it should also consider including these risks in RBC as the standard method for capital assessment.

**While intermediary and consumer protection requirements have been significantly improved, some smaller changes are recommended:**

- Legislation should be amended to require intermediaries to disclose the amount and/or the basis of compensation to clients.
- More guidance should be provided by the OIC to the industry on expectations regarding the handling of perceived, potential, and real conflicts of interest.
- The OIC should consider a requirement for errors and omissions (professional indemnity) insurance for insurance brokers and other intermediaries operating in the market.

- The OIC, in conjunction with the industry associations, should work together to develop more specific rules on the use of client information for ancillary purposes such as cross-selling of financial services products.
- Consideration should be given to the development of an industry complaint tracking system to collect information from all insurers and brokers on the number and types of complaints received and how they were resolved.

**Improvements should also be considered in the area of countering fraud.** Recent new requirements provide an opportunity for the OIC to develop a centralized fraud database. The OIC should also consider requiring that any fraud or act that may have a material impact on an insurer be reported to the OIC on a timely basis, whether or not the insurer may have rectified the matter.

**Supervisory measures regarding cross-border crisis management should be objectively applied based on stated criteria.** This includes in determining those insurers or situations for which contingency plans should be required.

**Additional recommendations and observations are identified in the body of the report.**

## ASSESSMENT OF INSURANCE CORE PRINCIPLES

### A. Introduction and Scope

**1. This paper provides an assessment of significant regulatory and supervisory practices in the insurance sector of Thailand.** The assessment was conducted by Charles Michael Grist, Financial Sector Consultant, the World Bank Group, and A. Thomas Finnell, Financial Sector Consultant to the International Monetary Fund, from February 6 until February 22, 2019. The last review of the Thai insurance sector was conducted as part of an April 2008 Financial Sector Assessment Program Review (FSAP), but this review did not include a detailed assessment against the ICPs issued by the International Association of Insurance Supervisors (IAIS).

**2. The current assessment is benchmarked against the ICPs issued by the IAIS in October 2011, including revisions authorized up until December 2017.** The assessment was undertaken as part of the FSAP conducted by the International Monetary Fund and World Bank. The ICPs apply to all insurers, whether private or government controlled. Specific principles apply to the supervision of intermediaries. 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 assessment against its standards.** Each ICP is rated in terms of the level of observance as follows:

- **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 exercise this authority to a satisfactory level.
- **Largely observed:** where only minor shortcomings exist, which do not raise any concerns about the authorities' ability to achieve full observance.
- **Partly observed:** where, despite progress, the shortcomings are sufficient to raise doubts about the authorities' ability to achieve observance.
- **Not observed:** where no substantive progress toward observance has been achieved.

**4. The assessment is based solely on the laws, regulations, and other supervisory practices in place in February 2019.** While the assessment does not reflect ongoing regulatory initiatives, some key proposals are discussed by way of additional comments in this report. The authorities have provided a self-assessment, supported by examples of actual supervisory practices and assessments, related to entities (the identities of which have not been disclosed) which enhanced the robustness of the assessment. Technical discussions with, and briefings by, officials from the Thai authorities have also enriched discussions of this report as did discussions with some industry participants. The assessors did not meet with any consumer groups.

**5. The assessors are grateful to the authorities for the hospitality, cooperation and thoughtful logistical arrangements, particularly the helpful coordination of various meetings with industry stakeholders.** The assessors are also grateful for the valuable inputs and insightful views received from insurers, professional associations, and other industry participants received during the course of their work.

## C. Overview—Institutional and Macroprudential Setting

### Institutional framework and arrangements:

**6. Financial sector regulation in Thailand is dependent on three main supervisory authorities, each with its own sector specific legislation.** Insurance is the responsibility of the OIC. Banking is supervised by the Bank of Thailand (BOT), Securities is regulated by the Securities and Exchange Commission (SEC) as are provident funds. These authorities operate with considerable autonomy and there is cooperation and some overlap in powers and responsibilities with respect to financial groups and financial stability issues.

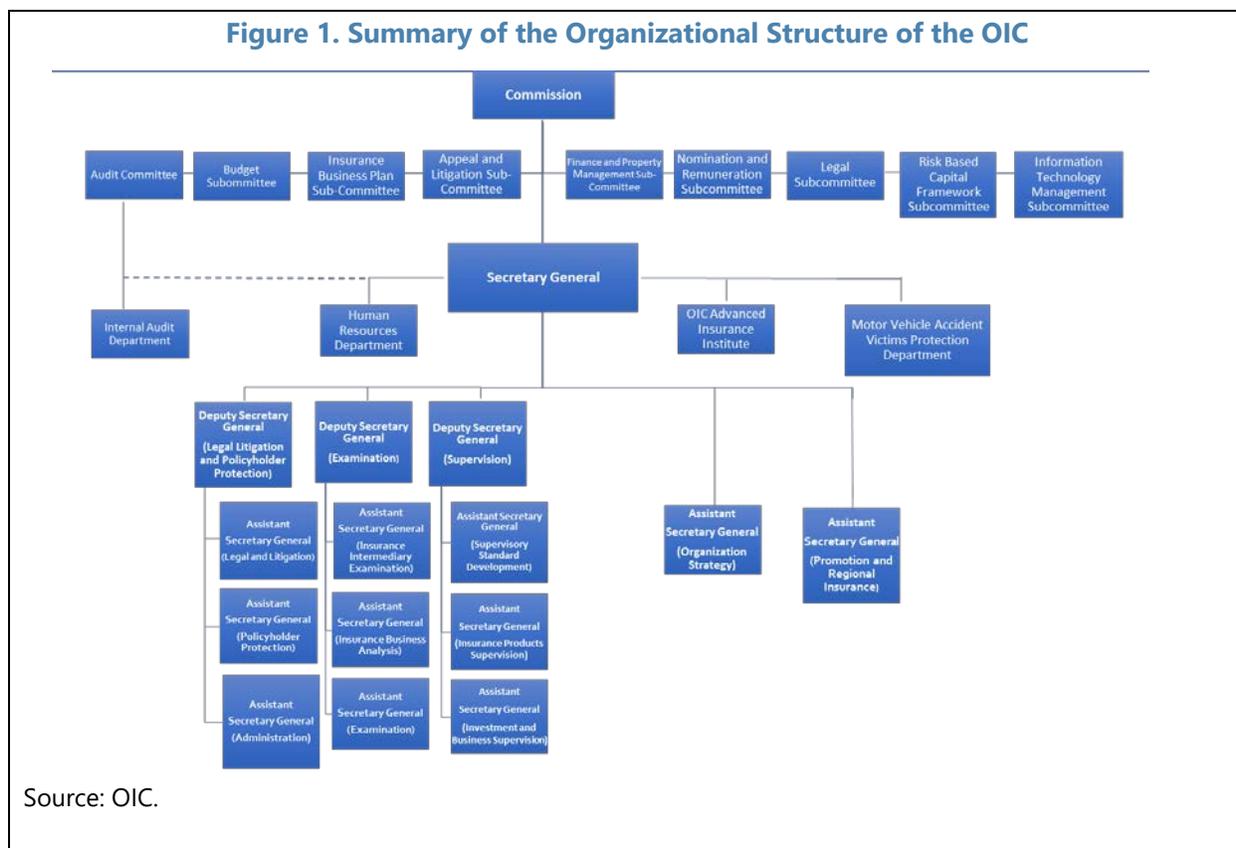
**7. The OIC is within a portfolio of agencies reporting to the Minister of Finance.** It is led by a Board of Directors which includes the Permanent Secretaries for Finance and Commerce, the Secretary-General of the Consumer Protection Board, the Governor of the Bank of Thailand, the

Secretary-General of the SEC and the Secretary-General of the OIC who serves as its Secretary, and the OICs Chief Executive Officer. The Board also has at least six (and not more than eight) other members who are appointed based on their professional backgrounds ((law, accountancy, business administration, finance, economics, and/or insurance).

**8. The OIC became an independent authority with the passage of the ICA in 2007.** As previously mentioned, the Secretary General is its Chief Executive and supervises day to day insurance business through authorities and requirements established under the Civil and Commercial Code, the Life Insurance Act 1992 (LIA) and Non-Life Insurance Act 1992 (NLIA), (including amendments and subordinate legislation up until 2018), and in accordance with policies or regulations laid down by Insurance Commission as defined under section 6, 12, 17, and 20 of Insurance Commission Act 2007.

**9. The OIC is financed by levies on the sector it regulates.** These are approved by the Minister and Cabinet.

**10. A chart outlining the structure of the OIC is provided below (Figure 1):**

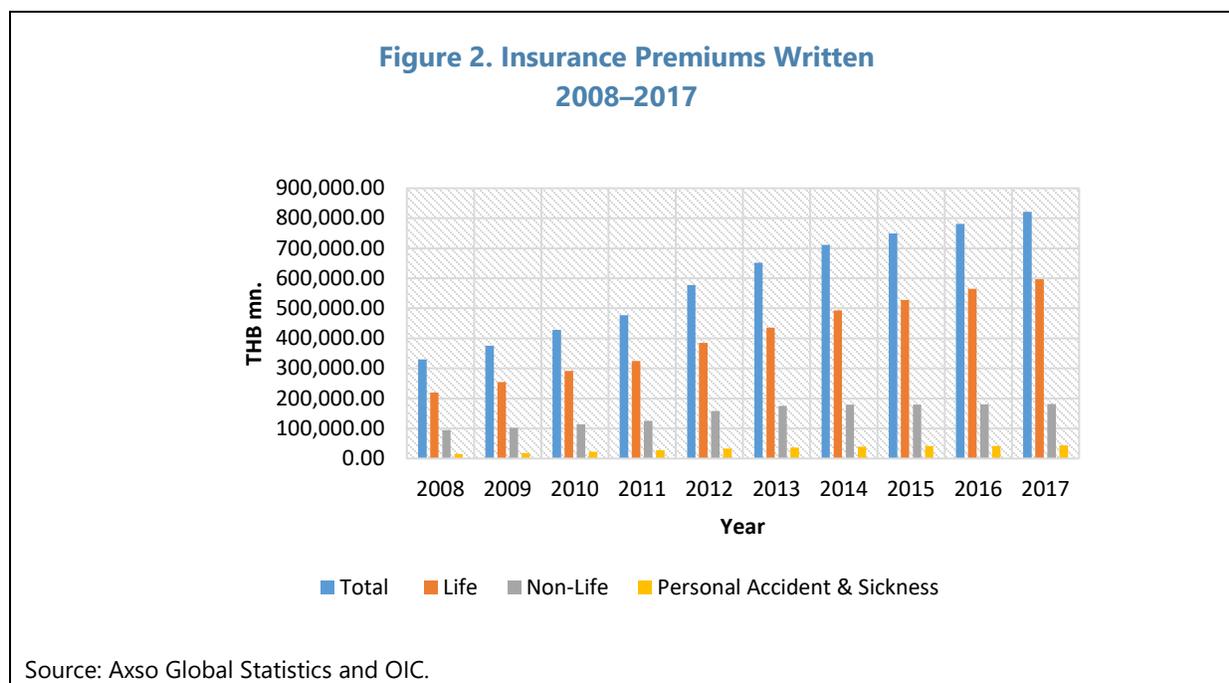


**11. In January 2019, the OIC had a staff of 575, of which 389 are at the central office in Bangkok and 186 are in regional offices).** Staff are deployed across the following divisions:

- General Administration Group (i.e., budget, finance, and accounting): 48 officers.
- Examination Group: 33 officers.
- Insurance Business Analysis Group (i.e., offsite analysis, strategic development responsibilities): 27 officers.
- Insurance Intermediary Examination Group: 27 officers.
- Supervisory Standard Development Group (i.e., capital and solvency standards, system stability, corporate governance standards, business operation standards): 16 officers.
- Insurance Products Supervision Group: 35 officers.
- Investment Business Supervision Group: 14 officers.
- Strategic Organization Group (i.e., Risk Management, Corporate Communications, International Affairs and Policy, Information Technology and Communication): 41 officers.
- Regional Insurance Group (intermediary examination and licensing, local complaints handling, payment of compensation under the Protection of Motor Vehicle Accident Victims Act and developing insurance literacy): 199 officers.
- Legal and Litigation Group: 23 officers.
- Policyholder Protection Group (i.e., complaint handling, call center, dispute settlement): 34 officers.
- Office of Secretary General Group: 60 officers:
  - Secretary general's office
  - Senior insurance Experts
  - Internal Audit Department
  - Human Resource Department
  - OIC Advanced Insurance Institute
  - Motor Vehicle Accident Victims Protection Department

## Industry Structure and Recent Trends:

**12. The Thai insurance industry is a relatively small but growing part of the country's financial services sector (Figure 2).** Insurance sector assets have grown from 10 percent of GDP in 2006 to over 22 percent of GDP in 2016, constituting 9 percent of total financial sector assets. Similarly, between 2008 and 2017, gross premiums written have grown at an average annual rate of approximately 16.9 percent, substantially above nominal GDP growth of 9.9 percent during the same period. As a result, the insurance penetration ratio (the ratio of premiums written to GDP) has gradually increased from 3.63 percent in 2008 to 5.39 percent in 2017.



**13. Insurance penetration is high by regional standards, fueled by growing per capita income, and expectations of longer term economic growth (Table 1).** Thailand is the world's 29<sup>th</sup> largest insurance market.<sup>1</sup> Insurance penetration is below that seen in higher income Singapore (8.75 percent) but higher than most other countries in the region including Malaysia, Indonesia, and Vietnam. It is also higher than many countries with similar per capita income like Columbia (2.87 percent), Peru (1.62 percent), and Ecuador (1.99 percent).

<sup>1</sup>Axco Global Statistics.

**Table 1. Thailand: Insurance Penetration in Selected Countries in the Region During 2016 (U.S. Dollars)**

	Life		Non-Life		Personal Accident and Health		Total	
	Percent	Per Capita*	Percent	Per Capita*	Percent	Per Capita*	Percent	Per Capita*
Thailand	3.91	254.93	1.19	77.31	0.29	18.59	5.39	350.82
Singapore	7.01	3,755.31	0.75	399.95	1.00	535.79	8.75	4,691.04
Malaysia	2.75	273.67	1.14	113.38	0.17	16.43	4.06	403.48
Vietnam	1.35	30.97	0.59	13.62	0.25	5.71	2.18	50.31
Indonesia	1.34	52.04	0.30	11.75	0.10	3.72	1.75	67.52

Source: Axco Global Statistics.

**14. The Thai market is dominated by the life sector which accounts for approximately 73 percent of net premiums written (Table 2).** Approximately 72 percent of this total is made up of individual policies—largely endowment policies encouraged by government tax incentives (Figure 3). A further 20 percent are group policies, largely associated with employee benefit packages of employers. Personal accident and sickness policies may be written by either life or non-life insurers, but these policies currently account for only one percent of premiums written by life insurers and are written as riders on other products. All other forms of life insurance account for approximately seven percent of life insurance premiums written.

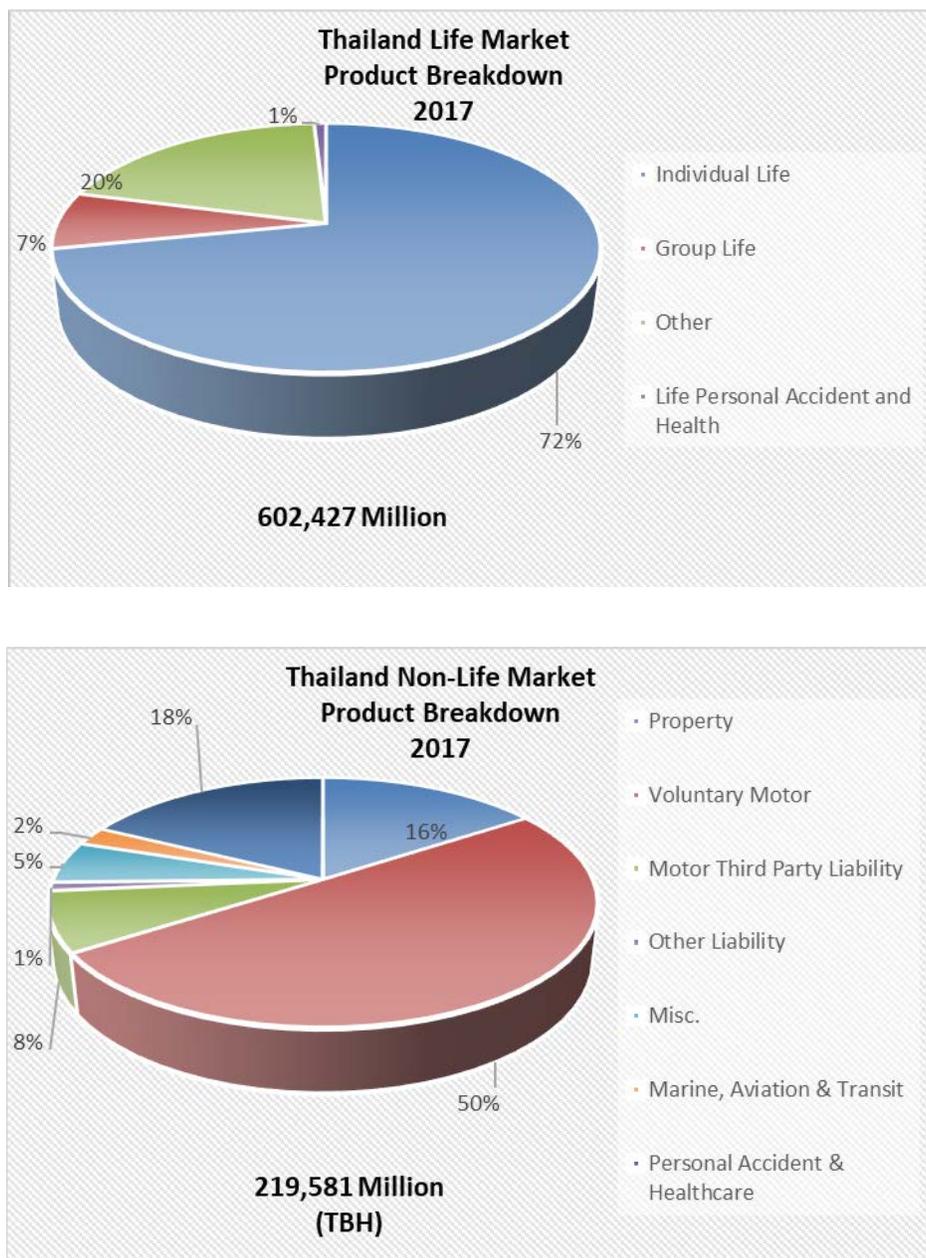
**15. The non-life sector accounts for approximately 22 percent of premiums written.** The largest portion of this business is voluntary motor insurance policies which account for roughly 50 percent of the total. Property insurance accounts for a further 16 percent of the market and compulsory motor insurance makes up a further 8 percent. All other types of non-life policies make up approximately 26 percent of the market including personal accident and sickness policies written by non-life insurers (eighteen percent of premiums written), marine aviation and transit (approximately two percent of non-life premiums written), liability insurance (approximately 1 percent of premiums written) and all other classes (approximately 5 percent of premiums written).

**Table 2. Thailand: Premiums Written in 2017 (THB million)**

	Life	Non-Life	Personal Accident and Healthcare	Total
Premium (in THB mn).	597,321.56	181,139.83	43,547.92	822,009.31
Percent of the total market	72.67	22.03	5.30	100.00

Source: Axco Global Statistics.

**Figure 3. Thailand Insurance Market Composition by Product**



Source: AXCO.

**16. There were a total of 82 authorized insurers including six foreign branch insurers operating in Thailand at the end of December, 2018.<sup>2</sup>** They include 58 non-life insurers, 22 life and pension insurers, and 2 locally established reinsurance companies. Market participants must either be locally established public companies or branches of foreign insurers. Less than 2 percent of

<sup>2</sup> Source: OIC.

gross premiums written is written outside the country. Separate entities are required for life and non-life business. The number of insurers has gradually decreased from 90 in 2013. The two reinsurance companies write non-life and life business but life reinsurance accounts for only a small fraction of gross premiums written in the market.

**17. International participation in the industry is restricted.** There are currently six foreign branches licensed to operate in Thailand, but no new branches have been licensed in several years. In practice, a moratorium on new licenses (domestic and foreign) has been in place for over 20 years (although there is no official policy on this matter), the rationale being that there were many insurers in Thailand. However, new players could still enter the Thai insurance industry through a joint investment in an existing insurance company. Section 10 of the LIA and Section 9 of the NLIA require that Thai nationals hold at least 75 percent of the total number of a public limited company insurer's voting shares and three quarters of the company's directors must be Thai nationals.

**18. In cases where the Commission deems it appropriate, the Commission may permit persons of non-Thai nationality to hold shares up to 49 percent of the total number of voting shares that have been sold, and permit persons of non-Thai nationality to serve as directors in a number exceeding 1/4, but less than 1/2, of the total number of directors.** In the event that the company's standing or operations are of a condition that might cause damage to the insured or the public, or for the purpose of strengthening the stability of any company or the stability of the life insurance business, the Minister, upon the recommendation of the Commission, is empowered to grant a waiver to permit the company to have shareholders or directors other than as specified above. The application for, and the granting of, such permissions must be in accordance with the regulations, procedures, and conditions or time limits prescribed by the Commission or the Minister. In 2012, AXA was granted permission to hold a 100 percent shareholding of AXA insurance public Co., Ltd.

**19. At present, approximately 25 percent of total industry assets are foreign owned.** This has decreased from approximately 31 percent in 2013. In total, there are 34 insurance companies which have some international participation and are part of international insurance groups: 11 life insurance companies and 23 non-life insurance companies. Approximately 23 insurance companies have equity links to banking groups and non-financial conglomerates.

**20. Insurance market concentration is low.** The Herfindahl-Hirschman Index of market concentration is less than 1400 for the life industry indicating an unconcentrated industry while the index for the non-life industry is less than 200 indicating a highly competitive industry. The largest market share of any participant for the life industry was 26 percent while that of the non-life industry was 8 percent.

**21. Insurance policies are distributed mainly through licensed brokers and agents but bancassurance is also a major distribution channel.** In non-life business, brokers are the largest distribution channel accounting for more than 55 percent of non-life business. Agents are also active in motor, personal accident and small commercial lines and account for roughly 16 percent of business written while bancassurance accounts for roughly 13 percent. Life market distribution is

dominated by agency and bancassurance channels which account for more than 94 percent of direct premium written. Internet and other distribution channels (mainly telephone based) are currently small (less than 7 percent of direct premiums written) but internet-based sales are starting to grow rapidly.

**22. The market includes several insurance products that are compulsory for consumers.**

Compliance with compulsory insurance requirements for some compulsory products is not said to be a significant issue (Table 3).

<b>Table 3. Thailand: Compulsory Insurance Products</b>	
Motor third party liability for bodily injury	Workers Compensation (state scheme).
Worksite Inspectors' Liability	Personal Accident Insurance for Boat Passengers.
Fire and Explosion Liability for Operators of Fuel Oil and Gas Facilities	Insurance for Damage to Hire-Out Jet-Skis
Shipowners Liability Against Marine Oils Pollution	Liability Insurance for the Transport of Hazardous Substances
Liability Insurance for Unmanned Aircraft (Drones)	Aviation Liability
Source: OIC.	

**23. International financial reporting standards and an independent audit function and actuarial involvement are observed in Thailand.**

The Federation of Accounting Professions (FAP) is authorized to develop accounting standards in Thailand under the supervision of the Accounting Profession Supervision Committee, and has generally adopted all International Financial Reporting Standards (IFRS) with a one-year delay from the equivalent IFRS Standard's effective date. Thai Financial Reporting Standards (TFRS), and are aligned with the 2016 version of IFRS. The TFRS approach to the valuation of assets and liabilities implies a risk-adjusted present value approach to both assets and liabilities, assuming a going-concern basis.

**24. TFRS have been adopted by all insurers in Thailand.** Currently, Thai insurers are preparing to adopt IFRS 9, Financial Instruments, that will be effective in 2020. FAP is in the process of issuing a guideline for insurance companies who elect to further defer the implementation of IFRS 9 until IFRS 17, Insurance Contracts, becomes effective in Thailand, tentatively, in 2023.

**25. The financial statements of Thai insurance companies have to be reviewed or audited by a Certified Public Accountant who must comply with Thai Auditing standards.**

The FAP prescribes Thai Auditing standards, closely following international auditing standards. Independent auditors of Thai insurance companies must be licensed. Licensing requirements include training in the insurance business, IFRS, international auditing standards, corporate governance, risk management, and internal controls. Independent auditors must use actuaries to review the technical accounts and reserves of the insurance companies they audit. The FAP, under the oversight of Accounting Professions Regulatory Commission, is responsible for regulating the audit profession. In

addition, the Central Bank of Thailand requires that auditors of all financial institutions must be those approved by the SEC as auditors in the capital market.

**26. A licensed actuary is required to certify the valuation of liability annually on both a gross and net of reinsurance basis.** The license is issued by OIC and must be renewed every two years. The qualification of a licensed actuary for non-life business includes either being a fellow of the Society of Actuaries of Thailand or having graduated from an Office of Civil Services Commission-approved university and have at least five years of reserving experience. Life actuaries are required to be a fellow of the Society of Actuaries of Thailand. Both life and non-life actuaries must comply with an OIC code of conduct and standard practice that is suitable for the practice area; violation of the standard or code of conduct will result in suspension or revocation of the license. The OIC consistently assesses the appropriateness of experts involved in asset and liability valuation. The majority of actuaries practicing in Thailand maintain a fellowship in internationally-recognized actuarial societies such as the Society of Actuaries in the U.S., the Institute of Actuaries of Australia (IAA), the Institute and Faculty of Actuaries (IFoA) (U.K.) or the CAS in the U.S.

### Operating Performance, Assets and Liabilities, and Solvency Position

**27. The life insurance industry enjoyed high profitability in recent years with return on equity (ROE) in the 10.5 to 12.9 percent range.** While the loss ratio and expense ratio have been stable, investment returns have recently decreased (Table 4).

**28. The non-life business has also been profitable, but profitability has steadily declined since a hard market in 2013.** In 2017 ROE was approximately 7.4 percent and has largely been impacted by the direction of motor insurance business. In 2018, it is estimated that ROE will further decline due to an intensely competitive market while the premium volume is expected to grow along with the growth of automobile sales.

**29. Reinsurance business was significantly impacted by catastrophic flood losses in 2011 which impacted on profitability until 2013.** In recent years however, profitability has significantly improved.

**Table 4. Thailand: Insurance Industry ROE  
(in percent)**

	2013	2014	2015	2016	2017
<b>Life</b>	12.76	10.53	11.35	12.92	12.75
<b>Non-Life</b>	21.23	18.47	12.05	9.04	7.41
<b>Reinsurance</b>	(24.31)	(5.05)	40.23	25.69	30.91

Source: OIC.

### Assets and Liabilities

**30. Insurance sector assets grew by approximately 56.4 percent between 2013 and the end of 2017.** All of this growth is attributable to growth in the life insurance sector, which was partially

offset by declines in the non-life and the reinsurance sectors. The growth largely reflects general premium and capital growth in the life sector.

**31. The investment profile for life insurers appears to be conservative and strongly weighted towards government securities.** Government securities account for approximately 66 percent of life insurer assets. The composition of investments between major classes also appears to have been relatively constant over the last five years. In the non-life insurance sector, investments in corporate securities and equities appear to be heavier than in many other asset classes and accounted for 43.6 percent of investments in 2017. Over the five-year period equities reported for the Thai non-life sector increased by 75 percent, comparable to growth in market indices; over the same period, non-life premium volume was flat, indicating that such equity growth is not resulting in over-leveraging of premium (Table 5).

<b>Life</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>Total Assets</b>	1,902.90	2,301.20	2,580.79	2,895.93	3,316.46
Investments:					
Government securities	1,059.00	1,245.37	1,416.63	1,712.84	1,907.83
Corporate bonds	418.06	517.33	596.15	537.24	640.97
Equities	130.20	159.56	156.54	196.52	254.61
Real estate	9.18	13.83	16.75	17.90	20.04
Cash and bank balances	56.03	81.65	72.28	59.22	45.22
Investments supporting unit linked	N/A	N/A	N/A	12.57	26.45
Receivables	20.25	23.47	23.96	25.99	27.04
Other assets	210.17	259.99	298.49	333.65	394.30
<b>Liabilities &amp; Equity</b>	1,902.90	2,301.20	2,580.79	2,895.93	3,316.46
Share capital	62.05	64.62	63.89	70.23	93.48
Accumulated retained earnings	334.46	394.61	279.08	260.04	225.45
Technical provisions	1,311.27	1,554.91	1,876.99	2,170.83	2,531.27
Other liabilities	195.12	287.07	360.83	394.84	466.25
<b>Non-Life</b>					
<b>Total Assets</b>	483.91	456.89	447.32	451.60	449.80
Investments:	-	-	-	-	-
Government securities	62.77	72.15	66.94	68.69	68.66
Corporate securities	13.03	18.19	24.07	31.49	33.05
Equities	52.68	70.58	83.79	86.16	88.85
Real estate	N/A	N/A	1.38	1.55	1.52
Cash and bank balances	87.44	106.00	98.89	87.23	91.74
Receivables	71.34	34.51	32.06	32.14	33.93
Other assets	196.66	155.46	140.20	144.34	132.06
<b>Liabilities &amp; Equity</b>	483.91	456.89	447.32	451.60	449.80
Share capital	155.52	155.30	148.35	144.78	146.33
Accumulated retained earnings	(54.43)	(33.83)	(25.61)	(19.58)	(14.07)
Technical provisions	230.53	200.32	185.01	187.97	177.80

Other liabilities	152.28	135.10	139.58	138.43	139.74
<b>Reinsurance</b>					
<b>Total Assets</b>	29.50	16.17	15.09	14.64	13.37
Investments:					
Government securities	6.72	2.09	1.59	2.34	2.35
Corporate securities	6.67	7.46	0.03	0.05	0.14
Equities	0.16	0.26	3.26	3.04	0.32
Cash and bank balances	5.90	3.00	2.55	2.20	1.40
Receivables	2.31	0.71	0.47	0.53	0.52
Other assets	7.74	2.64	7.19	6.49	8.64
<b>Liabilities &amp; Equity</b>	29.50	16.17	15.09	14.64	13.37
Share capital	4.11	4.81	4.81	4.81	4.81
Accumulated retained earnings	(3.95)	(5.26)	0.87	(0.30)	0.72
Technical provisions	14.36	3.04	4.26	4.32	3.90
Other liabilities	14.97	13.57	5.15	5.80	3.94

Source: OIC.

## Solvency Position

**32. For the life sector in Thailand, the solvency position of the industry has remained reasonably constant over the last three years after a small decline between 2014 and 2015 (Table 6).** The position of the non-life sector has also remained fairly constant over the last four years after a significant decline in 2014. The average capital ratio of both the life and non-life sectors remains substantially above the minimum capital requirement. At the time of this report only one small non-life insurer has fallen below the Total Capital Required (TCR). In previous years the number of insurers who have fallen below the TCR ranges from one to three. In these circumstances their licenses were revoked.

<b>Life:</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Q3/2018</b>
TCR	109.63	132.64	133.77	144.55	157.90	163.71
Average Capital Ratio (CAR)	391.30	410.00	379.01	344.23	344.19	353.47
<b>Non-Life:</b>						
TCR	32.67	48.52	56.66	57.46	58.58	61.8
Average Capital Ratio (CAR)	400.50	222.99	311.41	312.32	319.90	313.96

\*\* CAR = Capital Adequacy Ratio.  
For TCR, Bahts in billions.  
Source: Insurance Business Analysis OIC, Thailand.

## Risks and Vulnerabilities

**33. The continued growth and stability of the insurance sector is dependent on continued economic growth and stability of the region, and the broader financial sector.** While economic

growth is expected to continue in the range of 2–3 percent per annum, economic or political shocks could have significant impacts on these expectations. The authorities are aware of these issues and are working to maintain a stable environment.

**34. Thailand’s life insurance industry faces a number of challenges.** Thailand’s aging population impacts on the sale of traditional products. There are strategic, operational and conduct of business risks that must be managed in the development of new products. Seniors accounted for about 14.2 percent of the national population in 2015 and are expected to grow to more than 25 percent by 2023. Another continuing challenge for Thailand’s life industry is the ability of insurers to match long duration insurance liabilities with investment instruments in local markets.

**35. The low interest rate environment also presents challenges for life insurance.** Thailand, like many jurisdictions, has seen interest rates decline to levels below what was assumed when many long-term guaranteed policies were issued. Bancassurance has been a major driver of premium growth in the past decade, and most of the life insurance products sold through that channel have been guaranteed endowment products, which remain popular in Thailand. Life insurers could not perfectly match the duration of their assets and liabilities, which causes volatility in earnings, capital requirements, and capital resources. Thai life insurers, especially those with guaranteed products in their portfolio, aim to prospectively offer less guaranteed benefits and focus instead on life protection, health protection, and unit-linked products to shift investment risks to policyholders.

**36. The Thai non-life insurance market is intensely competitive and there are a large number of insurers for the size of market.** There is a risk that fierce competition among insurers on price, rather than on quality of service, could result in the erosion of underwriting discipline and could create solvency problems. This is particularly true for smaller insurers. Further industry consolidation may help mitigate these pressures. The exposure to natural disasters and catastrophic loss in the region is also an important challenge for the non-life insurance sector and part of insurer risk management requirements.

## D. Preconditions for Effective Insurance Supervision

### Sound and Sustainable Macroeconomic and Financial Sector Policies

**37. Thailand was ranked 32nd in global competitiveness by the World Economic Forum (WEF).** Some of the positive factors discussed in the WEF assessment included the quality of the macroeconomic environment, health and primary education, and market size. The top challenges indicated by the forum were some inefficient institutions and lack of innovation.

**38. Thailand’s economy is increasingly driven by its industry and service sectors.** The economy was traditionally based on agricultural exports but in recent decades it has been transformed into one of the most diverse in south-east Asia. Tourism dominates the services sector. Foreign direct investment averaged 2.1 percent of GDP between 2011 and 2015. Following a contraction in 2009, the Thai economy has been driven by exports and tourism. GDP growth is currently in the 3 percent range.

**39. Over the past decade, Thailand’s financial sector landscape has become more complex and interconnected, with an increased number of service providers and more variety of financial transactions.** The BOT has conducted monetary policy under a flexible inflation targeting framework since May 2000. Under this framework, the BOT pays attention not only to ensuring price stability through setting an inflation target (so-called “monetary policy target”), but also to preserving economic growth and financial stability.

**40. The BOT in cooperation with the Ministry of Finance (MOF) has also set goals and strategic direction for financial sector development through a series of Financial Sector Master Plans (FSMP).** The FSMP I (2004–2008) focused on rationalizing the structure of the financial institutions system in order to enhance efficiency and stability. FSMP II (2010–2014) aimed to increase efficiency and competitiveness of the financial institutions system as well as promote financial access and enhance financial infrastructure, especially financial institutions’ risk management. The vision of the FSMP (2016–2020) III is to promote a competitive Thai financial system which can support more diverse needs at fair and undistorted prices, promote regional trade and investment, with supervision to ensure macroeconomic and financial stability. In the insurance sector, the OIC has established an Insurance Development Plan, which consists of insurance supervisory and developmental policies that are consistent with this direction.

### **Thailand’s Legal System**

**41. Thailand’s system of laws and the court system are well developed.** The system of laws is a blend of Thai civil and commercial law, influenced by English common law and statutes and also by practice in continental Europe, especially Germany and Switzerland. The civil law system is codified and the Civil and Commercial Code is the most important of the four legal codes insofar as civil matters are concerned. The legal relationship, including liability in respect of non-marine and life insurance, is governed by the provisions of the code, while marine insurance tends to be governed by the British Marine Insurance Act 1906, in the absence of more specific legislation.

**42. The Constitution is the supreme law from which the authority of other laws emanates.** No law or regulations can contradict the principles laid down in the Constitution. Other types of legislation include Codes of law, Acts, Statutes or Emergency Decrees or Royal Proclamations. Of particular importance to the insurance sector are the LIA and NLIA which lay down the supervision of insurance industry and the ICA which empowers the Insurance Commission and the OIC to supervise the insurance Industry.

**43. Ministerial Regulation/Orders are subordinate legislation issued under the Acts. Subordinate law is passed by the Cabinet.** The OIC also has Insurance Commission Notifications which are subordinate legislation issued under the Life and Non-Life Insurance Acts but passed by the Insurance Commission instead of the Cabinet. The enactment of such subordinate legislations must be in accordance with the authority and scope prescribed in the Acts.

**44. While Thailand’s system of laws is well developed, the court system is not easily accessible to individual insurance consumers.** Court costs and legal fees are high relative to the

incomes of many consumers and Thai consumers are generally not litigious. Most disputes are settled out of court. Court judgements do not include pain and suffering and are low by European or North American standards. They are also said to be low compared to standards in Malaysia or Singapore. The OIC has alternative dispute settlement resolution mechanisms to ensure that rights of the policyholders are protected and give policyholders no cost options of settling disputes with insurance companies.

### **Accounting, Auditing, and Actuarial Standards**

**45. As previously mentioned, Thai Financial Reporting Standards are very similar to IFRS for the insurance sector.** Independent auditors for insurance companies must be licensed. Licensing requirements appear to be rigorous and require auditors to have training in insurance business, IFRS, international auditing standards, corporate governance, risk management and internal controls, etc. Independent Auditors must use actuaries to review the technical accounts and reserves of companies. Thai Auditing standards closely follow international auditing standards.

**46. Thailand has a growing actuarial community.** There are approximately 120 actuaries currently licensed and there is also a well-established Society of Actuaries of Thailand (SOAT). OIC requires actuaries to be licensed and perform their duty in a professional manner. There is a code of ethics and non-compliance or misconduct can result in license suspension or revocation. The actuarial professional body in Thailand is the SOAT, which is a full member of the International Actuarial Association. SOAT provides professional seminars and workshops relevant to actuarial work. A member of SOAT must comply with the Code of Conduct and Thai Standard of Actuarial Practice which are consistent with the International Actuarial Association code of conduct and standards of actuarial practice.

### **Mechanisms for Consumer Protection**

**47. Although there is no insurance ombudsman in Thailand, the OIC can arbitrate any dispute between the public and insurers and has imposed a requirement that all insurance policies must contain an option (binding on the insurer) for arbitration of claims under the OIC's rules.** The decisions of the OIC are binding on the insurer but are not binding on the policyholder. The arbitration process exists as a quick and economical way of settling contractual disputes, with cases expected to be settled within 90 days. The Thai General Insurance Association (TGIA) also runs an arbitration office, the primary objective of which is to reduce the number of disputes between insurers and their clients where the amounts involved are relatively modest and recourse to the courts would be a costly option. The arbitrators are four retired criminal and appeal court judges. Almost all cases handled by the arbitration office relate to motor insurance.

**48. Thailand has two policyholder protection funds to protect policyholders in the event of insurer insolvency.** Under Chapter V of the NLIA, a "protected fund," or policyholders' protection fund, is financed by a 0.1 percent levy on the gross written premium for each company. The OIC has issued guidelines outlining the rules, procedures and conditions for creditors seeking to obtain payments from the fund. Each creditor has the right of repayment from the non-life fund and the

amount repaid, together with the insurer's reserves deposited with the OIC, must not exceed the amount due under the policy. The total repayment amount to any single claimant for all non-life insurance policies with the same insurance company is limited to THB 1 million (US\$31,299). Similarly, in 2008 an amendment to Chapter 5 of the LIA established a policyholder protection fund for life insurance companies. Neither fund is guaranteed by the state. The OIC is also responsible for the administration of the Protection of Motor Vehicle Accident Victims Act, which is administered through its offices around the country and has a separate fund for compensation.

### Efficient Financial Markets

**49. Thailand has a Stock Exchange and Bond Market contributing to efficient allocation of capital.** The Stock Exchange of Thailand was incorporated under the Securities Exchange of Thailand Act, B.E. 2517 (1974). Operations started on April 30, 1975. As of December 31, 2018, there were 545 companies listed on the SET and 159 companies on the Market for Alternative Investment (MAI), with a total market capitalization for common stocks of THB 16.22 trillion. There are 2 bond markets, which are the Thai Bond Market Association (ThaiBMA) and the Thailand Bond Exchange, with a total market size of THB 12.58 trillion. They offer domestic sovereign bonds for institutional investors, fixed interest securities, including BOT bonds, debentures, treasury bills and corporate bonds, with maturities of up to 50 years.

**50. Table 7 summarizes the observance of the ICPs arising from this assessment.**

Table 7. Thailand: Summary of Observance with the ICPs		
Insurance Core Principle	Level	Overall Comments
<b>1. Objectives, Powers, and Responsibilities of the Supervisor</b>	<b>LO</b>	The OIC is the authority responsible for insurance supervision and is clearly defined in primary legislation. The operations of the OIC appear to be broadly focused on the maintenance of a fair, safe, and stable insurance sector for the benefit and protection of policyholders.  Under current legislation, however, several key supervisory powers under the legislation, like the power to approve licensing decisions, rest with the Minister and/or Cabinet rather than the supervisory authority. Establishing these powers with the Minister rather than the supervisor creates a risk that the supervisor may not have adequate powers that can be used in a timely manner to achieve the objectives of supervision.
<b>2. Supervisor</b>	<b>LO</b>	While many of the ICP standards are fully addressed, the independence and transparency of the supervisory organization can be improved and should be made more consistent with international standards.

<b>3. Information Exchange and Confidentiality Requirements</b>	<b>O</b>	The supervisor has the necessary legislative authority and demonstrates the ICP standards in its supervisory practice.
<b>4. Licensing</b>	<b>PO</b>	<p>Partly observed is based on the observation that licensing criteria need to be updated and applied across all industry applicants.</p> <p>For example, consideration of corporate or group structure does not currently appear to be part of licensing requirements. Consideration should be given to proposed governance structure, risk management and internal control functions of all licence applicants at the licensing stage and identification and suitability assessment of controlling beneficiaries should be part of the licencing process.</p> <p>The OIC is aware of the licensing deficiencies and is working to make appropriate changes to insure consistency with international standards.</p>
<b>5. Suitability of Persons</b>	<b>PO</b>	<p>Partly observed is based on the observation that requirements for significant owners and, in particular, for all real person controlling beneficiaries of insurers should be strengthened, particularly with respect to identifying these individuals and assessing their integrity and financial resources.</p> <p>Consideration should be given to developing more specific competency requirements for people in control functions (e.g., risk management).</p>
<b>6. Changes in Control and Portfolio Transfers</b>	<b>PO</b>	<p>Partly Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The insurance legislation does not include an appropriate definition of control.</li> <li>• The insurance legislation does not include general provisions requiring ongoing approval of all changes in control, other than those with respect to foreign shareholders.</li> </ul>
<b>7. Corporate Governance</b>	<b>O</b>	Corporate governance requirements for insurers have been strengthened and appear to be consistent with the requirements of the ICP.
<b>8. Risk Management and Internal Controls</b>	<b>O</b>	Internal control requirements for insurers have been strengthened and appear to be consistent with the requirements of the ICP.
<b>9. Supervisory Review and Reporting</b>	<b>LO</b>	The OIC has made significant progress in developing and implementing a good supervisory framework for insurers. The largely observed rating is based on the observations some of the current framework is new (post 2016) and has not been tested by a full onsite cycle with all institutions.

<b>10. Preventive and Corrective Measures</b>	<b>LO</b>	Largely Observed is based on the observation that the ladder of intervention appears to leave the use of the OIC's strongest preventative and corrective powers until an insurers financial condition is extremely serious and when the supervisor should be focused on its orderly wind-up as a gone concern rather than its recovery.
<b>11. Enforcement</b>	<b>LO</b>	The OIC's ability to enforce corrective action should be enhanced by strengthening its enforcement powers to take control of non-life insurers and increase the supervisor's enforcement powers over intermediaries
<b>12. Winding-up and Exit from the Market</b>	<b>LO</b>	Largely Observed is based on the observation that the legislation does not specify a clear point at which it is no longer permissible for an insurer to continue its business. These concerns are partially mitigated by the strong supervisory practice of the OIC with respect to capital and the existence of policyholder protection funds.
<b>13. Reinsurance and Other Forms of Risk Transfer</b>	<b>O</b>	While the assessment observes compliance with the ICP principal statements, it is noted that assuring amounts recoverable from large foreign-based reinsurers without a physical presence in Thailand could be challenging should a domestic insurer become insolvent.
<b>14. Valuation</b>	<b>O</b>	The notifications on valuation provide requirements for the measurement of assets and liabilities but could in some respects be clearer.
<b>15. Investment</b>	<b>O</b>	No comments.
<b>16. Enterprise Risk Management (ERM) for Solvency Purposes</b>	<b>LO</b>	<p>The expanded notifications on ERM and Own Risk and Solvency Assessment (ORSA) were only recently adopted in January 2019. While insurers have some prior experiences and training with aspects of those notifications, including ORSA, ORSA is nonetheless a key new requirement for which insurers and the OIC will benefit from experience going forward. Reporting on ORSA by insurers won't begin until 2020. The notification is largely principles-based, and variations in compliance and the granularity and quality of reporting can be expected across insurers.</p> <p>The new information that will be soon be reported to the OIC resulting from the new notifications on ERM/ORSA presents an onus for the OIC to identify deficiencies, but also an opportunity to highlight best practices.</p>
<b>17. Capital Adequacy</b>	<b>LO</b>	The Thai solvency regime uses RBC as a standard method for all insurers to determine and report to the OIC and to the public on capital adequacy. Currently,

		RBC excludes provisions for operational and catastrophe risks.
<b>18. Intermediaries</b>	<b>LO</b>	Largely Observed is based on the observation that many of the Conduct of Business (COB) requirements for intermediaries are new and have not yet been fully tested in the market, and supervisory programs for brokers, agents and insurers are still evolving.
<b>19. Conduct of Business</b>	<b>LO</b>	<p>Largely Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• Many COB requirements are new to the market and have just been implemented. While the OIC has engaged in extensive consultation and provision of implementation assistance, full adherence to these requirements will be a medium-term endeavor.</li> <li>• Requirements concerning the use of client information by insurers are basic and do not guard against misuse of client information for purposes like unwanted cross selling of products.</li> <li>• Conflict of interest/disclosure of compensation requirements for agents and intermediaries should be enhanced.</li> </ul>
<b>20. Public Disclosure</b>	<b>LO</b>	<p>The notifications on disclosure are recently enacted (2018).</p> <p>The notifications do not explicitly require certain disclosures that are contained in the ICP 20 principles. For example, the notifications do not explicitly require reporting of information concerning the level of sensitivity to market variables associated with disclosed amounts; the methodology used and the key assumptions employed in measuring assets and liabilities for asset liability management (ALM) purposes and any capital and/or provisions held as a consequence of a mismatch between assets and liabilities; financial performance by segment; or information about the nature, scale, and complexity of risks arising from insurance contracts.</p> <p>While the ICP calls for disclosure of insurance risks (which can include underwriting, pricing, lapse, and expense risks), the notifications require disclosure only of underwriting risks. However, it is noted that required disclosures of such risks in audited financial statements are more comprehensively stated.</p>
<b>21. Countering Fraud in Insurance</b>	<b>LO</b>	The new notifications on fraud (2018) have only recently been enacted and do not go into force until mid-2019. The Life Insurance Act was also recently amended in

		<p>February 2019 to increase penalties and sanctions and does not take effect until August 2019.</p> <p>The 2018 notifications do not require that frauds or acts with a material impact on the financial position, performance or reputation of an insurer be reported by an insurer to the OIC, if the company has rectified the matter within a timeframe deemed appropriate by the audit committee.</p>
<b>22. Anti-Money Laundering and Combating the Financing of Terrorism</b>	<b>O</b>	No comments.
<b>23. Group-wide Supervision</b>	<b>O</b>	The OIC does not serve in the capacity of a group-wide supervisor for any groups. As an involved supervisor it cooperates and coordinates with the BOT as the group-wide supervisor of Thailand-domiciled financial conglomerates, and with insurance supervisors in other jurisdictions who serve as group-wide supervisors for groups operating on a cross-border basis in Thailand through investment in local insurers or through branches.
<b>24. Macroprudential Surveillance and Insurance Supervision</b>	<b>O</b>	No comments.
<b>25. Supervisory Cooperation and Coordination</b>	<b>O</b>	No comments.
<b>26. Cross-border Cooperation and Coordination on Crisis Management</b>	<b>PO</b>	<p>The OIC does not formally participate in all supervisory colleges or, where applicable, of crisis management groups, of foreign-based groups operating in Thailand, due in part to the relatively small share of the domestic business of some groups relative to the group on a consolidated basis.</p> <p>For firms operating in Thailand on a cross-border basis, contingency plans are not required as a matter of course, but they may be required on an ad hoc basis by the OIC in light of events or emerging risks.</p> <p>Certain aspects covered by the ICP principles, e.g., for the supervisor to share certain information with other relevant supervisors, are not covered by a specific local requirement (although, as a practical matter, may be handled by the OIC in the course of inter-supervisor communications including through colleges. Such information includes about group structure (including legal, financial, and operational intragroup dependencies); interlinkages between the insurer and the financial system in each jurisdiction where it operates; and potential impediments to a coordinated solution.</p>

51. **Table 8 provides a summary of the level of observance.**

Observed (O)	10
Largely Observed (LO)	12
Partly Observed (PO)	4
Not Observed (NO)	0
<b>Total</b>	<b>26</b>

52. **Table 9 lists the suggested steps for improvement of the level of observance.** Some of these actions reflect actions that are already in progress but yet to be fully operational.

<b>Insurance Core Principle</b>	<b>Recommendations</b>
<b>1. Objectives, Powers, and Responsibilities of the Supervisor</b>	It is recommended that the authorities amend the primary legislation at their next opportunity to vest greater power for key supervisory decisions with the OIC. In particular, consideration should be given to transferring each of those powers that are currently vested in the MOF to the OIC directly.
<b>2. Supervisor</b>	<p>It is recommended that the government and OIC consider:</p> <ul style="list-style-type: none"> <li>• Repealing or revising Section 45 of the ICA to ensure that the OIC is independent in the administration of its supervisory duties and that its decisions cannot be suspended without appropriate administrative process (e.g., appeal to the court system).</li> <li>• Requiring all commission appointments to be based on the qualification of candidates rather than their positions in other government organizations. Board members appointed on the basis of their positions in other government organizations could face conflict of interest issues between their regular position responsibilities and their responsibilities to the commission.</li> <li>• Giving the OIC, rather than the Minister, the authority to set fee (or contribution) levels on industry. While the OIC appears to be adequately resourced at present, vesting authority for fees outside the OIC creates a risk that restrictions on resources could be used inhibit the operational independence of the supervisory organization.</li> </ul> <p>Improving independence of the Supervisor Authority should be accompanied by measures to increase its formal accountability to government. This should include a more formal and more elaborate accountability framework including, for example, an annual multiyear strategic and</p>

	<p>operational plan that includes a set of performance measures, and an annual report designed to report on the organization's progress in meeting plan requirements.</p> <p>It is also recommended that in order to more fully meet the requirements of ICP 2.7, the OIC should also consider publishing more information on the insurance sector that it regulates in its annual report and elsewhere.</p>
<b>3. Information Exchange and Confidentiality Requirements</b>	No recommendation.
<b>4. Licensing</b>	It is recommended that OIC continue with its review of licensing requirements and introduce appropriate changes to legislation at its earliest opportunity.
<b>5. Suitability of Persons</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• OIC include suitability requirements for significant owners and all real person controlling beneficiaries as part of its review of licensing requirements in order to make them consistent with ICP standards.</li> <li>• Consideration be given to developing more specific competency requirements for the heads of some control functions (e.g., risk management, compliance).</li> </ul>
<b>6. Changes in Control and Portfolio Transfers</b>	It is recommended that the OIC review its control provisions in conjunction with the licensing and suitability requirements for significant owners and make legislative changes at its earliest opportunity.
<b>7. Corporate Governance</b>	As many of the Corporate governance requirements are principle based, it is recommended that the OIC closely monitor the application of these requirements by insurers over the next supervisory cycle.
<b>8. Risk Management and Internal Controls</b>	As many of the Risk Management and Internal control requirements are principle based, it is recommended that the OIC closely monitor the application of these requirements by insurers over the next supervisory cycle.
<b>9. Supervisory Review and Reporting</b>	<p>It is recommended that the OIC consider:</p> <ul style="list-style-type: none"> <li>• Documenting and publishing a high-level supervisory framework document that describes the basic principles, high-level concepts, and core processes that it uses to guide its supervision of insurers.</li> <li>• Developing some more specific guidance to help staff and industry in emerging operational risk areas (e.g., cyber risk). This may help to increase transparency, and consistency of supervision in these areas.</li> <li>• Augmenting supervision of COB requirements for insurers and intermediaries over time to include fuller examination of policies, procedures, and practices of insurers and intermediaries once new requirements are assimilated in</li> </ul>

	due course, the introduction of more thematic examinations should also be considered.
<b>10. Corrective and Preventative Action</b>	It is recommended that OIC consider modifying the ladder of intervention to add an additional stage (Stage 5) focused on preparing for the orderly wind-up of the insurer as a gone concern.
<b>11. Enforcement</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The current legislation does not include the authority for the OIC to take control of non-life insurers. The ability for the supervisor to take control is an important tool needed to minimize losses when an insurer is headed towards insolvency.</li> <li>• The OIC proceed to implement proposed legislation to increase the supervisor's powers over intermediaries including the power to suspend intermediary licences, and issue administrative orders.</li> <li>• Consideration might also be given, in due course, to require insurers or intermediaries to make restitution for harm caused by inappropriate Conduct of Business.</li> </ul>
<b>12. Winding-up and Exit from the Market</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The legislation be amended to clearly establish a point at which it is no longer permissible for an insurer to continue its business (e.g., a CAR of less than 100 percent). This could perhaps be tied to a risk-based solvency requirement for insurers and/or the ladder of intervention.</li> </ul>
<b>13. Reinsurance and Other Forms of Risk Transfer</b>	<p>It is recommended that the OIC:</p> <ul style="list-style-type: none"> <li>• Consider development of criteria to require domestic insurers ceding material amounts of risk to foreign reinsurers to perform ongoing credit risk assessments of the assuming reinsurers as part of ERM, and not rely solely on credit ratings of reinsurers.</li> <li>• Consider development of additional guidance for ceding insurers to use in selecting reinsurers, e.g., in respect of the current requirement that they consider the supervisory regime of assuming reinsurers.</li> <li>• Consider, in advance of any actual need, whether and how the legal framework might be strengthened to improve the security of reinsurance recoverables owed to an insolvent domestic insurer from a foreign reinsurer with no domestic presence.</li> </ul>
<b>14. Valuation</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The OIC clarify guidance for the recognition and derecognition of assets and liabilities, e.g., by expanding the references to TFRS in the notifications to indicate that assets for which any aspect of its valuation method is not</li> </ul>

	specified by the OIC, that such aspect is to be handled according to TFRS.
<b>15. Investment</b>	No recommendation
<b>16. Enterprise Risk Management for Solvency Purposes</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The OIC work with the industry to enhance the overall performance of insurers in respect of these new requirements as insurers embed them into more effective business practices.</li> <li>• Once the new ORSA reporting has begun, and at least for several reporting cycles thereafter, the OIC should consider thematic or horizontal reviews to identify outliers in practice, at both ends of the spectrum, and consider workshops with the industry to aim for necessary improvements.</li> </ul>
<b>17. Capital Adequacy</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The OIC improve upon RBC by providing for operational and catastrophe risks. It is understood that the OIC is moving toward "RBC2" and may also increase the RBC calibration confidence levels from 95 percent to 99 percent Value at Risk (VaR) over a one-year time horizon, once accounting standard setters have adopted pending new requirements for accounting for insurance contracts (expected to be implemented in Thailand in 2023). This may also provide an opportunity for the OIC to study the means and potential impact of adding provisions for operational and catastrophe risks to RBC during the intervening period.</li> </ul>
<b>18. Intermediaries</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• Legislation be amended to require intermediaries to disclose the amount and/or the basis of their compensation to clients.</li> <li>• OIC consider establishing a requirement for professional indemnity insurance for insurance intermediaries operating in its market to ensure that the public is adequately protected by intermediary errors and omissions.</li> </ul>
<b>19. Conduct of Business</b>	<p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> <li>• Provide additional guidance for insurers and intermediaries on how to deal with potential, perceived, or actual conflicts of interest.</li> <li>• work together with industry associations to develop a notification on the use of client information for cross selling and other ancillary purposes.</li> <li>• consider development of an industry complaint handling system in due course to collect information from all insurers and brokers on the number of complaints they</li> </ul>

	receive, the types of complaints received and how the complaints were dealt with.
<b>20. Public Disclosure</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The OIC amend the notifications to address, at a minimum, all the risk and factors covered by the principle statements of ICP 20.</li> <li>• The OIC's reliance on TFRS and audited financial statements as a backstop for its own public disclosure requirements results in a bifurcated disclosure approach; the OIC should consider revising its disclosure requirements to apply more broadly and explicitly to any risk arising from insurance contracts.</li> </ul>
<b>21. Countering Fraud in Insurance</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The OIC avail itself of the data that will soon be available through fraud databases at insurers and consider a centralized fraud database at the OIC to analyze bad actors and their actions across the sector, identify trends, and work with insurers and industry trade organizations to be more proactive in combatting fraud.</li> <li>• The OIC amend the notifications to require that any fraud or act that may have a material impact on an insurer be reported to the OIC on a timely basis, whether or not the insurer may have rectified the matter.</li> </ul>
<b>22. Anti-Money Laundering and Combating the Financing of Terrorism</b>	No recommendation
<b>23. Group-wide Supervision</b>	No recommendation
<b>24. Macroprudential Surveillance and Insurance Supervision</b>	No recommendation
<b>25. Supervisory Cooperation and Coordination</b>	No recommendation.
<b>26. Cross-border Cooperation and Coordination on Crisis Management</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The OIC develop criteria to identify groups operating in Thailand on a cross-border basis for which the OIC should require a contingency plan to protect Thailand policyholders, both on a gone and going concern basis.</li> <li>• The OIC amend notifications to address, at a minimum, all the information required to be shared by the principle statements of ICP 26.</li> </ul>

## DETAILED PRINCIPLE-BY-PRINCIPLE ASSESSMENT

<b>Table 10. Thailand: Detailed Assessment of Observance of the ICPs</b>	
<b>ICP 1</b>	<p><b>Objectives, Powers, and Responsibilities of the Supervisor</b></p> <p>The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.</p>
Description	<p>The OIC is the only authority responsible for regulation and supervision of the insurance sector. Authority to regulate and supervise insurance is established under the ICA, the LIA, and the NLIA (including amendments and subordinate legislation).</p> <p><b>Objectives of Supervision</b></p> <p>The Thai primary legislation does not include a specific “objectives section” but the objective of supervision is described in the “remarks” section of the ICA:</p> <p>“For the efficient supervision of the operation of insurance business and the protection of the rights of the insureds, it is expedient to have a versatile and independent insurance commission specifically in charge of regulating the insurance business. Therefore, this Act must be enacted.”</p> <p>OIC legal counsel advise that it is a Thai legislative drafting convention that intentions and objectives of all legislation are provided in a “remarks section” at the end of each law (similar to a preamble section in laws in some other jurisdictions). It further advises that these “remarks” have force of law when they are interpreted by the courts.</p> <p>In support of this position, they refer to Section 4 of the general provisions of the Thai Civil and Commercial Code:</p> <p>“The law must be applied in all cases which come within the letter and spirit of any of its provisions. Where no provision is applicable, the case shall be decided by analogy to the provision most nearly applicable, and, in default of such provision, by the general principles of law.”</p> <p>The Civil and Commercial Code includes several books or parts including: general principles, obligations, contract law, property law, family law and the law of succession. The sections relating to general principles are particularly significant because they are applied by the courts to laws outside the Civil and Commercial Code like the insurance law if necessary.</p> <p>Under this general objective the OIC has four main strategic directions, which are stated in its website and annual report, and are viewed as being consistent with the objective of policyholder protection. These are to:</p> <ul style="list-style-type: none"> <li>• Build public trust and access to insurance system.</li> <li>• Build stability and competitiveness.</li> <li>• Develop protection of insurance-related benefits for the public.</li> <li>• Develop insurance infrastructure.</li> </ul> <p><b>Adequacy of Supervisory Powers</b></p>

	<p>Section 12 of the ICA establishes a broad range of general powers and responsibilities for the OIC to help it to carry out its strategic direction. These include the power and duty to:</p> <ul style="list-style-type: none"> <li>• Prescribe the regulations, procedures, conditions, and guidelines for the undertaking of insurance business to be consistent with international standards.</li> <li>• Prescribe regulations, procedures, conditions, and guidelines for regulating, promoting, and developing the undertaking of insurance business.</li> <li>• Provide guiding recommendations to support consideration by the Minister or the Cabinet, in relation to the issuance or revocation of licenses, the issuance of Ministerial Regulations and Ministerial notifications under the law on non-life insurance, law on life insurance, and law on the protection for motor vehicle accident victims, and other matters as assigned by the Minister.</li> <li>• Announce, with the approval of the minister, the industry rate of contribution for the operation of the commission to be collected.</li> <li>• Prescribe the regulations and procedures for approving the determination of the insurance premium rates.</li> <li>• Consider appeals of administrative orders of the Secretary-General.</li> <li>• Lay down plans, strategies, and administrative guidelines of the Office.</li> <li>• Issue regulations on the organization, finance, personnel administration, general administration, procurement, internal audit, including aids and welfare of the Office.</li> <li>• Approve the operating plan, expenditure plan, and annual expenditure budget of the Office.</li> <li>• Control the administration and operations of the Office to be consistent with the Act.</li> <li>• Perform any other acts and duties as prescribed by law to be under the authority and responsibility of the Commission.</li> </ul> <p>Additional more detailed powers are described under the LIA and NLIA. Several key supervisory powers, however, rest with the Minister rather than the OIC. These powers include:</p> <ul style="list-style-type: none"> <li>• The power to approve licensing decisions.</li> <li>• Authority to waive foreign shareholder and foreign director requirements.</li> <li>• Authority to amalgamate.</li> <li>• The power to revoke a license.</li> <li>• The power to take control of a life insurance company.</li> <li>• The power to approve OIC Board recommended contribution rates.</li> <li>• The power to increase the limit of life insurance and non-life insurance Policyholder protection fund payouts to the policyholders.</li> </ul> <p><b>Conflicts Between Supervisory Objectives and Legislation</b></p>
--	---

	OIC regularly reviews laws, regulations, and other regulatory requirements and proposes amendments. At a minimum, pursuant to the Royal Decree on Legislation Review, 2014, OIC has a duty to review laws, rules and regulations under its responsibility for every 5 years.
Assessment	Largely Observed
Comments	<p>The authority responsible for insurance supervision (the OIC) is clearly defined in primary legislation. The operations of the OIC appear to be broadly focused on the maintenance of a fair, safe, and stable insurance sector for the benefit and protection of policyholders.</p> <p>Under current legislation, however, several key supervisory powers under the legislation, like the power to approve licensing decisions, rest with the Minister and/or Cabinet rather than the supervisory authority. Establishing these powers with the minister rather than the supervisor creates a risk that the supervisor may not have adequate powers that can be used in a timely manner to achieve the objectives of supervision. It is recommended that the authorities amend the primary legislation at their next opportunity to vest greater power for insurance supervision with the OIC. In particular, consideration should be given to transferring each of those powers that are currently vested in the MOF to the OIC directly.</p>
<b>ICP 2</b>	<p><b>Supervisor</b></p> <p>The supervisor, in the exercise of its functions and powers:</p> <ul style="list-style-type: none"> <li>• Is operationally independent, accountable and transparent.</li> <li>• Protects confidential information.</li> <li>• Has appropriate legal protection.</li> <li>• Has adequate resources.</li> <li>• Meets high professional standards.</li> </ul>

Description	<p>OIC's governance structure is defined under the ICA law and related regulations. The OIC is comprised of a Board of Commissioners and the OIC.</p> <p>The Board has the power to establish policies, that regulate, promote, and develop the undertaking of insurance business. The Board can form its own committees, and subcommittees for the furtherance of its work. These presently include an audit committee, and subcommittees on the insurance business plan, budgeting, nomination and remuneration, finance and property management, legal issues, and appeals and litigation. It also deals with appeals of administrative decisions made by the Secretary General and the OIC. The Commission convenes on a monthly basis; however, if there are any situations which require immediate decision, an ad-hoc meeting can be held.</p> <p>The Board is comprised of two types of members: members appointed on the basis of their positions and members appointed on the basis of their qualifications. "Position members" include Permanent Secretary of the MOF (chair), the Permanent Secretary of the Ministry of Commerce, the Secretary-General of the Consumer Protection Board, the Governor of the BOT, and the Secretary-General of the Office of the SEC. The Secretary General of the OIC (see below) is also a member of the Commission and its Secretary. Board decisions are made on the basis of majority votes. The Board also regularly assesses its own performance.</p> <p>Members appointed on the basis of their qualifications include at least six but no more than eight persons appointed by the Minister, with the approval of the Cabinet, and with backgrounds in law, accountancy, business administration, finance, economics, or insurance. No more than two persons in each field can be appointed.</p> <p>The Office of the Commission, headed by the Secretary General, is responsible for the Commission's administration. Its powers and responsibilities are described under Section 21 of the ICA and include:</p> <ul style="list-style-type: none"> <li>• Regulate, promote, and develop the undertaking of insurance business in accordance with the policies and resolutions of the Commission, as well as the regulations, procedures, conditions, and guidelines prescribed by the Commission.</li> <li>• Conduct studies, investigations, analyses and research in order to promote, develop, and regulate the undertaking of insurance business.</li> <li>• Own and hold any property rights.</li> <li>• Establish rights or conduct any juristic acts relating to property.</li> <li>• Make agreements and cooperate with domestic and overseas organizations or agencies in relation to any affairs associated with the operations of the Office.</li> <li>• Procure and provide funds to support the operations of the Office.</li> <li>• Invest to gain interest in any businesses not related to insurance business according to the regulations prescribed by the Commission.</li> <li>• Collect and receive contributions, surcharges, fees, dues, remuneration, or service charges in the operations.</li> <li>• Prepare an annual report showing the achievements and obstacles in the operations of the Commission and the Office, and submit it to the Cabinet.</li> </ul>
-------------	---

- Perform any other acts and duties as prescribed by law to be under the authority and responsibility of the Commission.

### **Governance, Independence, and Accountability**

Section 17 of the ICA describes the OIC as a state unit which is not a government organization or a state enterprise. This implies that the OIC has considerable independence from Government. The OIC reports to government through preparation of an annual report showing the achievements and obstacles in the operations of the Commission and the Office, and submits it to the Cabinet.

Section 45 of the ICA states that:

“The Minister shall have the power of general supervision over the affairs of the Office. In this regard, the Minister may order the Office to clarify facts, provide opinions, or submit reports, and shall be empowered to suspend any act of the Office that is deemed to be contrary to the government's policy.”

This provision suggests that any decision of the supervisory authority could potentially be suspended. OIC officials suggest that the section has never been used in this manner and that, to the best of their understanding, this is not the policy intent of the section.

### **Appointment and Dismissal Procedures**

As noted above, the ICA provides for the appointment of two types of Board members: There are five members who are appointed on the basis of their positions in other government organizations and between six and eight other members who are appointed by government for fixed terms on the basis of their qualifications.

Section 7 of the ICA requires that a “qualified” commission member must be a Thai national and meet general suitability and competency requirements. In addition, the member must not be:

- A director, manager, or person with administrative or managerial power of an insurance company.
- An official, officer, or employee of a government agency or state enterprise, or any other state or local administration agency.
- A present or previous political official, person holding political position, member of a local assembly, or local administrator, unless this person has vacated office for not less than one year.
- A present or previous director or person holding any other position in a political party, or an officer of a political party, unless this person has vacated office for not less than one year.
- A person who has been terminated from employment, dismissed, or discharged by a government agency, state agency, state enterprise, or private entity on grounds of dishonesty in the performance of duties or gross misconduct.

Section 8 of the ICA limits appointments to a term of three years and required that “qualified” commission members not be re-appointed for more than two consecutive

	<p>terms. Section 10 establishes provisions for departure or dismissal of qualified commission members. These include:</p> <ul style="list-style-type: none"> <li>• Retirement.</li> <li>• Death.</li> <li>• Resignation.</li> <li>• Failure to meet ongoing competency or suitability requirements described under section 7.</li> <li>• Removal by the Cabinet due to inadequate or dishonest performance of duties, misconduct, or lack of ability.</li> </ul> <p>OIC legal counsel advises that if a “qualified” commission member is removed for poor performance, dishonesty or misconduct, it would be done through Cabinet resolution and the resolution would be published on the Cabinet website and would provide the reasons for the removal.</p> <p>The ICA does not include provisions for the removal of “position members” who are appointed and removed pursuant to provisions of laws governing their other responsibilities (e.g., the SEC law).</p> <p>In regard to the Secretary General, appointment is made by the Minister on the recommendation of the Commission and with the approval of the Cabinet pursuant to Section 23 of the ICA. The term of appointment is four years. The salary of the Secretary General is determined by the Commission with the approval of the Minister.</p> <p>The Secretary General is the OIC’s Chief Executive Officer. Section 32 of the ICA gives the Secretary-General the power to recruit, appoint, remunerate and discipline or dismiss most staff in accordance with regulations prescribed by the Commission; however, for appointment of certain positions (i.e., Deputy Secretary-General, senior management members, and internal auditors), prior approval must be obtained from the Commission.</p> <p>The suitability and competency requirements for the position are very similar to those for “qualified” commission member appointments excluding the technical background requirements for “qualified” commission members. They are described in Section 25 and 26 of the ICA.</p> <p>The Secretary General’s dismissal criteria are covered by Section 29 and include “inadequate or dishonest performance of duties, misconduct or lack of ability” under Section 29 (5). Dismissal under Section 29 (5) would be carried out by the Insurance Commission’s resolution, which would be publicly reported with the reasons for the dismissal.</p> <p><b>Program Funding</b></p> <p>Pursuant to Section 43 of the ICA, the main source of funding for the OIC are funds from a levy placed on the insurance companies. The contribution that must be remitted by an insurance company is at a rate announced by the Commission, with the approval of the Minister.</p> <p><b>Transparency of Regulatory Requirements, Review, and Consultation</b></p> <p>Regulatory requirements including laws, regulations, notifications, orders, and rules are published. OIC also uses published circulars and sector notices to ensure that regulated entities are aware of changes and supervisory expectations in the</p>
--	---

application of supervisory requirements. OIC consults with stakeholders on major regulatory changes during their development and shares draft regulations and supervisory manuals with stakeholders and the public through its website. Regulatory requirements are mainly reviewed on an ad hoc periodic basis when issues arise but, according to Royal Decree on Legislation Review, 2014, OIC has a duty to review law, rules and regulations under its responsibility for every five years.

### **Appeals of Supervisory Decisions**

The insurance legislation provides for the appeal of administrative decisions by the Secretary General to the Commission. Commission decisions may be appealed under the Administrative Procedure Act, 1996. Appeal of an administrative decision does not generally stay the decision.

The grounds for appeal of commission decisions include that the decision was:

- Beyond the powers of the Commission (ultra vires) or there was another error of law.
- Unreasonable.
- Made in bad faith.
- Lacking in proportionality.
- Made with a material error as to the facts or procedure.

### **Confidentiality of Information**

The Official Information Act, 1997 and OIC Rules on Confidentiality of Classified Information, which specify levels of confidentiality and security and disclosure procedures, establish requirements to protect confidential information. In addition, Clause 10 of the OIC Rules on Code of Conduct and Ethics of Personnel establishes a requirement that:

“Unless otherwise authorized by the law or permitted by the Office, a staff member shall keep confidential the secrets and information on the business of the Office obtained in the course of his or her performance and take precautions to prevent any such confidential document or information from falling into the hands of other persons, which may lead to damage to the state or the Office, pursuant to the rules of the Office concerning security with respect to classified information of the Office and other relevant rules, regulations, or notifications, unless otherwise authorized by law or permitted by the office.”

Contraventions of these requirements are subject to disciplinary action under OIC Rules on Personnel (No. 3), 2013, and may include suspension of salary, salary decrease, or dismissal. The OIC advises that the provision protects not only the information of insurers in its possession but also that of individuals such as complainants against insurance companies.

OIC has disciplined its staff in several cases all of which were related to fraudulent conduct.

### **Legal Protection**

Section 5 of the Act on Tortious Liability of Officials states that:

“A state agency shall be liable to an injured person for the consequences of a tortious act committed by its official in the course of his performance of duty. In

	<p>this case, the injured person may directly sue the state agency but cannot sue the official.”</p> <p>OIC legal counsel advises that this provision protects officials in the “good faith” exercise of their duties.</p> <p><b>Code of Conduct and Conflict of Interest</b></p> <p>OIC staff must perform their duty in accordance with OIC Rules on Code of Conduct and Ethics, 2014. Any misconduct will be subject to disciplinary action according to OIC Rules on Personnel, 2007. The Code includes provisions dealing with conflict of interest.</p> <p><b>Adequacy of Resources and Outsourcing</b></p> <p>OIC has a total of 575 staff as of January 2018. As mentioned above, the OIC is free to recruit staff within limits, rules, and procedures set by the Commission. Staff appear to be well organized, knowledgeable, and to adhere to high conduct standards.</p> <p>In order to retain highly skilled, competent and experienced staff, OIC reviews its remuneration policy every three years according to OIC Rules on Payroll, 2016, so as to ensure that the compensation is competitive with the market. In addition, the OIC has set up 3-year strategic human resource plan for 2017–2019, in order to develop skills and experience of its staff and meet manpower shortage or skill differentials.</p> <p>The OIC has a well-developed staffing plan focused at retaining necessary staff and ensuring they have adequate skills. In key supervisory programs, more than 60 percent of staff have at least 10 years experience. Many staff have received supervisory training through the Toronto Center, the Canadian Office of the Superintendent of Financial institutions and at the National Association of Insurance Commissioners in the United States. In addition, many department heads and key supervisory staff have relevant post graduate training in either Europe or North America. The OIC staff also includes several trained actuaries.</p> <p>The OIC also has a technology development plan to enhance its supervision capability.</p> <p>In total, the OIC has an annual budget of around THB 1.8 billion (around US\$50 million) These financial resources appear to be very adequate to conduct effective supervision in Thailand.</p> <p>With the exception of testing intermediaries for licensing purposes (see ICP 18.1), OIC has not outsourced any of its supervisory functions. However, the OIC can hire short-term specialists to support any of its functions or projects it considers it lacks the capability to fulfill.</p>
Assessment	Largely Observed
Comments	<p>While many of the ICP standards are fully addressed, the independence and transparency of the supervisory organization can be improved and made more consistent with international standards by the following:</p> <ul style="list-style-type: none"> <li>• Repealing or revising Section 45 of the ICA to ensure that the OIC is independent in the administration of its supervisory duties and that its decisions cannot be</li> </ul>

	<p>suspended without appropriate administrative process (e.g., appeal to the court system).</p> <ul style="list-style-type: none"> <li>• Requiring all commission appointments to be based on the qualification of candidates rather than their positions in other government organizations. Board members appointed on the basis of their positions in other government organizations could face conflict of interest issues between their regular position responsibilities and their responsibilities to the commission.</li> <li>• Giving the OIC, rather than the Minister, the authority to set fee (or contribution) levels on industry. While the OIC appears to be adequately resourced at present, vesting authority for fees outside the OIC creates a risk that restrictions on resources could be used inhibit the operational independence of the supervisory organization.</li> </ul> <p>Improving independence of the Supervisor Authority should be accompanied by measures to increase its formal accountability to government. This should include a more formal and more elaborate accountability framework including, for example, an annual multiyear strategic and operational plan that includes a set of performance measures, and an annual report designed to report on the organization's progress in meeting plan requirements.</p> <p>In addition, in order to more fully meet the requirements of ICP 2.7, the OIC should also consider publishing more information on the insurance sector that it regulates in its annual report and elsewhere.</p>
<b>ICP 3</b>	<p><b>Information Exchange and Confidentiality Requirements</b></p> <p>The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose and use requirements.</p>
Description	<p><b>Authority to Obtain Information</b></p> <p>Section 48 of the LIA and Section 51 of the Non-life Insurance Act, 1992 give the Secretary General a broad-based authority to obtain information and examine the business activities and financial condition of an insurer. This authority includes the power to:</p> <ul style="list-style-type: none"> <li>• Enter the office of the company, during working hours, to obtain information and, in doing so, to call for documents or other evidence from the company's directors, managers, consultants, officers, or employees and to interrogate these persons.</li> <li>• Enter the place of business of the company, or any premises where it is suspected that account books, documents, seals, or any other documents concerning the company's business, assets and liabilities are kept, during working hours or between sunrise and sunset, to inspect or appraise the property of the company.</li> <li>• Order the company or persons concerned with the company's business to deliver documents or other evidence.</li> <li>• Summon the persons mentioned above to give statements or to order them to submit statements of fact, as required.</li> </ul> <p>These sections also require the persons concerned to facilitate the supervisory staff in their performance of their requests.</p>

	<p>Section 48 (3) and Section 51 (3) also allows the OIC to obtain information from “persons concerned with the company’s business.” The OIC advises that this would include entities like holding companies or other companies in a corporate group or companies involved in outsourcing arrangements.</p> <p><b>Authority to Exchange information</b></p> <p>Pursuant to Section 20 (6) of the ICA, OIC has powers to make agreements and cooperate with domestic and overseas organizations in relation to any affairs associated with the operations of the Office.</p> <p>The OIC has a supervisory college with the Thailand Security Exchange Commission and the Bank of Thailand to help supervise Thai financial groups and Thailand has entered into fourteen other Memorandums of understanding with other supervisory authorities.</p> <p>The supervisor has the legal authority and power to exchange information subject to criteria for safeguarding information set out in the Official Information Act and the OIC Rules on Classification of Confidential Information. The existence of an agreement is not a prerequisite for exchanging information and the OIC has exchanged information with a number of authorities with whom it does not have agreements in place such as other ASEAN insurance supervisors.</p> <p>The OIC appears to exchange information on a timely basis and does not require strict reciprocity to exchange information. It does, however, ensure the party receiving information is bound by confidentiality requirements and requires other supervisors to use information only for lawful supervisory purposes consistent with the original request. If the party receiving information wishes to pass on the information to another authority, approval of the originating authority is sought.</p> <p>The OIC has not had to deal with a situation where the supervisor is legally compelled to provide confidential information. In such circumstances the OIC suggests that it would seek approval for the disclosure from the originating authority.</p> <p>The OIC is not currently a signatory to the IAIS MMOU but is in the process of becoming a signatory and hopes to sign in the near future.</p>
Assessment	Observed
Comments	None.
<b>ICP 4</b>	<p><b>Licensing</b></p> <p>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.</p>
Description	<p><b>Definitions, Prohibitions, and Authority</b></p> <p>Life insurance contract and non-life insurance contract are defined terms in the Civil and Commercial Code. Section 17 of the NLIA and Section 18 of the LIA require that no person shall act as an insurer by entering into an insurance contract with any person unless he or she is licensed to undertake insurance business.</p> <p>The only permissible legal forms for insurers are public limited companies or branches of foreign insurers. Public limited companies must be established pursuant to Section 6 of the</p>

NLIA and Section 7 of the LIA. Foreign branches must be established pursuant to Section 7 of the NLIA and Section 8 of the LIA. The NLIA and the LIA also prohibit a life insurance company from engaging in non-life insurance business while a non-life insurance company is prohibited from engaging in the life insurance business (see Section 31 of the NLIA and Section 33 of the LIA).

Similar requirements exist for insurance agents and brokers and these terms are defined in the NLIA and LIA in Section 5 of the Act (see ICP 18).

The responsibility for issuing insurer licenses lies with the MOF, with the approval of Cabinet. Although the authority belongs to MOF, the OIC's recommendation on licensing decisions is a key factor for the approval process.

No new licenses for insurance companies have been issued since 1995. The government is currently reviewing licensing requirements with a view towards allowing increased foreign ownership and opening the market to potential new entrants as well as greater consistency with the ICPs.

#### **Licensing Process and Licensing Criteria for insurers**

As previously discussed, all insurer licenses are approved by the MOF, based on a recommendation from the OIC and the approval of Cabinet. Licensing requirements for public company insurers were last set out in the Notifications for Establishment of Public Limited Companies for the Operation of Life/ Non-life Insurance Business, 1995. Detailed requirements for new branch insurers are currently being specified as no new branches have been established in many years. The OIC is working on a new notification to allow for the licensing of foreign branch reinsurers as well as reviewing the detailed requirements for other insurers. The 1995 notification on public companies requires the following:

- Details and biography of the company's founders, board of directors and management officers: these persons must meet suitability and competency requirements (e.g., no felonies, not previously been bankrupt, etc.).
- Registered and paid-up capital: for life insurance company this must not be less than THB 500 million and for Non-Life insurance company must not be less than THB 300 million, to ensure a stable financial status and sufficient capital to expand the business in the future.
- A cash deposit or bank guarantee: 5 percent of the registered capital must be provided.
- Business and financial plans: the application must provide details of short-term and long-term business plans including an expansion plan, financial plan, human resource and the joint venture details with foreign shareholders (if any).
- Name and the qualifications of the chief executive officer including details of previous work experience.
- Proforma revenue and expense statements including details on insurance premiums.
- Applicants cannot have a relationship with existing insurers in terms of cross shareholding, directorships, and management.
- A minimum of 25 percent of the insurer's shares must be held by the founders of the business for at least three years.

	<p>There does not appear to be a specific published timeframe for review of completed applications.</p> <p>Both insurance company and branch licenses clearly state their scope and conditions can be attached to licenses. Life licenses allow all life products to be sold. Most non-life licenses allow the sale of all non-life products, but some are only permitted to sell health insurance products or reinsurance. All licensees and the scope of the licenses are published on the OIC website.</p> <p>The OIC has the ability to consult with other supervisors on licensing decisions but, as no licenses have been issued in many years, has not had reason to consult. Insurance activities without a physical presence are not permitted in Thailand, with the exception of reinsurance and marine insurance.</p> <p>At present, OIC is drafting a new regulation for non-life foreign branch insurers. The intent of the regulation is to ensure greater consistency with the requirements of ICP 4 and local business context.</p>
Assessment	Partly Observed
Comments	<p>Partly observed is based on the observation that licensing criteria need to be updated and applied across all industry applicants.</p> <p>For example, consideration of corporate or group structure does not currently appear to be part of licensing requirements. Consideration should be given to proposed governance structure, risk management, and internal control functions of licence applicants at the licensing stage and identification and suitability assessment of controlling beneficiaries should be part of the licencing process. In addition, time frames for review of applications should be established.</p> <p>The OIC is aware of deficiencies in this area and is working to make appropriate changes.</p>
<b>ICP 5</b>	<p><b>Suitability of Persons</b></p> <p>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.</p>
Description	<p>Section 35 of the LIA and Section 34 of the NLIA require the following persons to meet general suitability requirements described below:</p> <ul style="list-style-type: none"> <li>• Directors.</li> <li>• Managers—this includes shareholder controllers and indirect controllers and therefore captures significant owners.</li> <li>• A person authorized to act on behalf of the company.</li> <li>• A consultant to the company.</li> </ul> <p>The suitability requirements they have to meet include that they:</p> <ul style="list-style-type: none"> <li>• Have at least a Bachelor’s degree or significant work experience in the insurance business.</li> <li>• Are not and never have been bankrupt.</li> </ul>

- Have never been imprisoned for an offense related to property.
- Have not been a director or officer or person authorized to act on behalf of an insurer that has had its license revoked (unless appointed to such positions by the OIC).
- Do not hold such positions in another insurer (unless authorized by the OIC).
- Have not been removed from such positions in another insurer.
- Are not a political official or a holder of political office.
- Are not a government official or an officer of the OIC (unless authorized by the OIC).
- Do not have a record of poor professional conduct.

In addition, certain positions require additional requirements.

- Under Sections 83/3 and 83/4 of the LIA and Sections 78/3 and 78/4 of the NLIA, Actuaries must:
  - Have graduated in actuarial sciences,
  - Be mentally competent,
  - Be a fellow of an actuarial association recognized by the OIC,
  - Have an actuarial license which is not currently suspended and has not been revoked in the last five years,
  - Comply with the Code of Conduct and Standards of Actuarial Practice prescribed by the OIC.
- Under Section 43 of the LIA and Section 47 of the NLIA, Auditors shall be a certified auditor under the law on accounting professions. They must also comply with the Code of Ethics prescribed by the Federation of Accounting Professions.
- Suitability requirements for members of an audit committee and key persons in control functions (a head of risk management unit and a head of compliance unit) are prescribed in the Notification on Internal Control and the Notification on Risk Management. The OIC must be notified if a change of those persons occurs.

In the case of significant owners, foreign significant owners are required to demonstrate that they have industry experience, financial stability, and creditworthiness, but domestic significant owners are not, nor is there an ongoing suitability requirement that applies to domestic significant owners. The OIC intends to address this deficiency in future amendments to the LIA and the NLIA. The Life and non-life insurance bills with the provisions relating to suitability of significant owners have been approved by the Cabinet and are now under the consideration of the Council of the State.

The OIC maintains a database on key positions and requires insurers to demonstrate ongoing suitability by monitoring activity and requiring insurers to provide an annual suitability self-assessment. It also requires changes to directors and foreign significant owners to receive prior approval and requires notification of changes to people in key control functions or significant owners.

The OIC has the power to Act when the Board members, Senior Management or key persons in control functions no longer meet suitability requirements. Usually such events are dealt with through discussion with the insurer and moral suasion, however, Section 54 of the LIA

	<p>and Section 53 of the LIA give the OIC authority to remove directors or persons responsible for its operation in such circumstances.</p> <p>The OIC has the ability to exchange information with other supervisors on suitability and regularly does so.</p>
Assessment	Partly Observed
Comments	<p>Partly observed is based on the observation that:</p> <ul style="list-style-type: none"> <li>• Requirements for significant owners and in particular for real person controlling beneficiaries of insurers should be strengthened, particularly with respect to identifying these individuals and assessing their integrity and financial resources.</li> <li>• Consideration should be given to developing more specific competency requirements for people in control functions (e.g., risk management).</li> </ul>
<b>ICP 6</b>	<p><b>Changes in Control and Portfolio Transfers</b></p> <p>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.</p>
Description	<p><b>Definition of Control</b></p> <p>The insurance legislation does not include a definition of control other than one that is included in the Notification of the Insurance Commission Re: Persons Related to Directors of a Life Insurance Company. This definition appears to be used only for the purpose of the purchase or disposal of company property by related parties.</p> <p><b>Legislative Authority Regarding Changes in Control</b></p> <p>The legislation includes provisions for OIC approval of insurer mergers or acquisitions (section 13 and 14 of the NLIA and the LIA respectively) and founders must be approved at the initial licensing stage for insurance companies; however, the insurance legislation does not include ongoing general provisions requiring approval of changes in control, other than with respect to foreign shareholders.</p> <p>Section 9 of the NLIA and Section 10 of the LIA apply to foreign owners: proposed acquisitions or changes in control that cause a foreign shareholder's proportion to increase above 25 percent must be approved by OIC Board or the MOF with OIC board recommendation. A similar requirement exists in the OIC Notifications for Shareholders Proportion above 49 percent. On such changes the OIC coordinates with other supervisory authorities on foreign ownership transactions where necessary. The OIC has authority to reject foreign ownership transactions but does not have authority to reject changes in control of other insurers other than noted above.</p> <p>The legislation does appear to include a provision requiring a change in shareholding of 5 percent or greater to be reported to the OIC but these changes do not require specific approval of the OIC. Circular Letter No. PorNor 0507/Wor5186 dated 14 December 2000 and Clause 2 (3) of Registrar Order No. 11/2547, 2004 require insurers to update their shareholder structure annually and report any change above 5 percent of issued shares.</p>

	<p><b>Demutualization and Conversion of Companies:</b></p> <p>Insurance legislation in Thailand does not contemplate mutual insurers. All insurers must be public limited companies or authorized branches of foreign insurers.</p> <p><b>Portfolio Transfers:</b></p> <p>Portfolio transfers are covered pursuant to Section 13 and Section 57 of the NLIA and Section 14 and Section 51 of the LIA.</p> <p>Sections 13 of the NLIA and Section 14 of the LIA require the parties to the transfer to prepare a proposal for OIC review and give the OIC broad powers to approve or disapprove such transfers. When granting approval, the OIC may also prescribe any conditions as deemed appropriate to protect the interests of insureds, or to ensure the stability of business operations. It is usual practice that the OIC ensures that transferring policyholders are at least as well off as they would have been had the portfolio transfer not taken place.</p> <p>Sections 51 of the NLIA and Section 57 of the LIA deal with companies seeking to discontinue their businesses and establish similar requirements to those noted above for transfers associated with an insurer withdrawing from the market.</p>
Assessment	Partly Observed
Comments	<p>Partly Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The insurance legislation does not include an appropriate definition of control.</li> <li>• The insurance legislation does not include general provisions requiring ongoing approval of all changes in control, other than those with respect to foreign shareholders.</li> </ul> <p>It is recommended that the OIC review its control provisions in conjunction with the suitability requirements for significant owners and make legislative changes at its earliest opportunity.</p>
<b>ICP 7</b>	<p><b>Corporate Governance</b></p> <p>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.</p>
Description	<p><b>Legal Framework</b></p> <p>Some general governance provisions can be found in the Public Limited Companies Act, 1992. For example, pursuant to section 67 of the Act, a company must have at least five directors, one half of whom must reside in Thailand. Pursuant to Section 85, directors must perform duties in accordance with the law, the objects and articles of association of the company, and resolutions of meetings of shareholders and with integrity, honesty and due care to preserve the interests of the company. A company can make claim against a director if the director fails to meet this duty.</p> <p>In addition to these requirements, the OIC has recently introduced the Notification on Corporate Governance, 2018 under the LIA and the NLIA. The Notification replaces a guideline on corporate governance which was introduced in 2014. Prior to the Notification, the insurance legislation did not include many specific requirements needed to ensure good</p>

	<p>corporate governance but the OIC relied on detailed guidance issued in 2014 to assess and improve governance practices.</p> <p>The Notification was patterned on the ICP 7 standards and has force of law. Major requirements include the following:</p> <ul style="list-style-type: none"> <li>• All insurance companies must have a written corporate governance framework, which is approved by its board of directors and reviewed by the OIC. The Framework must include the company's policies and strategies and systems of risk management and internal control.</li> <li>• Insurance companies must determine the corporate structure, composition, and the appropriate number of directors for their boards with consideration for the nature, size, and complexity of the company; proper checks and balances; the directors' ability to work together; and compliance with life insurance, non-life insurance and public limited company laws.</li> <li>• The board of directors must possess sufficient knowledge, abilities, experience; understanding of personal qualifications, duties, and responsibilities; as well as have a range of experience or skills that suit the nature, size, complexity, and risk of the companies.</li> <li>• The company's board of directors must consist of: <ul style="list-style-type: none"> <li>○ Executive directors (not exceeding one-third of all directors).</li> <li>○ Independent directors (not exceeding one-fourth of all directors).</li> </ul> </li> <li>• The chair of the board of directors must be either an independent director or non-executive director, unless an exemption is granted by the OIC on a case-by-case basis.</li> <li>• Independent directors must meet prescribed qualifications established in the Notification.</li> <li>• The Board, In addition its more general responsibilities must: <ul style="list-style-type: none"> <li>○ Approve strategies and policies on business operations, conflict of interest, whistleblowing, compensation, and code of ethics and business conduct.</li> <li>○ Ensure that efficient mechanisms are put in place to monitor and inspect internal functions, risk management and internal control, subcommittees' appointments, company's audit, carryout annual board of directors' performance evaluation, public disclosure, and financial reporting obligations.</li> <li>○ Continuously monitor the company's operations.</li> </ul> </li> <li>• Directors, in addition to their more general responsibilities, must: <ul style="list-style-type: none"> <li>○ Comply with insurance related laws.</li> <li>○ Act in the best interest of the company and the insured, with honesty and prudence.</li> <li>○ Attend meetings regularly and give independent opinions, with respect to their fiduciary duties.</li> </ul> </li> <li>• Executive managers are to adopt and implement the strategies and policies issued by the board of directors. In addition, they are also required to: <ul style="list-style-type: none"> <li>○ Have regard for the sustainability of the company's business operations;</li> <li>○ Promote the implementation of risk management and internal control systems, and fair treatment of the insureds.</li> </ul> </li> </ul>
--	---

- Ensure timely reports to the board of directors so that their performance may be monitored and evaluated.
- Ensure that there is an appropriate chain of command, as well as risk management, regulation, control, and inspection for each business area.
- Communicate the board of directors' policies on risk management to other personnel.
- Perform annual assessment of staff.
- Act within the scope of their duties, unless the board of directors has considered that any out-of-scope performances would not affect their other duties.

The Notification on Risk Management 2017, and the Notification on Internal Control 2014 establish additional more specific requirements related to risk management and internal control systems of insurance companies.

### **Roles and Responsibilities, Oversight, and Board Resourcing**

Clause 12 of The Notification on Corporate Governance requires the insurer's board to ensure that roles and responsibilities allocated to the board, senior management, and key persons in control functions are clearly defined.

In addition, according to Notification on Risk Management 2017, the Notification on Internal Control 2014 and the Notification on Corporate Governance 2018, an insurer's board has responsibility to lead and oversee the operations of the company; set its strategic goals and direction; establish its corporate culture and commitment to fair treatment of consumers, establish an insurer's code of ethics, and a whistleblower policy; and, establish and oversee a risk management and internal control framework.

The board is required to have the following committees,

- Audit Committee: comprised of at least three persons, two-thirds of whom must be independent directors, the Audit Committee oversees financial reporting and internal and external audit activities and makes reports and recommendations to the Board.
- Risk Management Committee (RMC): comprised of at least five persons, the RMC is responsible for supporting the Board on risk management and helping to identify and mitigate their risks.
- Investment Committee: comprised of at least 3 persons, the Investment Committee is responsible for establishing the investment policy and investment plan of the insurer and overseeing the investment activities of the company.

The board may establish other committees (e.g., human resources and remuneration, etc.) as it views necessary.

The Notification on Corporate Governance 2018, Chapter 2, Clause 7 and 8 require the insurer to set up the structure and composition of board, including suitable number of directors of sufficient knowledge and experience so that they can carry out its role efficiently. It is also required that the board have appropriate internal governance practices, self-assessment process, and sufficient resources to carry out its work. In addition, there are requirements that the board have an appropriate number of independent and executive directors and a requirement for the Chair of the Board to be a non-executive member.

### **Responsibility of Individual Board Members**

As previously mentioned, the Public Companies Act requires directors to perform their duties in accordance with the law, the objects and articles of association of the company, the

<p>resolutions of the shareholders and with integrity, honesty and due care to preserve the interests of the company. additional requirements are set out in the Notification on Corporate Governance to fully meet the requirements of ICP 7.4.</p> <p>In order to ensure their ongoing suitability, directors are required to complete an annual self-assessment and submit it to the OIC. Each director's self-assessment must be notarized by two other company directors.</p> <p><b>Risk Management and Internal Control</b></p> <p>Clause 8, Clause 9, Clause 10, and Clause 21 of Notification on Risk Management 2017 sets out that the board of directors is responsible for risk management framework, the risk management policy and approval of the three-year business plan. The Board must also define its business strategy in line with the risk management framework and policy, and oversee the insurer's risk management function through an annual risk management report from the RMC.</p> <p>According to Clause 4 and Clause 31 of the Notification of Internal Control 2014, the board is also responsible for ensuring that the insurance company establishes an internal control policy that is consistent with the consolidated risk management policy and complies with other particulars of the Notification.</p> <p><b>Remuneration</b></p> <p>Clause 12 of the Notification on Governance requires the board to approve a written compensation policy. At a minimum, the compensation policy must cover those individuals who are company directors, executives, key persons in charge of control functions as well as major risk-taking staff. It also requires them not to take inappropriate or excessive risks that could impact on the solvency of the company, and the interests of policyholders.</p> <p><b>Financial Reporting, Internal Audit, and External Audit</b></p> <p>Clause 12 (2)(g) of the Notification on Corporate Governance requires the board to ensure that the company has an accurate and reliable financial reporting system, and to disclose important financial information accurately, adequately, and in a timely manner to the public and regulatory authorities.</p> <p>In addition, Clause 4 and Clause 21 of the Notification of Internal Control 2014 require the Company's board members to be responsible for ensuring the compliance of insurance company with the Notification regarding internal audit and internal control, and overseeing the internal audit process, reports and findings.</p> <p>Clause 12 (2)(d) of the Notification on Corporate Governance requires the board to oversee (through the audit committee) the external audit process including:</p> <ul style="list-style-type: none"> <li>• Appointment and revocation of the independent auditor including remuneration of the auditor.</li> <li>• Preparation of reports consistent with legal requirements and accounting standards.</li> <li>• At least once a year, meetings between the Board of Directors, or the Audit Committee and the auditor without executive attendance.</li> </ul> <p>External Auditors must be named on a list of approved auditors published by the Office of the SEC. According to Clause 2 and Annex 2.1 of the SEC Notification no. Nor Por 5/2561, "Guidelines for the Rotation of Auditors" all such approved auditors must be rotated within seven years.</p>
--

	<p><b>Senior Management Responsibilities</b></p> <p>Senior Management responsibilities consistent with the requirements of ICP 7.10 are set out in Clause 14 of the Notification on Corporate Governance.</p> <p><b>Adequacy of the Corporate Governance Framework</b></p> <p>OIC reviews offsite review of insurer corporate governance frameworks, company risk management policies and three-year business plans, board self-assessments, and committee minutes. During onsite examinations, it interviews directors, senior management and the head of internal audit and risk management units to ensure compliance and adequacy.</p>
Assessment	Observed
Comments	While the Notification 2018 is new, most of its requirements were included in earlier OIC guidance and have been used by the OIC to assess insurer governance for several years. As many of the governance requirements are principle based, it is recommended that the OIC continue to closely monitor their application by insurers over the next supervisory cycle.
<b>ICP 8</b>	<p><b>Risk Management and Internal Controls</b></p> <p>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.</p>
Description	<p><b>Risk Management System</b></p> <p>The Notification on ERM/ORSA (2018) requires insurers to establish an effective risk management system. The notification, which has only recently been established, is intended to fully comply with the requirements of ICP 8 and ICP 16.</p> <p>An insurer's risk management system is required to cover the key risks faced by the organization, across its activities and processes, with a feedback loop embedded within the insurer's ERM framework. A feedback loop is the process of assessing the effect of changes in risk leading to changes in risk management policy, tolerance limits, and risk-mitigating actions. The framework must also incorporate a set of key risk indicators that allow the company to actively monitor the key risks underlying the business.</p> <p>The system is required to clearly separate risk-taking activities from risk oversight and risk monitoring activities. A risk culture must be defined and developed within the organisation, where risk management is seen as part of the responsibilities of every employee.</p> <p>The risk management system must include processes which:</p> <ul style="list-style-type: none"> <li>• Identify risks and sources of risks that have a financial and non-financial impact on the insurer and require a review of these risks at least annually or when risk factors have changed.</li> <li>• Implement a methodology for risk assessment and risk prioritisation.</li> <li>• Respond to risk in accordance with the insurer's policies.</li> </ul>

	<ul style="list-style-type: none"> <li>• Control risks and monitor evaluation.</li> <li>• Report on risk management and risk status.</li> </ul> <p>The risk management system must also be aligned with the insurer's risk culture and embedded into its operational programs. It should also be supported by an appropriate internal control system.</p> <p><i>Risk Management Policy:</i> The system should include a risk management policy which is consistent with the insurer's business plan and covers the time horizon envisaged in the business plan. At a minimum, the policy must include:</p> <ul style="list-style-type: none"> <li>• The company's policy for managing the risks it faces.</li> <li>• Linkages to the risk management system, the corporate governance, and the corporate culture.</li> <li>• Clear relationships between pricing, product development, underwriting, and investment.</li> <li>• Risk reporting guidelines and the responsibilities of those involved in the risk management process.</li> <li>• Stress testing frequency and content.</li> <li>• Risk tolerance limits for each risk that are consistent with the company's risk appetite.</li> <li>• Linkages between risk tolerance, regulatory capital, economic capital (if applicable), and risk monitoring process.</li> </ul> <p>The risk management policy must also include written policies for the following areas:</p> <ul style="list-style-type: none"> <li>• Risk management.</li> <li>• Product design and development.</li> <li>• Pricing.</li> <li>• Underwriting.</li> <li>• Investment.</li> <li>• Claims management.</li> <li>• Reinsurance.</li> </ul> <p>For some larger more complex insurers (those designated as Tier 1 and Tier 2A by the OIC) additional policies may be required in the following areas:</p> <ul style="list-style-type: none"> <li>• Outsourcing.</li> <li>• Capital management.</li> <li>• Asset-liability management.</li> </ul> <p><i>Risk Governance:</i> The Board is ultimately responsible for reviewing and approving the risk management framework, policy, risk appetite, and the ORSA reports. As noted in ICP 7, The Board must also define the insurer's business strategy and ensure the company has sufficient capital to meet the business's needs.</p>
--	---

	<p>The insurer's RMC is responsible for setting the scope of the risk management framework and policy and ensuring the compliance of business operations to the framework. The committee is also responsible for overseeing the risk-related activities of the company monitoring their management and recommending any improvements, including establishment of risk mitigation plans in stressed circumstances.</p> <p>The RMC is approved by the Board and must meet and report to the Board quarterly. The size of the committee should be commensurate with the size, type and complexity of business operations. The OIC has prescribed that the committee should have at least five members, at least one of whom is a Board member. The RMC is supported by a Risk Management Unit (see below).</p> <p>Senior management responsibilities include, but are not limited to, ensuring personnel are appropriately educated on roles and responsibilities defined by the risk management framework and policy, as well as ensuring day-to-day operations are in line with the business strategy, risk management framework and policy, and ensuring the completeness and accuracy of the ORSA.</p> <p>Subsidiaries of companies with offshore owners or foreign branches can have the offshore RMC perform the prescribed responsibilities subject to the OIC being satisfied that the regulatory requirements are being complied with.</p> <p><b>Internal Control System:</b></p> <p>The Notification on Internal Control, 2014, establishes requirements for insurers to have an effective internal control system. The board of directors of the company and its senior management have a duty to establish the system. In addition, the Notification requires the company to establish an independent audit committee which has responsibility to monitor the internal control system on behalf of the board.</p> <p>The internal control system must cover the system for receiving and paying money, monitoring of compliance with laws, and internal audit. It must cover organizational structure, the delegation of powers, duties and responsibilities, rules and authorizations, and allocation of resources in terms of personnel, budget and information technology systems in an appropriate manner.</p> <p>It also requires the company to have a written manual, adequate training communication for employees, and regular assessment of the adequacy of the internal control system.</p> <p><b>Effective Control Functions</b></p> <p>The OIC requires insurers to establish four control functions. Each of these functions must have sufficient resources, access to the board, and independence from the operational programs of the insurer. The board is also involved in the remuneration and hiring of control function heads. More detailed function requirements are described below:</p> <p><i>Risk Management:</i> The Notification on ERM/ORSA (2018) requires the insurer to have a risk management unit to be responsible for identifying, controlling and mitigating key risks in the company. The risk management function's responsibilities include, but are not limited to, identifying, assessing and reporting on key current and future risks including any changes in the company's risk profile, conducting regular stress testing and production of the company's ORSA for internal and regulatory submission.</p> <p><i>Compliance:</i> Clauses 29–30 of Notification on Internal Control 2014, requires insurance companies to establish compliance units. The duties of the unit must include:</p>
--	---

	<ul style="list-style-type: none"> <li>• Providing recommendations and advice in relation to compliance with laws, preparing a written manual on compliance with laws, and providing training to employees on a regular basis.</li> <li>• Developing a risk management system with respect to compliance with laws by identifying the risks, assessing the risks, determining risk managing methods, monitoring the risks, and reporting the result of the assessment of the changes in compliance risks, specifying the cause for non-compliance with laws and the guidelines on rectification including the problems which have been rectified, and submit such report to the management, the audit committee, or the board of directors.</li> <li>• Coordinating with relevant units to prepare and implement the compliance risk management plan on a yearly basis and specifying the timeframe and the unit responsibilities, including rectification of problems which may prevent compliance with laws.</li> <li>• Helping ensure compliance with laws and reporting on compliance annually to the board of directors or the audit committee.</li> <li>• Coordinating with the OIC on behalf of the company and performing specific duties such as tasks with respect to prevention and suppression of money laundering and combating the financing of terrorism. In addition, the head of compliance is be appointed as a working point of contact with the OIC.</li> </ul> <p><i>Internal Audit:</i> Pursuant to Clause 24–28 of Notification on Internal Control 2014, insurance companies must have internal audit units. These units have the following duties:</p> <ul style="list-style-type: none"> <li>• Reviewing and reporting the accuracy and completion of accounting records in accordance with the financial and accounting policies.</li> <li>• Conducting audit activity in order to ensure that the company's internal control system is sufficient and efficient to manage and maintain risks to be at a controllable level and in compliance with the good corporate governance process.</li> <li>• Auditing the performance of work of the internal units of the company to ensure their compliance with the law governing non-life insurance, requirements of the Office and other laws in relation to the company's business.</li> <li>• Examining the efficiency and effectiveness of the risk management system based on the consolidated risk management framework and policy approved by the board of directors.</li> <li>• Assessing the method for safeguarding the assets of the company and the insured and examining the existence of assets.</li> <li>• Investigating fraud, errors, omissions, and other irregularities.</li> <li>• Assessing the information system to ensure that it has sufficient internal control, and is efficient and comprehensive for all activities that use computers, including having a data backup system to accommodate the business continuity management.</li> <li>• Assessing the reliability of the system of reporting to supervisors according to their hierarchy, confidentiality in the event that an employee reports a violation of rules and regulations, provision of protection from retaliatory actions, and monitoring of results as appropriate.</li> <li>• Preparing a report of the result of the assessment of the company's internal control that specifies material items found upon inspection, including recommendations and rectification of deficiency and submitting the report to the audit committee or the board of directors.</li> </ul>
--	---

- Controlling and maintaining reports of audit results and working papers including keeping documents and evidence used in support of the audit.

The internal audit unit must prepare an audit plan in writing for the approval of the audit committee outlining the objectives, scope and frequency of proposed audits, and required resources.

*Actuarial Function:* Pursuant to the Notification on ORSA, the insurer is required to establish an actuarial function to evaluate and provide advice to the insurer on matters including:

- The insurer's insurance liabilities, including policy provisions and aggregate claim liabilities, as well as determination of reserves for financial risks.
- Asset-liability management with regards to the adequacy and the sufficiency of assets and future revenues to cover the insurer's obligations to policyholders and capital requirements, as well as other obligations or activities.
- The insurer's investment policies in relation to required return to support benefit payment of existing and new insurance products and the insurer's valuation of assets which it is applicable to small insurers.
- An insurer's solvency position, including a calculation of minimum capital required for regulatory purposes and liability and loss provisions.
- An insurer's prospective solvency position by conducting capital adequacy assessments and stress tests under various scenarios, and measuring their relative impact on assets, liabilities, and actual and future capital levels.
- Risk assessment and management policies and controls relevant to actuarial matters or the financial condition of the insurer.
- The fair treatment of policyholders with regard to distribution of profits awarded to participating policyholders.
- The adequacy and soundness of underwriting policies.
- The development, pricing and assessment of the adequacy of reinsurance arrangements.
- Product development and design along with estimation of the capital required to underwrite the product.
- The sufficiency, accuracy and quality of data, the methods and the assumptions used in the calculation of technical provisions.
- The research, development, validation and use of internal models for internal actuarial or financial projections, or for solvency purposes as in ORSA.
- Other works related to actuarial and financial matters as assigned by the Board of Directors.

The control function heads are all appointed by the board or board committees except for the head of compliance and the head of the actuarial control function. These are appointed by the executive and reported to the board. All control function heads must have independent access to the board and the board is involved in reviewing their remuneration. They must also be independent from the operational programs of the insurer.

### **Outsourcing**

OIC allows insurers to outsource control function duties. In such cases, the board of directors of the company is still responsible for the work, which has been delegated and must have controls to ensure that it is conducted in an accurate efficient and timely manner. There must be a service agreement that allows the OIC access to information for inspection (see ICP 9).

### **Supervisory Practice**

	Adherence to the requirements by insurers is assessed through onsite inspections carried out by OIC and through review of the annual governance framework document.
Assessment	Observed
Comments	As many of the Risk Management and Internal control requirements are principle based, it is recommended that the OIC closely monitor the application of these requirements by insurers over the next supervisory cycle.
<b>ICP 9</b>	<p><b>Supervisory Review and Reporting</b></p> <p>The supervisor has an integrated, risk-based system of supervision that uses both offsite monitoring and onsite inspections to examine the business of each insurer, evaluate its condition, the quality and effectiveness of its Board and Senior Management and compliance with legislation and requirements. The supervisor obtains the necessary supervisory information to conduct effective supervision of insurers and evaluate the insurance market.</p>
Description	<p><b>Regulatory Authority</b></p> <p>Section 48 of the LIA, and Section 51 of the NLIA, give the OIC authority to conduct offsite monitoring and onsite examinations. These Acts also give the OIC broad powers to request documents and other information from an insurer or people associated with an insurer (Section 43–45, and 48 of the LIA and Section 47–49, and 51 of the NLIA). There is a Notification Re: Rules, Procedures, and Conditions on Preparation of RBC Report of Life/Non-life Company, 2011, which sets out the scope, content and frequency of RBC report submissions. The OIC also has several provisions which require insurers to report significant changes to their corporate governance.</p> <p>The OIC also has the authority to request information and examine outsourced activities. Pursuant to Section 36 of the LIA and Section 35 of the NLIA, certain activities cannot be outsourced without OIC approval. This includes claims management activity (excluding reinsurance). Underwriting activities cannot be outsourced under any circumstances. If outsourcing for these activities is permitted, by the OIC, Clause 9 of the Notification of Re: Rules, Procedures, and Conditions for Indemnity or Compensation under Insurance Contracts by Non-life Insurance Companies, B.E. 2559 (2016), OIC requires that the company exercise oversight and control, and make testimony, provide opinions, or submit relevant documents and evidence to the OIC upon its request.</p> <p>More generally, the Notification of the Office of the Insurance Commission Re: Guidelines for Outsourcing by Insurance Companies requires that insurance companies execute with the service providers written agreements that allow the OIC, the company, or other relevant authorities to inspect the operation and internal control systems, and request relevant information from the service provider or sub-service provider (if any) that is related to the service.</p> <p><b>Supervisory Framework</b></p> <p>The OIC’s supervisory framework is a risk-based approach broadly modeled on the Canadian Office of the Superintendent of Financial Institutions supervisory framework. This supervisory approach uses both offsite monitoring and onsite examinations to assess institutions. Under this approach the supervisor defines the significant activities of an institution, assesses these activities against six categories of inherent risk: Strategic risk, Insurance risk, Market risk,</p>

	<p>Credit risk Operational risk (includes compliance risk), and Market Conduct risk. The supervisor then examines the governance, risk management, and internal controls systems of the institution (which mitigate risk) to assign a net risk rating by significant activity. The net risk ratings are aggregated into a single net risk rating for the institution. The supervisor then examines the capital, profitability, and liquidity of the institution to assign a composite risk rating for the institution.</p> <p>The composite risk rating for the institution, along with information and judgement about the seriousness of supervisory problems, is then used to determine the level of intervention in the institution against a ladder of intervention (see ICP10.) and to develop an onsite plan for the coming year.</p> <p>Two internal OIC memoranda, "The Early Warning System (EWS) and Triggers for Early Intervention" and "Risk Focused Examinations" set out details of the framework for insurers.</p> <p><b>Regulatory Reporting</b></p> <p>The OIC requires insurance companies to submit financial statements, and financial and operational reports on an annual and a quarterly basis. The information is analyzed to identify risks and to help gauge the insurer's solvency position. As previously mentioned, the OIC has the ability to request additional information and to increase the frequency of reporting as required.</p> <p>The Notification on Submission of Financial Statements and Report on the Operations, 2016, sets out information requirements which need to be submitted by insurers periodically to the OIC. All annual financial statements must be audited and quarterly statements must be reviewed by the auditor.</p> <p>In addition, OIC requires insurers to submit other reports periodically. Examples include:</p> <ul style="list-style-type: none"> <li>• Reporting on investments in other businesses.</li> <li>• Actuarial report.</li> <li>• Reinsurance report.</li> </ul> <p>Off-balance-sheet exposures are considered as part of offsite reporting as are material outsourcing and any changes to corporate governance structure including changes to key personnel in charge of control functions.</p> <p>OIC regularly reviews its reporting requirements. Many requirements are relatively new as they were introduced in 2016. Some have been modified as recently as in 2018.</p> <p><b>Offsite Analysis</b></p> <p>Offsite monitoring and analysis largely focuses on the financial position of insurers, and trends in financial position and operations, including corporate governance, compliance, and market conduct. The OIC looks at quarterly and audited annual financial statements, annual reports, financial statement notes, external audit reports, the written corporate governance framework (and any changes to it), the three-year business plan, the risk management policy, actuarial report, and the latest offsite analysis report.</p> <p>Analysis of quarterly and annual reports is divided into two levels:</p> <ul style="list-style-type: none"> <li>• A-level analysis includes an overview of the company's key activities and analysis of financial information against its EWS indicators. Every insurance company is analyzed on</li> </ul>
--	---

	<p>a quarterly basis. The analysis is tied to major risks of the insurance company including Strategic Risk, Credit risk Market risk, Liquidity risk, Operational risk, and COB.</p> <ul style="list-style-type: none"> <li>• B-level analysis provides a more in-depth analysis of issues or concerns identified by A-level analysis that affect the company's financial position, using additional financial ratios and trend analysis. B-level analysis includes analysis of major activities including underwriting, pricing, claims management, asset and liability management, reinsurance, and investment.</li> </ul> <p>The EWS indicators include indicators of capital adequacy, profitability, asset quality, and liquidity management. In 2018, the system was updated to include some COB indicators for life insurance and the ability of non-life companies to finance potential expansion.</p> <p><b>Onsite supervision</b></p> <p>An onsite supervision plan is developed each year based on information from offsite supervision and information received by other OIC departments. Five features are considered in developing the annual onsite plan and prioritizing insurers:</p> <ul style="list-style-type: none"> <li>• Offsite assessment of the insurer.</li> <li>• The insurers composite risk rating from previous assessments.</li> <li>• The length of time since the last examination.</li> <li>• The insurer's complaint ratio (number of complaints/number of in force policies).</li> <li>• The insurer's market share.</li> </ul> <p>The scope of onsite inspections is determined as part of the annual planning process. OIC engages in four types of examinations: Full scope examinations, Targeted examinations, Thematic examinations, and Emergency examinations.</p> <p><i>Full scope examinations:</i> These look at the inherent risk associated with all of the insurer's significant activities, mitigated by its governance and internal control processes. All six categories risk categories are assessed. The OIC then examines Solvency, Earning, and Liquidity which are determined based on CAR, ROE, and liquidity ratio to set a composite risk rating for the insurer.</p> <p>As part of these examinations OIC looks at information including: the governance framework, business plan, risk management and internal control systems, committee minutes, interviews of key directors and staff (e.g., internal audit staff), and written policies and procedures by key department.</p> <p>Full scope examinations are currently targeted for all insurers over a three to five-year cycle but, have until recently been carried out over a maximum seven-year cycle. Out of 83 companies, there were only two companies that had a six-year cycle and only four companies that had a seven-year cycle. The other 77 companies had a cycle of five-year cycle or less. The CAR ratio of each of those six companies was in excess of 250 percent.</p> <p><i>Targeted Examinations:</i> These look at specific issues or concerns drawn from other analysis and which might have significant impact on the insurer's present or future operations (e.g., investment in loans secured by real estate). This kind of the examination helps guide future offsite monitoring and the frequency of onsite examinations.</p> <p><i>Thematic Examinations:</i> These are used to assess specific issues or concerns that may have implications across a number of insurers. They are typically used to assess compliance with new regulatory requirements or specific problems with a line of insurance business.</p>
--	---

	<p><i>Emergency Examinations:</i> The OIC has the power to conduct emergency examinations of insurers without warning. This power is used carefully and in special circumstances. In 2018, two such emergency examinations were conducted.</p> <p>The OIC discusses the findings and actions to be taken to rectify matters with the insurer. The formal OIC process for onsite inspections requires that the OIC provide the insurer, via its board and senior management, with a draft “Fact Findings and Management Actions Report” usually within a fortnight of completion of the onsite inspection, and the insurer is invited to respond.</p> <p>The OIC has procedures to follow-up on the results of previous findings. When the Company corrects all issues on a Fact Findings Report, the onsite team will then visit the Company to review whether the Company has fully addressed the issues.</p> <p><b>COB Supervision</b></p> <p>COB supervision is presently carried out largely through analysis of individual complaints, company complaint statistics and through onsite analysis of policies and procedures. The OIC has plans to augment its supervisory practices in this area including more thorough and detailed analysis of insurer and intermediary COB policies and reporting, as well as targeted and thematic examinations of COB.</p> <p><b>Insurance Groups</b></p> <p>OIC has identified a number of insurance groups operating in its market. The OIC is not a home supervisor for any of these groups. For Financial groups within Thailand, the BOT is the Home (lead) supervisor. For international groups, OIC participates in supervisory colleges and in information sharing with other supervisors but generally supervises on an individual insurer basis.</p>
Assessment	Largely Observed
Comments	<p>The OIC has made significant progress in developing and implementing a good supervisory framework for insurers. The largely observed rating is based on the observations some of the current framework is new (post 2016) and has not been tested by a full onsite cycle with all institutions.</p> <p>It is recommended that the OIC consider:</p> <ul style="list-style-type: none"> <li>• Documenting and publishing a high-level supervisory framework document that describes the basic principles, high level concepts, and core processes that it uses to guide its supervision of insurers.</li> <li>• Developing some more specific guidance to help staff and industry in emerging operational risk areas (e.g., cyber risk). This may help to increase transparency, and consistency of supervision in these areas.</li> <li>• Augmenting supervision of COB requirements for insurers and intermediaries to include fuller examination of policies, procedures, and practices of insurers and intermediaries once new requirements are assimilated (OIC staff are aware of this matter and plans to address it due course). In due course, the introduction of more thematic examinations should also be considered.</li> </ul>

<b>ICP 10</b>	<p><b>Preventive and Corrective Measures</b></p> <p>The supervisor takes preventive and corrective measures that are timely, suitable, and necessary to achieve the objectives of insurance supervision.</p>
Description	<p><b>Unauthorized Insurance Activities</b></p> <p>Section 17 of the NLIA and Section 18 of the LIA state that no person shall act as an insurer by entering into an insurance contract with any person unless he or she has obtained a license to undertake insurance business. Pursuant to Section 86 of the NLIA and Section 91 of the LIA, anyone who acts as an insurer without a license shall be liable to be fined and/or subject to imprisonment. The fine ranges between THB 200,000 and THB 500,000 (US\$6,000 and US\$16,000) plus an ongoing penalty of THB 20,000 per day (US\$300).</p> <p>Section 63 of the NLIA and Section 68 of the LIA require any person wishing to act as an insurance agent or broker to obtain a license from the Registrar (OIC). Pursuant to Section 99 of the NLIA and Section 105 of the LIA, anyone who acts as an agent or broker without a license shall be subject to a fine of up to THB 50,000 (US\$1,500) and/or imprisonment of up to six months.</p> <p>During the last five years the OIC has dealt with several cases of unauthorized activity from insurers. Most frequently these cases involve unauthorized activity from people acting as agents and brokers. These cases are referred to the Royal Police for investigation and prosecution, and the police have taken action against the parties engaged in unlicensed activity.</p> <p><b>Power to Take Corrective and Preventive Measures</b></p> <p>As part of the OIC's supervisory process, remedial action is first dealt with through discussion with insurers and increasing the level of supervision. In effect, the OIC uses "moral suasion" to obtain the voluntary agreement of the insurer to address perceived deficiencies in a required manner.</p> <p>The power of "moral suasion" is said to be very strong in Thailand. The assessors' understanding is that in Thai society, requests made through "moral suasion" are usually viewed not as suggestion, but as a directive to act. The types of actions agreed to will be specific to the particular insurer and issues to be remediated but might include:</p> <ul style="list-style-type: none"> <li>• Enhancing the insurer's controls, policies and procedures in specific areas.</li> <li>• Enhancing or changing their board or governance structure.</li> <li>• Reviewing a particular part of their business and remediating any issues found.</li> </ul> <p>In the unlikely event that the insurer does not carry out remedial actions proposed by the OIC to a sufficient degree, there are some enforcement powers the OIC can use to compel the insurer to act. These include:</p> <ul style="list-style-type: none"> <li>• Sections 52 of the NLIA and Section and 53 of the LIA which give the Registrar, with the approval of the Commission, authority to order an insurer to improve its conditions or operations within a timeframe specified by the registrar. This power can also be used to require insurers to increase capital.</li> <li>• Section 53 of the NLIA and Section 54 of the LIA which empower the Commission to order an insurer to remove directors or persons responsible for its operation.</li> </ul>

- Section 55 of the LIA allows the Registrar (OIC) to request the Minister to issue an order taking control of the company.
- Section 59 of the NLIA and Section 64 of the LIA allow the Minister to revoke the insurers license.

The OIC has established an intervention document "The Early Warning System for Early Intervention Guidelines," which sets out the OIC framework for early intervention in more detail. There are 4 levels of intervention reflecting financial soundness and level of risk of the company.

- **Level 1:** the insurers must have CAR not less than 180 percent. All EWS ratios are within acceptable ranges and do not affect the adequacy of capital and operations of the company, and the net risk, which is determined by regular examination, of the company is regarded as being low.
- Intervention in these companies includes regular monitoring such as regular offsite monitoring of financial status and operations, interviewing the insurer's executive at least once a year, and onsite examination (at least every 5 years).
- **Level 2:** the companies have CAR more than 140percent but less than 180percent, some EWS Ratio may be outside acceptable ranges of standard, which may affect the adequacy of Capital in 1–3 years, and the net risk of the company is low to medium.
- In addition to the intervention described in level 1, intervention at this level may include the company submitting a Management Discussion and Analysis Report describing the causes of the problems and trends of issues that could affect the capital position, formally notifying the company of supervisory concerns and asking for corrective action to be taken. These companies will be examined every three years and the OIC will monitor the corrective action taken on issues.
- **Level 3:** CAR is more than 100percent but less than 140percent, some EWS Ratios may be outside of acceptable range which may affect the adequacy of Capital funds in less than one year, and the net risk, which is determined by regular examination, of the company is medium to high. In addition, financial reports may lack reliability.
- In addition to actions taken at Level 2, intervention at this level may include adding the company to a formal "Watch list." The company will be required to submit a full report on a monthly basis on maintaining required solvency, the company's corrective measures and reporting systems are more closely examined and scrutinized, the company's capital plan for the next three years and stress testing results are reported and examined. In addition, the company is required to submit a plan to amend its financial status and operations, which identify the steps and timeframe for correction. These issues will be shared with other departments in OIC in order to acknowledge them before making any approval.
- For certain issues, OIC may consider ordering the company to hire a special audit and/or invite the auditor/independent directors of the company to discuss, supervise and resolve these problems. These companies will be examined every year and the OIC will closely monitor the corrective action taken.
- **Level 4:** The Company will have a CAR lower than 100percent or appears to be operating in a manner, which may be harmful to customers or is unsustainable in the long run. Net risk is determined to be high to very high.
- In addition to the actions taken at level 3, the OIC may order the directors of the company to become familiar prepare for the legal processes associated with involuntary wind-up of

	<p>the company, the company will be prohibited from expanding its business if capital is lower than required. The OIC may order the company to take corrective action. The OIC may order the company to increase capital, The OIC may order the company to remove directors or specific personnel. The OIC may consider taking control of the company. The OIC may consider revocation of the insurers license.</p> <p>As described above, the OIC preventive and corrective measures processes are designed to automatically involve discussion with the board and with senior management of insurers in respect of concerns.</p> <p>The OIC ladder of intervention does not appear to contemplate the use of most of its strongest enforcement powers until problems in insurers are at a very serious level. In addition, the ladder of intervention does not contemplate a clear point where the supervisor turns its focus to the orderly wind-up of the institution rather than remediation of its problems.</p>
Assessment	Largely Observed
Comments	<p>Largely Observed is based on the observation that the ladder of intervention appears to leave the use of the OIC's strongest preventative and corrective powers until an insurers financial condition is extremely serious and when the supervisor should be focused on its orderly wind-up as a gone concern rather than its recovery.</p> <p>It is recommended that OIC consider modifying the ladder of intervention to add an additional stage focused on preparing for the orderly wind-up of the insurer as a gone concern.</p>
<b>ICP 11</b>	<p><b>Enforcement</b></p> <p>The Supervisor enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>
Description	<p><b>Legal Authority</b></p> <p>The OIC has a number of powers to enforce corrective action:</p> <ul style="list-style-type: none"> <li>• Section 53 of the NLIA and Section 54 of the LIA allow the Registrar, with the approval of the Commission, to order an insurer to improve its condition or operations within a timeframe established by the registrar. These sections also provide authority for the OIC to order insurers to increase capital.</li> <li>• Section 52 of the NLIA also allows the Registrar, with the approval of the Commission to temporarily suspend the underwriting of non-life insurance (section 54 of the NLIA provides that in case of a temporary suspension of the underwriting, its directors, officers, or employees must not make any payments, or remove or dispose of the company's assets, except for payment of salaries or wages to the company's officers or employees as normal).</li> <li>• Section 53 of the LIA and Section 52 of the NLIA allow the OIC to order an insurer to remove officers or directors if the insurer is being operated in a manner that could damage the interests of policyholders or beneficiaries.</li> </ul>

- Sections 84 to 112/2 of the NLIA and Sections 89 to 117/2 of the LIA establish penalty provisions for various contraventions of the NLIA and the LIA. The penalties include fines, and for some contraventions, terms of imprisonment.
- Section 110 of the NLIA and section 116 of the LIA allow the OIC to seize property of an insurer in certain circumstances.
- Pursuant to clause 24 of Insurance Commission Notification on Investment of Insurance company, OIC can suspend the investments of an insurer if the insurer's investments are not in accordance with the investment policy framework and the investment manual or are inconsistent with the capability of the operational systems and personnel, or financial position of the company.
- Clause 7 of Registrar Notification on Report on Capital Fund, the OIC for a reasonable cause can order an insurer to procure another certified public accountant and/or actuary acceptable to the Registrar to review or audit the insurer at the insurer's expense, or order an insurer to revise the capital fund maintenance report. If the company fails to make a revision as instructed by the Registrar, it shall be deemed that the company did not submit the report. In addition, according to Sections 27/5 of the LIA and Non-Life Insurance Act 1992, the company shall not be allowed to expand its business while executing the scheme to restore its financial position.
- Section 111/2 of the NLIA and section 117/2 of the LIA allows the OIC to publish information on contravention of the acts, regulations or notifications.
- The OIC has the authority to enforce corrective actions by using the administrative orders under section 53 of the LIA and under Section 54 of the NLIA. The OIC has the power to remove board members or persons responsible for the operation of any company.
- Section 108 of the NLIA and Section 114 of the LIA provides for criminal sanctions upon directors if certain offences have taken place.

In addition, Section 55 of the LIA gives the Minister the power to take control of a life insurance company and Section 59 of the NLIA and Section 64 of the LIA allows the minister to revoke the license of an insurer.

After corrective action has been taken, the OIC checks compliance by the insurer and assesses effectiveness usually through offsite reporting or onsite examination.

The OIC has additional enforcement powers under the Administrative Procedure Act (APA). The APA is able to be applied by all governmental organizations, including the OIC. Section 58 of the APA provides for the enforcement of administrative orders (translated in the APA ambiguously as acts, meaning action), including: Section 58 (1) Failure to comply with a direction of the OIC (such as an order for a capital injection) results in a penalty of THB 20,000 per day, and if the company does not pay the administrative fine, the official (OIC) may seize assets of the company (Section 61 and Section 57 of the APA).

However, in practice, if a company violates or fails to comply with the OIC's administrative orders, the OIC accelerates the case by invoking more severe penalties (e.g., suspension of business, removal of directors, or revocation of license). Apart from this, the OIC also has the power to enforce criminal sanctions for not complying with administrative orders. The OIC does not have to plea to court to enforce criminal sanctions under NLIA and LIA but the sanctions can also be enforced through the OIC's Settlement committee.

	<p>The OIC does not have the power to take control of non-life insurers: Section 52 also allows the Registrar, with the approval of the Commission to temporarily suspend the underwriting of non-life insurance (section 54 of the NLIA provides that in case of a temporary suspension of the underwriting, its directors, officers, or employees must not make any payments, or remove or dispose of the company's assets, except for payment of salaries or wages to the company's officers or employees as normal. Other payments must be made as prescribed by the Registrar. OIC officials advise that for non-life insurance companies, as the contracts are all short term, the power the OIC has under Section 52 has been sufficient in the past to rectify the arising problems. If the company cannot improve its position, its license will be revoked, and the Policyholder protection will step in to protect the benefits of policyholders.</p> <p><b>Fines and penalties</b></p> <p>The legislation establishes fines and penalties for major contraventions. Some of the fine levels appear to be very low compared to other jurisdictions, but prison terms associated with major contraventions are significant. OIC officials advise that the combination of fines and penalties is an effective deterrent into contraventions in the market.</p> <p>The process involved in determining a fine or penalty involves a special body called the Settlement Committee. It acts in a manner similar to a court. The Settlement Committee is comprised of senior officials from government including, the Permanent Secretary of the MOF, a senior police official and the Secretary General of the OIC. It is empowered with the authority to hear cases and assign penalties for the settlement of contraventions. It has criteria to ensure that similar contraventions are dealt with in a similar manner. The settlement Committee's decisions are appealable to the court system and the grounds of appeal are specified in Section 9 of Establishment of Administrative Court and Procedure Act (as mentioned in ICP2).</p> <p><b>Penalties for failure to provide information</b></p> <p>The OIC is empowered to order the company to submit any reports or documents on the undertaking of its life insurance business under Sections 45 and 48 of the LIA, and Sections 49 and 51 of the NLIA.</p> <p>The penalties for intentionally giving a false statement or concealing any facts are imprisonment up to 1 year, or a fine, or both under section 114 of the LIA and Section 108 of the NLIA.</p>
Assessment	Largely Observed
Comments	<p>THE OIC's ability to enforce corrective action could be enhanced by some strengthening its enforcement powers.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The power to take control of non-life insurers be added to the OICs legislative powers. The ability for the supervisor to take control is an important tool needed to minimize losses when an insurer is headed towards insolvency and becomes more important in a market as the size of non-life insurers grows.</li> <li>• The OIC proceed to implement proposed legislation to increase the supervisor's powers over intermediaries including the power to suspend intermediary licences, and issue administrative orders.</li> </ul>

	<ul style="list-style-type: none"> <li>Consideration might also be given to adding powers to require insurers or intermediaries to make restitution for harm caused to customers by contraventions of regulatory requirements.</li> </ul>
<b>ICP 12</b>	<p><b>Winding-up and Exit from the Market</b></p> <p>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 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.</p>
Description	<p><b>Legal Authority and Policy Holder Priority</b></p> <p>The procedures for the winding-up and exit of an insurer from the market are set out in legislation: Sections 51 and 65–67 of the LIA, and Sections 57, 60–62 of the NLIA are the relevant sections:</p> <p>Sections 51 of the LIA and Section 57 of the LIA require a company wishing to discontinue its business to file an application for permission to the Commission.</p> <p>Sections 65–67 of the LIA and Sections 60–62 of the NLIA provide for the appointment of a liquidator and allow the liquidator to use the security deposit of the company as well as the its reserves to pay policyholder and beneficiary claims. If there is a deficiency in funds available to pay policyholder and beneficiary claims, the policyholder is entitled to make application to the relevant industry guarantee fund for additional compensation up to the prescribed limit for the compensation fund (i.e., THB 1,000,000).</p> <p>There is a time limit for policyholders to make applications to the guarantee fund (60 days from the date insurance creditors receive notification from the fund). This is a time frame that encourages the policyholders to claim additional compensation quickly. If the policyholders fail to apply to the compensation fund within such a period, they are still entitled to receive payment from the guarantee fund within 10 years (Section 85/5 LIA and Section 80/5 NLIA).</p> <p>In case the policyholders are entitled to receive compensation of more than the limit of the guarantee fund, the policyholders can pursue the balance from the pool of assets of the company in the bankruptcy process. As creditors, policyholders rank below secured creditors of the institution on a priority rating alongside the tax creditor, but ahead of general creditors (section 26 of NLIA and LIA and 130 of Bankruptcy Act).</p> <p><b>Specification of a Winding-Up Point</b></p> <p>The legislation does not provide for the determination of a specific point at which it is no longer permissible for an insurer to continue its business. Sections 64 to 66 of the LIA, and Sections 59 to 62 of the NLIA provide for the Minister to revoke an insurer’s license in a number of circumstances (e.g., liabilities exceed assets) but these sections do not require the Minister to revoke the licence. As a result, there is no specific point where it is no longer permissible for the insurer to continue its business (e.g., a defined point where the license must be suspended or revoked).</p>
Assessment	Largely Observed

Comments	<p>Largely Observed is based on the observation the legislation does not specify a clear point at which it is no longer permissible for an insurer to continue its business. These concerns are partially mitigated by the strong supervisory practice of the OIC with respect to capital and the existence of policyholder protection funds.</p> <p>It is recommended that the legislation be amended to clearly establish a point at which it is no longer permissible for an insurer to continue its business (e.g., a CAR of less than 100 percent or situations where the Commission finds that an insurer's actions present a significant and unreasonable risk to the interests of policy holders and beneficiaries). This could perhaps be tied to a risk-based solvency requirement for insurers and/or the ladder of intervention.</p>
<b>ICP 13</b>	<p><b>Reinsurance and Other Forms of Risk Transfer</b></p> <p>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 programs. The supervisor considers the nature of reinsurance business when supervising reinsurers based in its jurisdiction.</p>
Description	<p>Thai-based insurers cede risks to domestic and foreign reinsurers:</p> <ul style="list-style-type: none"> <li>• Thailand has one domestic life reinsurer (Thai Re Life) and one domestic non-life reinsurer (Thai Re). There are no requirements for minimum cessions to domestic reinsurers, nor is there a state-owned reinsurer in Thailand.</li> <li>• Domestic insurers also cede risks to foreign reinsurers, usually through brokers based in Hong Kong or Singapore. No foreign reinsurers are currently licensed in Thailand, however the government has a business development initiative underway that might change that prospectively, as discussed at the end of this section.</li> </ul> <p>Amounts ceded to reinsurers by Thai-based life insurers are relatively low—less than 1percent of gross premium for ordinary life, and approximately 5percent for group business—reflecting a market focus on more traditional products with modest average policy values. For non-life, cessions are higher, ranging from 12percent of gross motor premium in 2017 to over 50percent for other lines, reflecting efforts to mitigate liability and catastrophe risks.</p> <p><u>Reinsurance-Related Regulations</u></p> <p>The Thai-based supervisory regime applies uniformly to reinsurers and insurers alike, e.g., with respect to requirements for risk management, internal controls, RBC, winding up, and more. However, there are some regulations that apply specifically to reinsurance activity, be that of a Thai-licensed insurer or reinsurer.</p> <p>The Notifications on Reinsurance for Life and Non-Life (2018) built on the supervisory framework applicable to the reinsurance activities of insurers and reinsurers that had been in place since 2012, and which had since been augmented in 2017 with more detailed reporting requirements. The notifications take an approach that is principles-based and permits insurers to structure reinsurance programs as they deem appropriate as long as they are in accordance with each insurer's risk appetite, and meets standards on risk management and solvency.</p> <p>Notably, the notification is intended to be ICP 13-compliant. It requires the Board of Directors of an insurer to establish policies and approve the reinsurance framework as part of the overall ERM framework; oversee reinsurance transactions to be in accordance with the reinsurance management framework, and with OIC rules and regulations; and establish</p>

	<p>internal controls to ensure that the reinsurance management framework is properly implemented. The notification applies uniformly to the reinsurance-related activities of both professional reinsurers and insurers licensed in Thailand.</p> <p>In turn, assigned executives of the insurer are required to manage reinsurance within the terms of the Board-approved reinsurance management framework; to regularly review the reinsurance program and its performance; and to have written operational procedures, reinsurance handbooks, internal controls, and reporting systems to evaluate the effectiveness of the reinsurance program.</p> <p>The reinsurance management framework is required to include an organizational structure identifying the division or person in charge of reinsurance activities and others responsible for directing, supervising, and monitoring the company's reinsurance-related activities to be in compliance with that framework; the responsibilities of the assigned division or individual in charge of reinsurance; a reinsurance strategy which forms an integral part of the ERM and capital management frameworks; levels of risk retention and transfer consistent with the insurer's risk appetite and capital management goals; and guidelines for risk management and internal controls related to reinsurance. Insurers are required to assess the reinsurance program performance and report thereon to OIC annually.</p> <p>The NLIA stipulates that a non-life insurer cannot retain any risk/policy in excess of 10 percent of its capital except by written permission of the OIC, although there is no corresponding provision applicable to life insurance in the LIA.</p> <p>While reinsurance is a necessary capital and risk management tool, some limits apply as per the 2018 notifications:</p> <ul style="list-style-type: none"> <li>• Cessions to foreign reinsurers may be limited depending on the reinsurer's rating from a recognized rating agency. Using Standard &amp; Poors' ratings by way of example, cessions to reinsurers rated A- or higher are not limited; cessions to reinsurers rated BBB- to BBB+ are limited to 50 percent of foreign reinsurance premiums; and cessions to reinsurers rated below BBB- or to reinsurers, which are non-rated are prohibited.</li> <li>• While there are no corresponding provisions in the 2018 reinsurance notifications that pertain to cessions to domestic reinsurers, the notifications on RBC provide incentives for insurers to cede to stronger reinsurers, be they foreign or domestic, based on credit ratings for the former, and CAR for the latter. For example, A CAR of 300 percent is deemed to be equivalent to a credit rating of AAA, whereas a CAR of 150 percent is deemed to be a rating of BBB. Currently there is only one domestic life reinsurer, and only one domestic non-life reinsurer.</li> <li>• Insurers are not allowed to enter into financial or finite reinsurance contracts or where there is no significant risk transfer to the reinsurer, e.g., at least a 10 percent probability of a 10 percent loss to the reinsurer.</li> <li>• Insurers must also consider levels of risk concentration and diversification with respect to any reinsurer or group of reinsurers and comply with limits specified in the notification.</li> <li>• Risk transfer to capital markets is not permitted, nor may insurance be an underlying asset for securitization. Special purpose entities are not permitted.</li> </ul> <p>There are no mandatory reinsurance contract terms.</p> <p>With respect to credit risk from reinsurers, ceding companies are required to:</p> <ul style="list-style-type: none"> <li>• Have procedures to monitor the financial stability and appropriateness of reinsurers, e.g., of reinsurers' credit ratings, financial position, capital adequacy, and ability to fulfill obligations.</li> </ul>
--	--

	<ul style="list-style-type: none"> <li>• Have procedures and controls relating to transactions and balances with reinsurers.</li> <li>• Establish guidance for the selection of reinsurance brokers, taking into account the broker's experience, expertise and quality of services, as well as the reinsurer's home supervisory regime.</li> </ul> <p>Insurers must allocate a portion of their unearned ceded reinsurance premium as a reserve relating to foreign reinsurers, as prescribed in the Notification on Asset-Backing Liability. This essentially is a mandated funds withheld provision to securitize foreign reinsurance balances to a prescribed extent. However, if the insurer has otherwise negotiated collateral from the foreign reinsurer, the mandated funds withheld that would be required by the Notification on Asset-Backing Liability can be reduced.</p> <p>Insurers must also ensure that the maximum event retention is in line with the company's reinsurance management framework.</p> <p>Reinsurance contracts must be comprehensive and completed within a reasonable time, with clearly-defined terms and conditions, and subjected to company procedures for controlling and monitoring the contract documentation process. Reinsurance contracts may not go into effect prior to validated and documented acceptance by the parties, e.g., as documented by a signed cover note or reinsurance slip. Facultative reinsurance must be purchased before the insurer underwrites the subject risk. There is no prescribed timeframe by which a fully executed contract must be available after its effective date.</p> <p>As part of the reinsurance management framework, insurers must have an established means to address liquidity risk, including procedures for monitoring and maintaining liquidity positions. OIC requires insurers to set up a contingency plan for large claims or series of claims which can include short-term liquidity management, and accelerating payments of amounts due from reinsurers. Reinsurance contracts should include conditions relating to cash calls, collateral or deposit accounts.</p> <p>The Commissioner may require insurers to conduct stress tests to assess the efficiency of reinsurance program, to include OIC-prescribed scenarios.</p> <p><u>Reporting on Reinsurance to the OIC</u></p> <p>OIC requires insurers to submit copies of reinsurance contracts as well as any related amendments and side letters at the Registrar's request.</p> <p>The OIC also requires insurers to submit a report annually to include:</p> <ul style="list-style-type: none"> <li>• Names of the executives having duties and responsibilities to supervise compliance with the reinsurance management framework and others involved in reinsurance-related activities.</li> <li>• Their reinsurance strategy.</li> <li>• Results of the prior year's operating results, both for treaty and facultative reinsurance, along with a narrative analysis.</li> <li>• An assessment of the effectiveness of the prior year's reinsurance program.</li> <li>• An assessment of the appropriateness of the current year's reinsurance program and whether it is aligned with the company's business, risk appetite and capital management goals, along with supporting rationales.</li> <li>• Risk management and internal control approaches with respect to the reinsurance program.</li> </ul>
--	--

OIC issued the sub Notification on reinsurance reporting pursuant to Clause 18 of the Notification on Reinsurance, which requires insurers to submit reinsurance data to OIC on an annual and quarterly basis, as follows:

- Summaries of outward and inward reinsurance treaties.
- Summaries of the amounts of outward reinsurance premium and the corresponding reinsurer's credit ratings (for foreign reinsurers) or CAR (for licensed reinsurers).
- Summaries of the details of new reinsurance treaty contracts, both outward and inward reinsurance treaties, within two months after the effective date.

In reporting on reinsurance to the OIC, the ability of an insurer to take credit in its financial statements for amounts ceded to reinsurers is subject to meeting risk transfer criteria in TFRS, i.e., the OIC does not have separate criteria for solvency reporting that varies from that used for general purpose financial reporting (other than the prohibition on financial and finite reinsurance). As part of its ERM framework, solvency, and capital adequacy reporting, the OIC reporting framework requires insurers to amend its TFRS reporting to take specifically into account the reinsurance risks and risk transfer.

#### Supervisory Processes Related to Reinsurance

The OIC's offsite monitoring process reviews the insurer's RBC report, financial statement, financial reports, as well as the additional information on reinsurance provided by insurers. Steps include:

- Studying the company profile and business where reinsurance activities are significant.
- Calculating retention and ceding ratios, both overall and for each type of business.
- Reviewing the risk profiles of reinsurers (inward and outward).
- Reviewing reinsurance accounting transactions and balances.
- Reviewing and analyzing the trends and movements for significant reinsurance-related transactions.
- Reviewing any significant amounts of reinsurance credit risk capital charges of individual reinsurers and the reinsurance concentration risk capital charge of individual reinsurers.
- Reviewing onsite inspection reports on reinsurance activities.

If large claims or loss events have taken place, the OIC monitors the impacts on the insurers' cash flows, e.g., as was done following the 2011 floods in Thailand. The OIC also monitors needs for additional capital injections, liquidity positions, reinsurers' financial positions, and the ability of ceding companies to recover reinsurance claim recoverable amounts and to pay policyholders' claims.

Onsite inspection procedures for reinsurance activities include:

- Obtaining and reviewing the reinsurance strategy and related documents, such as business plans, financial statements, and RBC reports from the OIC's internal database, and discussing with the company's reinsurance department.
- Discussing with the reinsurance department the company's reinsurance processes and systems, including with respect to reinsurer selection.
- Reviewing the reinsurance programs and contracts for compatibility with the submitted reinsurance strategy, proportion ceded, and the reinsurer's credit rating.
- Reviewing the reinsurance manual, reinsurance program and a sample of reinsurance contracts.
- Identifying risks and controls over the reinsurance processes and programs and testing ensure that the reinsurance transactions comply with the reinsurance manual and

	<p>programs, and testing the allocation of reinsurer's share of premium and losses in the company's systems.</p> <ul style="list-style-type: none"> <li>• Collection of information to identify slow-payment of amounts due on a reinsurer-by-reinsurer basis to assess counterparty risk exposure and liquidity issues.</li> </ul> <p>In carrying out the foregoing activities, the OIC analyses and forms a risk-based view on the counterparties.</p> <p>As a result of the foregoing, the OIC may require an insurer to amend a reinsurance treaty or facultative reinsurance contract.</p> <p><u>Ongoing Initiatives</u></p> <p>The MOF has agreed to implement an economic development strategy that would enhance the competitiveness of reinsurance in Thailand by encouraging potential insurance companies to apply for reinsurance licenses in the form of a branch of a foreign insurance company. OIC is driving this policy in cooperation with the MOF and other related government authorities. Currently, the draft reinsurance licensing regulation (Ministerial Regulation on Rules and Procedures for Applying and Issuing Reinsurance Licenses in a Form of a Branch of a Foreign Insurance Company) is in a public hearing process.</p>
Assessment	Observed
Comments	<p>While the assessment observes compliance with the ICP principal statements, it is noted that assuring amounts recoverable from large foreign-based reinsurers without a physical presence in Thailand could be challenging should a domestic insurer become insolvent. It is therefore recommended that the OIC consider:</p> <ul style="list-style-type: none"> <li>• Development of criteria to require domestic insurers ceding material amounts of risk to foreign reinsurers to perform ongoing credit risk assessments of the assuming reinsurers as part of ERM, and not rely solely on credit ratings of reinsurers.</li> <li>• Development of additional guidance for ceding insurers to use in selecting reinsurers, e.g., in respect of the current requirement that they consider the supervisory regime of assuming reinsurers.</li> <li>• In advance of any actual need, whether and how the legal framework might be strengthened to improve the security of reinsurance recoverables owed to an insolvent domestic insurer from a foreign reinsurer with no domestic presence.</li> </ul> <p>Reinsurance, as a primary risk mitigation tool available to insurers operating in Thailand, will benefit by open and more direct access to global resources and expertise. As was seen from the country's floods in 2011, insurers operating in the Thai market benefited from access to reinsurance, but a geographic concentration of risk was still maintained through a domestic Thai reinsurer. Insurers operating in Thailand can procure reinsurance in global markets, and it is important that their ability to do so remain unconstrained by the types of forced limits imposed by the governments of some other countries. The MOF has agreed to implement an economic development strategy that would enhance the competitiveness of reinsurance in Thailand by encouraging qualified foreign insurance or reinsurance companies to apply for reinsurance licenses in the form of a branch of a foreign insurance company. If implemented, the strategy has the potential to incentivize global reinsurers to establish a local presence with the expertise and the focus to better understand the local market and its risks than has heretofore been possible.</p>

<b>ICP 14</b>	<p><b>Valuation</b></p> <p>The supervisor establishes requirements for the valuation of assets and liabilities for solvency purposes.</p>
Description	<p>The OIC has established requirements for the consistent valuation of assets and liabilities for solvency purposes, stipulated by the Notification on Asset and Liability Valuation (for life, and for non-life, both 2011). The notifications apply both to domestic insurers and to branches of foreign insurers that are licensed to undertake insurance business in Thailand.</p> <p>In Thailand, TFRS is used for general purpose financial reporting, e.g., to shareholders and other stakeholders. TFRS generally conform to IFRS, however with a one-year time lag to implement new IFRS standards and amendments.</p> <p>For solvency purposes as set forth by the OIC, reliance is made on TFRS rather than a differing prescribed supervisory approach. There nonetheless may be differences in asset and liability valuations between audited general-purpose financial reports based on TFRS on the one hand, and solvency reporting to the OIC on the other. The former is a more principles-based accounting framework, whereas the latter has some prescriptive elements set forth by the OIC. For example, technical provisions for insurance liabilities may differ between TFRS and solvency reporting to the OIC. Any differences between an insurer's TFRS and solvency reporting are required by the OIC to be publicly disclosed (see ICP 20).</p> <p>TFRS as currently adopted includes implementation of IFRS 4 on accounting for insurance contracts, an interim measure put in place by the International Accounting Standards Board (IASB) to generally allow continued use of existing local jurisdictional accounting guidance until a more comprehensive and updated version (now IFRS 17, still in process of some amendments by the IASB) can be adopted and implemented (currently anticipated in 2023 for TFRS). Thus, IFRS 4 did not specify a single international approach to accounting for insurance contracts. Accounting profession representatives indicate that, despite the principles-based approach and lack of prescription within IFRS 4, that local insurance industry association efforts have nonetheless been helpful in narrowing the range of application of IFRS 4 in practice across Thai insurers.</p> <p>That said, the industry and the OIC are very much focused on the future implementation of IFRS 17 (as well as IFRS 9 on financial instruments) and its implications on implementation, including implementation and ongoing maintenance costs, changes to IT systems and applications, the company's business plans, impacts on the understanding by stakeholders of insurers' financial risks and operating results, and on the prudential supervision of insurers in Thailand.</p> <p>Invested assets such as investments in listed equities and debt securities are valued at market value based on recent trades on recognized exchanges; derivatives, and policy loans at fair value; properties at appraised value; and reinsurance assets are valued consistent with the underlying insurance liabilities.</p> <p>Non-listed securities are valued on a mark-to-market basis where recent and objective market values exist, otherwise on a mark-to-model basis. A company may change the model valuation method only after satisfying the OIC that existing method no longer best represents the fair value of the relevant debt instruments and, if need be, the OIC may call in a valuation expert to opine. Given the local investment markets and securities exchanges as well as the risk appetite of Thai insurers generally, investments in unlisted securities requiring a mark-to-model approach in the insurance sector have not been material.</p>

Loans (other than policy loans) and premium receivables are valued at the principal or recoverable amount outstanding after adjustment for estimated impairments. In the Thai market, a Discounted Cash Flow model is commonly used for loans, using a discount rate based on a zero-coupon bond with adjustment for risk premium. Another commonly used method in loan valuation is amortized cost adjusted when necessary for impairment, consistent with TFRS. Other assets follow TFRS. Policy loans, cash, and cash equivalents are valued at face value.

Other general aspects of valuation include the following:

- Reliability and objectivity of valuations: The OIC indicates that a Thai government bond offers maturities up to 50 years and is available and actively traded on exchanges (<http://www.thaibma.or.th/EN/Market/YieldCurve/Zero.aspx>). For discounting purposes, the point on the yield curve at maturity is held at that level as a long-term forward rate. Despite the availability of assets with such a long maturity, there is some inability of Thai life insurers to match assets and liabilities as indicated by duration gap data reported by life insurers and which are monitored by the OIC.
- Recognition of insurance contracts: This is based on TFRS; although advanced premium is not required as a part of the technical provision, in practice, it can be recognized either in other liabilities or as a premium liability reserve relating to the insurance contract.
- Consistency across insurers and time: The Notification on Asset and Liability Valuation (2011) and Notification of the Registrar on Standard of Actuarial Practice Regarding Reserve Valuation require insurers to value assets and liabilities in a consistent manner for solvency purposes.
- Decision usefulness: The regulations pertaining to the valuation matters have been designed and deemed appropriate by the OIC for the nature, scale, and complexity of the Thai insurance market.
- Transparency: Thai insurers are subject to public disclosure and confidential reporting to the supervisor (see section herein on ICP 20).
- Own credit standing: The OIC has produced Notifications regarding regulatory adjustments to the valuation of liabilities, none of which suggest, imply or require that the insurer's own credit standing be reflected in the valuation of liabilities. That said, the notifications do not specifically proscribe use of own credit standing, however the OIC asserts that it would not permit such a practice.

Regarding technical provisions, the notification prescribes elements that must be determined for insurance contract liability valuation covering all in-force policies, by duration of contract and contract boundary, calculated and disclosed both gross and net of reinsurance. Ceded liabilities are recognized as reinsurance assets on the balance sheet and reported net of estimated impairments. Credit for reinsurance is subject to demonstration of risk transfer using TFRS criteria and is reviewed by the company's independent auditor.

The "Notification on Risk Based Capital" requires detailed and specified levels of conservative adjustments to the technical provisions which is comprised of a "Best Estimate (BE)" and a "Provision for Adverse Deviation (PAD)." The OIC considers PAD and BE as synonymous with corresponding terms used in the IAIS ICPs, i.e., "Margin Over Current Estimate," and "Current Estimate," respectively.

	<p>Technical provisions for both long-term and short-term insurance contracts are measured using actuarial valuation methods. The Notification on Asset and Liability Valuation prescribes actuarial valuation methodologies based on contract boundary; long-term policies are determined using a Gross Premium Valuation, whereas short-term policies are determined using a claim development method, e.g., paid or incurred loss extrapolations.</p> <p>In terms of product mix, the Thai life insurance market is relatively basic, with 77 percent of life insurance premiums in force comprised of whole life or endowment products. The BE is determined by a licensed actuary based on the company's data, incorporating industry data when deemed appropriate, when selecting key assumptions. The discount rate for life contracts is based on the greater of (i) the current yield on zero coupon government bonds, or (ii) the weighted average of a zero coupon government bond yield at the end of 8 previous quarters from the valuation date, weighted 51 percent for the current quarter and 7 percent for each of the seven previous quarters.</p> <p>For the BE, insurers are required to account for all future cash flows that may arise from the underlying insurance contracts, including for embedded option and discretionary payments for participating products (embedded options and guarantees are not widely used in Thai insurance market which largely features traditional products).</p> <p>For long-term life insurance contracts, a gross premium valuation is used to establish the present value of net cash flows at the 75<sup>th</sup> percentile, floored at zero by major product segment. For life insurance contracts with investment elements, an actuary must estimate the insurance liability of guaranteed benefits and non-guaranteed benefits separately. Assumptions must be appropriate, unbiased, current, and reflect the liability that arises from the insurance contract. Guaranteed benefits are discounted as described in the prior paragraph. Due to the nature of investment elements of non-guaranteed benefits, the discount rate of such benefits can include an equity risk premium which considers the insurer's own asset portfolio, subject to a 6 percent cap.</p> <p>In terms of product mix, the Thai non-life insurance market is relatively basic, with most contracts for motor insurance with an average 3-year contract term. Non-life provisions are not discounted. Technical provisions for short term policies consist of the premium liabilities and claim liabilities:</p> <ul style="list-style-type: none"> <li>▪ The NLIA, Section 23, requires insurers to hold a premium liability based on the greater of (i) an unearned premium reserve representing the amount of premium allocated to the unexpired portion of the contract, and (ii) an unexpired risk reserve, where the unexpired risk reserve plus PAD is calibrated at the 75<sup>th</sup> percentile (in essence, at an amount equal to the UPR plus a premium deficiency reserve, if applicable).</li> <li>▪ The Claim liability has 3 components including a case reserve, unallocated loss adjustment expense (ULAE) reserve, and an incurred but not reported reserve. Case reserve is the aggregate outstanding amount of reported claims including allocated loss adjustment expenses (ALAE) which have not yet been closed. In case of large reported claims, the case reserve is set by the insurer's claim adjustors. ULAE is determined using actuarial methods and considers the expense experience of the respective insurer. The incurred but not reported reserve is actuarially determined using the individual insurer's reported and paid losses and ALAE. Methods typically used include the Chain ladder and Bornhuetter-Ferguson methods. The selection of the loss data and methodology are</li> </ul>
--	--

	<p>based on actuarial judgement and non-systemic changes such as fluctuation of reported losses in different accident years.</p> <p>For both life and non-life, the PAD is intended to be calibrated such that the sum of the BE and PAD achieves a 75 percent confidence level over a 1-year time horizon using VaR (assuming risk is log-normally distributed) on a run-off basis. The risk beyond 75 percent up to 95 percent confidence level is captured in risk capital charges (see section herein on ICP 17). The PAD factor is determined using industry data and is based on type of insurance product and contract boundary.</p> <p>For life insurance business, the PAD is intended to cover potential adverse deviation relating to key assumptions for future cash flow projections such as mortality rates, morbidity rates, lapse rates, and maintenance expenses. For non-life insurers, the PAD is prescribed by type of product, e.g., Fire, Marine-Cargo, Marine-Hull, Compulsory Motor, Voluntary Motor, Industrial-All Risks, and Miscellaneous. In the case of long-term contracts written by non-life insurers, a GPV method and PAD is applied as would be done by life insurers. For short-term contracts written by life insurers, a claim development method and PAD is applied as would be done by non-life insurers.</p> <p>While certain type of provisions (e.g., options) are conducive to stochastic modeling and explicit calibration at stated confidence levels, others require more expert judgment. Furthermore, the 75<sup>th</sup> and 95<sup>th</sup> percentiles were agreed upon by the industry with the OIC considering, among other factors, the range of corresponding supervisory requirements across the ASEAN region.</p> <p>For assets and liabilities for which valuation requirements are provided by regulation, such requirements address measurement, but do not address the recognition and derecognition of those assets and liabilities—the points in time when an asset or liability is created and should be reported, and when it ceases to exist and should not be reported—including as to insurance and reinsurance contracts and related receivables and liabilities. The notifications do provide that “any assets for which a valuation method is <i>not</i> specified herein shall be valued according to the recognition and measurement method specified in the GAAP” (emphasis added).</p>
Assessment	Observed
Comments	It is recommended that the OIC clarify guidance for the recognition and derecognition of assets and liabilities, e.g., by expanding the references to TFRS in the notifications to indicate that assets for which any aspect of its valuation method is not specified by the OIC, that such aspect is to be valued according to TFRS.
<b>ICP 15</b>	<p><b>Investment</b></p> <p>The supervisor establishes requirements for solvency purposes on the investment activities of insurers in order to address the risks faced by insurers.</p>
Description	<b>Roles and Responsibilities of the Board and the Investment Committee, and Investment Policy</b>

<p>The Notifications on Investment for Life and Non-Life (2015) set out certain overarching requirements and principles with respect to the investment function of licensed insurers, as follows:</p> <ul style="list-style-type: none"> <li>• “The company's board of directors must focus on establishing investment and other business policies, enterprise risk management policy and risk management processes that are appropriate for the company's capability, and must monitor and control the company's investment and other business operations to ensure that they are consistent with the company's stability, financial position and operation, as well as good governance and risk management principles.</li> <li>• The company shall manage its assets in accordance with the nature of its business operation and non-life insurance products, and in a manner that is appropriate for its obligations to the insured persons, in terms of cash flow, amount of funds, duration and currency.</li> <li>• With respect to its investment and other business operations, the company shall consider the capability of operation systems and staff expertise, taking into account the security, liquidity and risk diversifications, as well as types of risk, such as market risk, credit risk, liquidity risk and operational risk, concentration risk, or strategic risk.”</li> </ul> <p>The board is responsible for approving the insurer’s investment policy framework and investment risk management process; establishing controls and monitoring processes for the investment operations; establishing adequate internal controls and audit systems to ensure that the company's investments comply with the investment policy framework, investment procedural regulations manual, and provisions of applicable laws; and revising the company's risk appetite and processes for identifying risks arising from investments in financial instruments, on and off balance sheet. Board members have the responsibility to be prudent in the conduct of their duties considered broadly, including with respect to approving investment-related matters.</p> <p>The notifications further impose various investment-related duties which include appointing an Investment Committee comprised of at least 3 persons to be responsible for establishing and maintaining an investment policy and investment plan and overseeing the investment activities of the company.</p> <p>Insurers are required to submit an investment policy framework and investment strategy to OIC at least annually. OIC reviews and monitors compliance by insurers with their respective framework and strategy through regular offsite reporting and onsite examinations (see ICP 9), including with respect to investments. Insurers also must have an annual investment plan and an investment manual. The investment manual must contain details of the investment process from start to finish, segregation of duties for checks and balances, and authority for approving investments. The investment manual must be reviewed on regular basis, with any changes submitted to the OIC within 30 days.</p> <p>The investment policy framework, risk management policy, and risk management processes must be appropriate for the company’s nature and capabilities, and sufficient to enable the Investment Committee and the Board to monitor and control the company’s investment activities consistent with the overarching principles cited above in the Notification.</p> <p>The investment policy must be in writing and approved by the Board, and be consistent with the ERM policy, product design, underwriting policy, reinsurance strategy, assets and liabilities management, capital and solvency, risk appetite, expected returns, and capability of</p>
---

systems and personnel in accommodating the investment. An investment risk management process must also be in writing and established as a part of the enterprise risk management policy.

The investment committee also must oversee good governance, transparency, and prevention of conflicts of interest concerning the company's investment transactions, and ensure that operation systems, personnel and information supporting the company's investments will be adequate.

### Investment Limits

In setting investment limits and risk charges, the OIC has taken into consideration the security, liquidity and diversification characteristics and needs of insurers' investment portfolios. The OIC has prescribed eligible asset classes and corresponding limits that it deems appropriate for the nature of the insurance business. High risk assets or other assets that the OIC considers to be inconsistent with the nature of the business and policyholder protection, such as hedge funds and derivatives used for speculative purposes, are not permitted holdings for Thai insurers.

Separate investment limits by product and issuer are established as percentages of the total market value of investment assets

Types of assets	Product Limit (in percent of investment assets)	Issuer Limit (in percent of investment assets)
Deposits with a financial institution	No limit	30
Thai Government bonds	No limit	No limit
Thai Corporate bonds	60	15
Equities	30	15
REITs and Property Funds	20	10 (per fund)
Loans	20	5
Bills supported by letters of guarantee	5	5
Foreign Investment	15	5
Subordinated debt instruments, Structured notes, Non-listed equities and Commodity funds	5	5

Another aggregated limit applies, i.e., a company may invest in local debt instruments of a financial institution; debt instruments issued by a limited company, an organization, or a state enterprise without guarantee by the MOF; debt instruments issued by a real estate investment trust or other trust announced by the registrar; hybrid instruments issued by a limited company; and structured notes, in the aggregate not exceeding 60 percent of the company's investment assets.

Counterparty limits are as follows:

<b>Types of issuers/counterparties</b>	<b>Counterparty Limit (per entity) (in percent of investment assets)</b>
Thai Government, Bank of Thailand, MOF, or Financial Institution Development Fund	No limit
Domestic Financial institutions	30
Organizations or state enterprises established by a specific law, Listed companies, or companies with a credit rating at least investment grade	15
International organizations	15
REITs and Property Funds	10
Others	5

In general terms, the higher the product risk, the lower the percentage of total investment assets the insurer is permitted to invest in that product. Moreover, there are additional qualitative requirements, e.g., debt instruments must have a credit rating of investment grade or above. For structured notes and collective investment funds, a look-through approach is used to apply the limits. The investment funds must invest only in the same type and category of assets or indexes in which the insurer itself is permitted to invest or to hold. In addition, investments in foreign investment unit funds are permitted only in such funds that are subject to supervision by a securities and exchange regulatory agency that is an ordinary member of the International Organizations of Securities Commission or which are traded on an exchange that is a member of the World Federation of Exchanges.

Real estate is permitted as an investment for life insurers, subject to certain conditions, but not for non-life insurers.

#### **Qualifications of Investment Managers**

Either the board or the Investment Committee must appoint a "person in charge of the investment unit," i.e., a manager, subdivision head or person in an equivalent position, to be responsible for the investment unit with the authority to make decisions on the company's investment and to manage its investment fund.

The investment manager must hold certain minimum professional qualifications, e.g., a certain educational background or has passed professional courses such as Chartered Financial Analyst and a course prescribed by the OIC. If the investment manager lacks sufficient qualifications, then the insurer is permitted to invest only in low risk assets such as bank deposits and government bonds, else it must outsource the investment management function to professional fund managers.

#### **Security and Safekeeping of Investments**

Insurers are required to deposit 25 percent of assets with the OIC, and the remainder as “back-up assets” with custodians to ensure availability safekeeping in an appropriate location. Custodial financial institutions must be approved private fund custodians according to the rules, procedures, and conditions prescribed by the SEC. The financial institution must report monthly to the OIC the names, types, and amounts of the insurer’s assets deposited and withdrawn, the outstanding balance on the last business day of the month, and any obligations related to the assets.

#### **Appropriateness of Investments Relative to the Liabilities Backed**

The Notification on ERM/ORSA requires insurers to establish an Actuarial function to address various matters including asset-liability management. Insurers must hold investment assets and cash sufficient to cover technical provisions and capital requirements and to ensure security and liquidity. Life insurers must maintain capital proportional to risks that may arise from asset and liability mismatching; RBC requirements provide an incentive for them to do so as a high duration gap will result in an increased ALM capital risk charge. Because of ALM practices in place at Thai life insurers, a majority of their investment portfolios are comprised of long-term assets, 70 percent being in government bonds and corporate bonds. In contrast, most liabilities of non-life insurers are short term; subsequently, deposits and short-term notes comprise the majority of their portfolios. For more on ERM/ORSA, see section herein on ICP 16.

#### **Use and Reliance on Credit Ratings**

As noted in this section, the OIC’s requirements depend, in part, on the use of credit ratings. For example, debt instruments must have a credit rating of investment grade or above. The Notification on Investment provides that, if the issuer of the debt instrument that is held by an insurer or the debt instrument itself becomes lower than investment grade, the company must divest the debt instrument at the first available opportunity. It is therefore a statutory requirement that any instrument, which has been regraded and is no longer investment grade; and all instruments held from a company, which has been regraded and is no longer investment grade, be sold “at the first available opportunity,” meaning within a reasonable period of time to mitigate further negative impact on the price of the instrument to be sold.

If the instrument is not sold immediately, there is some exposure to procyclical activity. The OIC addresses this through stress testing and market value shocks to the portfolio. The stress testing; therefore, takes into account the lower value (if any) of the instrument to be sold.

#### **Supervisory Authorities and Processes**

If the company's investment is not in accordance with the investment policy framework and the investment manual or is inconsistent with the capability of the operation systems and personnel, or financial position of the company, the Registrar may order the company to clarify relevant reasons and facts related thereto. If it is deemed appropriate, the Registrar may specify conditions for the company to follow or order the company to suspend such investment until it can comply with the requirements. For an investment that violates OIC requirements at the outset, the OIC can mandate that it be non-admitted from the balance sheet, i.e., recorded at zero value with a corresponding reduction in equity for solvency purposes.

	<p>OIC checks whether insurers comply with the Notifications and analyzes investment risks to ensure that investments are appropriate for the liabilities backed and that there is adequate liquidity, engaging with the insurer as necessary to resolve identified concerns. Moreover, OIC may request the company to provide scenario analyses and stress tests to assess possible future impacts on cash flows.</p> <p><b>Derivatives, Structured Notes, and Securities Lending</b></p> <p>Insurance companies in Thailand are permitted to use derivatives, however only for hedging purposes and with OIC approval. As a practical matter, derivative usage is not significant given the relatively basic nature of most insurance contracts in the Thai market. Moreover, the derivative counterparty must be a domestic financial institution with an investment-grade credit rating, and underlying assets must be as prescribed in the Notifications. Insurers are required to establish a written policy for their use of derivatives or structured notes as a part of an investment policy framework.</p> <p>For securities lending and repurchase transactions, insurers are required to maintain collateral sufficient to cover the values of loaned securities or set an appropriate 'haircut' to counterparties' risk profiles (Clause 59-60 Life insurance and Clause 58-59 Non-life insurance. As a practical matter, such activity is not significant in the Thai market.</p> <p><b>Insurers' Investments in Other Businesses</b></p> <p>Thai insurers may acquire and hold interest in other businesses related to insurance, e.g., in an asset management company. An interest in more than 20 percent of the total equity of an investee requires prior OIC approval, and the investee then would also become subject to supervision by the OIC. This asset is then eliminated from the insurer's balance sheet for its solvency purposes. The insurer is required to submit financial statements of such investees annually and any information or data the OIC may request. It also must inform the OIC on a timely basis when there are any significant circumstances related to the holding that may pose risk to the insurer, including reputational risk.</p>
Assessment	Observed
Comments	None.
<b>ICP 16</b>	<p><b>Enterprise Risk Management for Solvency Purposes</b></p> <p>The supervisor establishes enterprise risk management requirements for solvency purposes that require insurers to address all relevant and material risks.</p>
Description	<p>The approach taken by Thai authorities to ERM has evolved over the past decade. The first Notifications on the Minimum Requirement of ERM, one for life insurers and another for non-life, were issued in 2008 and became effective in 2009. They required insurers to:</p> <ul style="list-style-type: none"> <li>• Establish an ERM policy to cover risk identification, risk appetite, risk assessment and prioritization, the method to managing risks, the monitoring and risk management processes covering all relevant and material risks and the company's core activities, and a supporting risk management structure.</li> </ul>

<ul style="list-style-type: none"> <li>• Prepare a three-year summary plan of business direction, the company's growth rate, and the plan to support that expansion, and to annually submit that to the OIC along with the ERM policy.</li> </ul> <p>The 2008 notifications did not impose any particular manner, framework, or reporting format on insurers. The 2008 notifications were then repealed and replaced July 2017 by updated regulations, which became effective in 2018. The 2017 notifications required insurers to:</p> <ul style="list-style-type: none"> <li>• Have a more holistic approach to ERM with a focus on a company-wide risk management culture, and to encompass processes "of planning; organizing; and controlling enterprise risks to mitigate fluctuations that may affect business operations within the risk appetite, taking into consideration the size; nature; and complexity of the company's operations, as well as the fulfillment of the company's objectives and targets over the short and long term...."</li> <li>• Prepare its risk management framework in writing, and be approved by the Board of Directors</li> <li>• Enhance the role and responsibility of the Board of Directors with respect to ERM through prescribed risk management-focused responsibilities.</li> <li>• Appoint a RMC and to have a risk management unit in place to enhance the risk governance framework.</li> <li>• Have its internal audit unit monitor and assess the risk management of business units to be consistent with its risk management framework and risk management policy, and report results to the audit committee or board of directors at least annually.</li> </ul> <p>The 2017 notification also empowered the OIC to order an insurer to conduct stress tests under various scenarios if there is reasonable cause to believe that events or factors may affect its financial position or results, reputation, or existence, the stability of the insurance or financial system, or materially affect the company's risks. Since 2013, the OIC has required insurers to perform stress tests covering both top-down scenarios (e.g., macroeconomic, pandemic, financial crisis, natural catastrophe such as earth quake and flood) and bottom-up scenarios (e.g., self-select scenarios, reverse stress test).</p> <p>OIC then issued Notifications on ERM/ORSA (2019, for life and non-life) with more enhancements, including requiring insurers to perform ORSAs. The 2019 notifications provide for:</p> <ul style="list-style-type: none"> <li>• ERM and ORSA processes which cover all relevant and material risks.</li> <li>• Clear linkage between risk management policy, business strategy and capital plan.</li> <li>• Feedback loop to enhance the effectiveness of ERM/ORSA.</li> <li>• Three lines of defense and the role &amp; responsibilities of key control functions; including risk management, actuarial, compliance, and internal audit; and key written policies in terms of risk management for main activities.</li> </ul> <p>In respect of ORSA, while a new requirement in Thailand, some insurers in the market were already familiar with the concept and its application, particularly larger insurers affiliated with foreign groups. OIC also provided multiple sessions to educate the industry and engaged in an extensive and positive consultation process about the ERM/ORSA over the period 2016 to 2018, especially with key persons in control functions. Thus, there are aspects of the 2019 notifications which insurers have already embraced in their risk management activities, but there also are aspects for which they will benefit from more experience. Most notably in the</p>
--

latter instance are the more comprehensive aspects of reporting on ORSA, which will not be required for reporting and therefore not subject to corresponding supervisory review or inspection processes until 2020. During 2017 and 2018, the OIC actuarial team trained the offsite monitoring and onsite inspection teams in respect of ORSA for review and inspection purposes. That said, the overall responsibility to determine an insurer's compliance with ORSA requirements will belong to the OIC actuarial team.

Some key requirements of the 2019 notifications include the following:

- “Three lines of defense:” An OIC-prescribed approach for insurers to establish a risk governance framework to define the different layers of risk control, starting with (i) risk taking business units taking responsibility for identifying and managing risks directly through the design and operation of controls, overlaid by (ii) risk and compliance functions responsible for ongoing monitoring of the design and operation of those controls, providing advice and facilitating risk management activities, followed by (iii) the Internal Audit function which is responsible for independent assurance over management of risks.
- Risk management framework: Must cover (i) quantifiable and non-quantifiable risks, such as underwriting, market, credit, operational, liquidity, group, and emerging risks, at minimum, (ii) include an actuarial function to evaluate and provide advice to insurers on ERM/ORSA matters, (iii) have a feedback loop in the ORSA process, and (iv) provide linkage among risk, business strategy and capital. It must also provide for the identification, assessment and prioritization of risk events and sources of risks through a process which is reviewed and updated when there is a significant change that arises to the company's risks, but no less than annually;
- Risk appetite: Insurers must maintain risk levels within its risk appetite through related controls and monitoring processes, and with reporting on the status of material risks by risk categories to the Board of Directors (summary of risk status to be reported quarterly, and risk management and audit reports annually), with reports made available to the OIC upon its request.
- Prospective view: The insurer must assess its ability to continue in business and the resources required to do so under a range of plausible adverse scenarios, over a time horizon needed for effective business planning.
- Risk management policy: Insurers must include details of risk assessment arising from the business plan and responsive actions to manage the its most significant risks; be consistent with the insurer's risk management framework; consider the relationship between the insurer's tolerance limits, regulatory capital requirements, economic capital and the processes for monitoring risks including how potential business risks could result in capital needs; and provide for plans to meet those needs. The risk management policy must consider and be aligned with other key company policies, including:
  - Underlying functional policies: Required for the management of material and relevant risks arising from key activities including with respect to new product design and premium pricing, premium collection and product offering, underwriting, reserve valuation, claim management and benefit payment, reinsurance, investment, asset and liability valuation, and, if applicable, outsourcing.
  - Investment policy: Must address the objectives of ALM, e.g., duration and cash flow matching of assets and liabilities. Insurers must embed solvency risk management objectives into their ALM process, and consider solvency factors in ALM policy and

	<p>decision-making, and ensure that the interaction between assets and liabilities is in line with the company's risk appetite. Insurers must be able to assess, manage, control, and monitor the risks arising from investment activities such as market risk, credit risk, liquidity risk, operational risk, concentration risk, or strategic risk. Derivatives can be used for hedging purpose only and must be consistent with a written policy for their use and subject to certain prescribed requirements, e.g., for over-the-counter derivative transactions any counterparty must be an investment-grade domestic bank.</p> <ul style="list-style-type: none"> <li>○ <u>Underwriting policy</u>: Must address underwriting risks and be approved by the Board of Directors. The actuarial function must provide advice to the insurer on the adequacy and soundness of underwriting policy and be involved in product development and design and the estimation of the capital required to support products underwritten.</li> <li>● <u>ORSA</u>: Insurers must conduct an ORSA at least annually, to assess its risk management, ensure financial solvency stability within the company and to reduce effects from business volatility to acceptable levels of risk. The written report must be approved by the Board of Directors and be submitted to the OIC. The ORSA must assess the insurer's current and projected future solvency position, using an appropriate time horizon consistent with its business planning process. The Guidance note on ERM/ORSA as a complement of the Notification also requires insurers to assess their ORSA and ERM frameworks and document the rationale, calculations and action plans arising from this assessment, performing testing against experience, e.g., by comparing actual capital required during the year with that which was projected a year earlier.</li> <li>● <u>Risk Register</u>: A risk register must be maintained by insurers and updated at least annually to document all identified reasonably foreseeable and relevant material risks to the insurer and their cause. The Risk Register should document the risk, its source and type, the risk owner, key risk indicators, the current risk mitigation plan, and risk monitoring measures for the top ten risks that have the most effect on the insurer's three-year business plan. Insurers must then implement risk assessment and prioritization, respond to the risks in accordance with the defined risk appetite, have control and monitoring procedures to evaluate the performance of risk management, and ensure that the insurer's risks are within an acceptable level through controls or strategies for risk mitigation.</li> <li>● <u>Economic Capital</u>: The insurer should implement and calculate economic capital if it considers and foresees that the regulatory capital requirement does not reflect the risk profile of the company, or document that the regulatory capital requirements are adequate to support its decision to not perform economic capital calculations.</li> <li>● <u>Stress tests</u>: Insurers must annually perform stress tests with stress scenarios that consider the business plan, the major risks under its ERM/ORSA framework, the overall risk appetite of the company, and relationship between risk exposures and future changes in risk profile, with reporting thereon to the Chief Executive Officer for his/her approval, and to the Board of Directors. The stress tests must include at least base, self-select, macroeconomic, financial crisis, pandemic, and catastrophe scenarios; include reverse stress tests; and consider proposed management actions.</li> </ul>
--	--

- Capital planning process: Insurers must develop a capital planning process which is consistent with the time horizon of its business plan, including a capital contingency plan with stated thresholds to trigger actions to ensure maintenance of appropriate capital levels at all times and the specific, actionable, and realistic corrective actions that are triggered by each threshold. The corrective actions must consider adverse scenarios on the insurer's activities (in contrast to normal operating conditions).
- Fungibility of capital: For the solvency assessment, an insurer's ERM framework must take into account the constraints of the Group in its assumptions, e.g., regarding the fungibility of capital across the group. Insurers must analyze the support from the group including the availability of financial support in adverse circumstances as well as the risks that may flow from the group to the insurer.
- Group risk: The direct and indirect interrelationship between members must be assessed. With regard to solvency assessment, a determination must be made of constraints on the fungibility of capital and the transferability of assets among insurance legal entities.
- Responsibilities of the Board of Directors: The Board must consider and approve the insurer's risk management framework and policy, business plan, risk appetite, and ORSA report; determine that its business strategies are consistent with the risk management framework and policy, and risk appetite; and ensure that the insurer has sufficient capital to run its current and its future business. The Board must also oversee the insurer's risk appetite management; its monitoring of risk exposures and compliance with appropriate and effect risk management, and approve a report thereon from the RMC at least annually; review the risk management framework and risk management policies at least annually or more frequently if circumstances may significantly affect the insurer's financial stability and solvency significantly; oversee capital adequacy to ensure support for current and prospective business; and ensure that the RMC is able to work effectively and has sufficient resources.
- Responsibilities of Senior Management. These generally parallel the topics above related to the Board, but are by necessity more granular and comprehensive than at the Board level, consistent with management's responsibilities to manage the company's operations and as the preparer of information for review by the Board. In addition, senior management must consider risks arising from remuneration arrangements and incentive structures and conduct regular stress testing and scenario analyses.
- Head of risk management: The insurer must appoint a person responsible for overseeing the operations of the risk management department, and with the knowledge, understanding and necessary skills to assess relevant information. The head of the risk management is responsible for providing the status of core risks report, including the changes in the characteristics of risks on an enterprise-wide basis, reporting on the implementation of risk management and whether it complies with the risk management framework and policy to Executives and the RMC, at least on a quarterly basis.
- Reporting: Reporting is required to senior management and the Board, and must include summarized risk status and risk management compliance reports, reviewed and revised by the RMC, at least quarterly; a summarized assessment annual report presented to the risk steering committee or board of directors at least annually; a risk management report to the Board of Directors at least annually for consideration of the effectiveness of the risk

	<p>management framework and risk management policy; and reports of major events which may affect the financial stability of the insurer (If any).</p> <ul style="list-style-type: none"> <li>• <u>Feedback loop</u>: A feedback loop mechanism is required to follow-up and respond to risk profile changes as part of the insurer's ERM, to identify and address actual or possible violations of risk limits, and to consider internal and external events and changes relating to benefits and expectations of policyholders. The identification of any new risks or information must be conducted on at least a quarterly basis with an established information system to support risk management. The feedback loop must be based on appropriate and good quality information so that strategic decisions can be made in a timely manner. The information system must be reliable and commensurate with the size, nature and complexity of the business operation; be the tool that helps in supporting, monitoring and controlling risk management, through effective and accurate use of data and information; and be protected through secured data storage, limits on access rights to relevant personnel, a backup system and a disaster recovery plan.</li> </ul> <p>ORSA reports will be an important tool in the OIC's supervisory review process, and can provide a better understanding of an insurer's risk exposures and of its current and prospective solvency position.</p>
Assessment	Largely observed
Comments	<p>Largely observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The expanded notifications on ERM and ORSA were only recently adopted in January 2019.</li> <li>• While insurers have some prior experiences and training with aspects of those notifications, including ORSA, ORSA is nonetheless a key new requirement for which insurers and the OIC will benefit from experience going forward.</li> <li>• Reporting on ORSA by insurers will not begin until 2020.</li> <li>• The notification is largely principles-based, and variations in compliance and the granularity and quality of reporting can be expected across insurers.</li> </ul> <p>The new information that will be soon be reported to the OIC resulting from the new notifications on ERM/ORSA presents an onus for the OIC to identify deficiencies, but also an opportunity to highlight best practices. It is therefore recommended that:</p> <ul style="list-style-type: none"> <li>• The OIC work with the industry to enhance the overall performance of insurers in respect of these new requirements as insurers embed them into more effective business practices.</li> </ul> <p>Once the new ORSA reporting has begun, and at least for several reporting cycles thereafter, the OIC should consider thematic or horizontal reviews to identify outliers in practice, at both ends of the spectrum, and consider workshops with the industry to aim for necessary improvements.</p>
ICP 17	<p><b>Capital Adequacy</b></p> <p>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.</p>

Description	<p><b>Total Balance Sheet Approach</b></p> <p>The RBC regime in Thailand uses a total balance sheet approach. All assets and liabilities must be disclosed on the balance sheet for solvency purposes. Thai capital adequacy requirements are imposed on off-balance sheet risks as well, e.g., for derivatives.</p> <p>Asset valuation for solvency purposes is market-value based as prescribed in the OIC’s Notifications on the Valuation of Assets and Liabilities of Life Insurance Companies, and of Non-Life Insurance Companies (both 2011). The Notifications provide that assets are valued on a mark-to-market basis or, in the absence of observable market prices, on a mark-to-model basis. Assets for which a valuation method is not specified in the Notifications are valued according to the applicable recognition and measurement method specified in TFRS—see ICP 14 for general valuation aspects of TFRS).</p> <p>Because TFRS are principles-based, and solvency reporting to the OIC is more prescribed, there are differences between the two bases of reporting. A prevalent example is with respect to technical provisions of life insurers, for which TFRS allows insurers discretion in applying principles, whereas solvency reporting specifies that such provisions (including risk margins) be established at a 75 percent confidence level over a one-year time horizon. For both assets and liabilities, differences between the two bases of reporting are publicly disclosed (see discussion on ICP 20).</p> <p>During the development of the RBC framework, OIC realized that there was a potential procyclical impact from the market-based approach, especially when there is a sudden drop in the yield curve. In response, given that OIC is empowered by the LIA and NLIA, through its consultations with the industry, the OIC established a mechanism within RBC whereby the greater of the current yield curve or a smoothed yield curve over the prior eight quarters would be used.</p> <p>To assure that technical provisions are backed by adequate and appropriate assets, limits on investments are prescribed in the OIC’s Notification on Investment in Other Businesses of Life and Non-Life Insurance Companies (the Notifications on Investment). The limits are identical for both life and non-life insurers, except that life insurers are permitted to invest in real estate projects whereas non-life insurers are not. There are three types of investment limits, covering counterparty, product, and issuer levels, each based on varying percentages of total investment assets.</p> <p><b>Capital Resources</b></p> <p>The Notifications on RBC (for life and for non-life, both 2015) provide that insurers must have qualifying capital resources categorized into two tiers based on the following criteria:</p> <p><u>Tier 1:</u></p> <ul style="list-style-type: none"> <li>• Permanently available to fully absorb losses on a going concern basis, as well as in winding-up.</li> <li>• Loss absorbing on a going concern basis, as well as in winding-up.</li> <li>• Free of any encumbrances/mandatory servicing costs.</li> <li>• Ranking subordinated to policyholder and senior creditors.</li> <li>• Issued and fully paid-up and non-cumulative.</li> </ul>
-------------	--

	<p><u>Tier 2:</u></p> <ul style="list-style-type: none"> <li>• Less permanent than tier 1 resources but nonetheless available to serve as a buffer against losses made by insurer.</li> </ul> <p>Tier 1 capital includes fully paid-up ordinary shares, or in the case of foreign insurance company branches, funds received from the head office; share premium; paid-up non-cumulative nonredeemable preference shares; retained earnings; unrealized gains and losses of capital assets other than real estate and operating assets; and revaluation and other reserves.</p> <p>Tier 2 capital resources include cumulative nonredeemable preference shares, and unrealized gains or losses of real estate and operating assets. There is a limit on Tier 2 capital, i.e., it may not exceed the amount of Tier 1 capital.</p> <p>No debt may qualify as either tier of capital, no matter whether, or how, it may be subordinated to the rights of policyholders.</p> <p>There are some deductions from capital resources, i.e., certain assets that might otherwise exist for TFRS purposes are nonetheless excluded as such in the OIC's RBC framework. These include intangible assets, goodwill, and pledged or encumbered assets (except where the restriction on the use of the asset is required by law). In addition, group risk is addressed by excluding investments in affiliates from assets (and thus capital; likewise, the reporting entity does not include any capital requirements pertaining to such affiliated investments).</p> <p>Neither deferred tax assets nor deferred tax liabilities are considered in the RBC framework. Off-balance-sheet commitments for operating leases, guarantees, and contingent liabilities also reduce available capital resources. Derivatives, which are allowed only for hedging purposes, are included and valued at market.</p> <p><b>Regulatory Capital Requirements: Target Criterion, Solvency Control Levels and Triggers</b></p> <p>The OIC's RBC framework is a standard formula for determining capital adequacy for solvency purposes. It came into being over several years as part of an iterative and collaborative process between the OIC and stakeholders, involving quantitative impact studies, consultations, and the balancing of technical and business perspectives, including a comparison with existing capital requirements in other jurisdictions in the region.</p> <p>RBC has been implemented in the Thai market since 2011, with the latest amendments made in 2015. It applies to companies licensed to operate life or non-life insurance business as well as branches of foreign insurance companies. The key objective of the OIC's RBC framework is to protect policyholders' interests by reducing the likelihood and impact of failure due to losses from material risks of the insurer. RBC is based on a standard model which considers the nature and relative complexity of insurance products in the Thai market. Alternative methods such as internal models are not permitted.</p> <p>Technical provisions for valuation purposes in Thailand include a risk margin determined at a 75 percent confidence level over a 1-year time horizon. Required capital provides additional policyholder protection and covers an increment in the stated confidence level up to 95 percent, as well as covering certain other risks (e.g.,</p>
--	---

credit and market risk). While supported by objective data and analysis, these measures also reflect expert judgment and negotiations between the OIC and stakeholders.

The OIC has established capital requirements on both a going concern as well as a gone concern basis using the Tier 1 and Tier 2 capital resource distinctions described above. On a going concern basis, the OIC's CAR is key in determining the adequacy of an insurer's capital resources and considers only Tier 1 qualifying capital resources. The CAR is intended as a prescribed capital requirement and is set at 140 percent of the minimum capital requirement (MCR) of 100 percent established under legislation. The MCR considers both Tier 1 and Tier 2 qualifying capital resources. In determining capital requirements for either the MCR or CAR, tax effects of balance sheet shocks are not considered, i.e., capital requirements are not reduced.

In addition, a capital floor has been established in the Notifications on RBC. The floor is THB 50 million in the case of life insurers, and THB 30 million for non-life insurers.

When an insurer's CAR falls below 140 percent, the OIC prescribes necessary measures to monitor its financial standing, which measures cannot be altered by supervisory discretion. The CAR result is considered in assigning one of four supervisory risk ratings (see ICP 10 for a description of each rating level and its criteria, and the indicated supervisory response that would be triggered at each level).

#### **Covered Risks**

The criteria to determine capital requirements by risk category is transparent, being spelled out in the Notifications on RBC.

- *Insurance risk*: The specific insurance risk arising from underwriting insurance contracts.
  - Non-life: includes all types of non-life contracts, as well as certain long-term insurance contracts that may be written by non-life insurers, i.e., covering health insurance or serious illnesses or accidents for terms longer than one year or which are automatically renewed and non-cancellable by the company and for which neither premiums nor benefits may not be changed throughout the term of the contract.
    - Non-life risks covered include both reserve risk and premium risk estimated by the insurers at a 95 percent confidence level. There is no explicit capital required for catastrophe risk, although OIC can assess the sufficiency of capital to cover catastrophe losses through stress tests. Under circumstances where the stress result highlights a shortage of capital, the OIC requests the submission of a management plan approved by the Board as to how this deficiency is to be addressed.
    - Capital requirements for long-term contracts written by non-life insurers are calculated pursuant to the Notification for RBC for life insurers.
  - Life: includes all types of long-term insurance contracts that may be written by life insurers for terms longer than one year or which are automatically renewed and non-cancellable by the company and for which neither premiums nor benefits may not be changed throughout the term of the contract.

	<ul style="list-style-type: none"> <li>▪ Life risks covered include mortality, morbidity, expense and lapse risks estimated by the insurers at a 95percent confidence level calculated using the gross premium valuation method.</li> <li>▪ Capital requirements for short-term contracts that may be written by non-life insurers are calculated pursuant to the Notification for RBC for life insurers.</li> </ul> <ul style="list-style-type: none"> <li>• <i>Credit risk:</i> The risk arising from the uncertainty of an obligor's ability to perform its contractual obligations. Credit risk could stem from both on- and off-balance sheet transactions. Risk charges vary based on whether the obligation is short- or long-term (based on one year); the nature of the obligor (government, bank or other financial institution, etc.); whether the obligor is based in Thailand or elsewhere; the nature of the obligation, i.e., whether a loan is backed by real estate; whether a credit rating has been issued and, if so, whether by a Thailand-based rating agency or a foreign based rating agency, and the specific rating that has been assigned; and, in the case of domestic reinsurers, the CAR of the respective reinsurer.</li> <li>• <i>Market risk:</i> The risk to an institution resulting from movements in market prices, e.g., changes in interest rates, foreign exchange rates, credit spreads, and equity and commodity prices, values of real estate and operating assets, and valuations of investment units. <ul style="list-style-type: none"> <li>○ Equity investments traded on recognized public exchanges in Thailand and other countries carry a 16 percent risk charge, else a 20 percent charge applies. Home office real estate is subject to a 4 percent capital charge, whereas other real estate and operating assets have a 16 percent charge.</li> <li>○ For non-life insurers, interest sensitive assets carry varying risk charges based on the remaining term of the instrument, capped at 8 percent for investments with remaining terms exceeding 20 years. For life insurers, interest rate risk is based on the net cash flows of interest sensitive assets and liabilities, discounted at a base rate, i.e., the interest rate of Thai government bonds with zero coupon yield which is the rate specified on the date of valuation and using a duration consistent with the underlying assets or liabilities. Prescribed up and down shocks are applied to the base rate by duration.</li> <li>○ Foreign exchange rate risk is based on 8 percent of the greater of the absolute value of the net short position or net long position of balances in each foreign currency.</li> <li>○ Investment unit risk uses a look-through approach.</li> <li>○ Risk diversification within categories of market risk is recognized through a prescribed correlation table and taking the square root of the sum of diversification effect in each pair.</li> </ul> </li> <li>• <i>Concentration risk:</i> The risk arising from excessive exposure to a single counterparty. This pertains to concentration in capital assets; real estate and operating assets; foreign currency capital assets; and reinsurance. Prescribed concentration limits apply based on the type of instrument of, for reinsurance, based on the risk rating of the reinsurer.</li> <li>• <i>Surrender risk (Life companies only):</i> The risk arising from large number of policyholders surrender their policies at the same time.</li> </ul>
--	---

	<p>Thai-RBC currently does not include provisions for operational risk, liquidity risk, and as noted above, catastrophe risk. However, these other risks are considered in the insurers ORSA (see section herein on ICP 16), and hence a management plan, approved by the Board, is required to be in place addressing potential deficiencies.</p> <p><b>Capital Assessment of Insurance Groups</b></p> <p>With respect to group capital, there are no insurers licensed in Thailand which are groups for which the OIC is the group-wide supervisor. The OIC reviews group-level detail for Thai-domiciled insurers that are part of foreign groups or bank-led groups for which other supervisory are the group-wide supervisor. It also participates in supervisory colleges and other efforts to communicate and cooperate with the group-wide supervisor and other involved supervisors in the group (see sections herein on ICPs 23, 25, and 26). For capital purposes, the OIC's RBC framework excludes from capital resources the reporting insurer's investment in affiliates and does not include any capital requirement pertaining to the affiliate.</p>
Assessment	Largely observed
Comments	<p>Largely observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The Thai solvency regime uses RBC as a standard method for all insurers to determine and report to the OIC and to the public on capital adequacy.</li> <li>• Currently, RBC excludes provisions for operational and catastrophe risks.</li> </ul> <p>It is therefore recommended that:</p> <ul style="list-style-type: none"> <li>• The OIC improve upon RBC by providing for operational and catastrophe risks.</li> </ul> <p>It is understood that the OIC is moving toward "RBC2" and may also increase the RBC calibration confidence levels from 95 percent to 99. percent VaR over a one-year time horizon, once accounting standard setters have adopted pending new requirements for accounting for insurance contracts (expected to be implemented in Thailand in 2023). This may also provide an opportunity for the OIC to study the means and potential impact of adding provisions for operational and catastrophe risks to RBC during the intervening period.</p>
<b>ICP 18</b>	<p><b>Intermediaries</b></p> <p>The supervisor sets and enforces requirements for the conduct of insurance intermediaries, to ensure that they conduct business in a professional and transparent manner.</p>
Description	<p><b>Licensing requirements</b></p> <p>Pursuant to Section 68 of the LIA, and Section 63 of the NLIA all agents and brokers need to be licensed. It is an offence to operate as an agent or broker without a licence in Thailand and such cases are referred to the Royal Thai Police for investigation. Cooperation with the police is good and there is no difficulty in pursuing prosecutions for contravention of licensing requirements.</p> <p>Insurance agent and Insurance broker are defined terms under the NLIA and LIA. Licenses are for either life or non-life agents or brokers. Agents may hold separate life and non-life licenses as may brokers but a licenced broker may not hold an agent</p>

	<p>licence for the same sector. There are no exemptions from licensing (e.g., credit insurance, travel insurance) and Thailand has in excess of 400,000 licensed intermediaries.</p> <p>In order to qualify for licensing, agents are required to pass a qualifying examination. The Thai General Insurance Association administers these for general insurance intermediaries. The Thai Life Insurance Association administers them for Life intermediaries. Additional examinations are required to be passed if the agent/broker wishes to sell more complex investment products, such as unit linked life insurance products. These examinations are set by Thailand's SEC. The results are submitted to the OIC who issues the licences.</p> <p>In addition to examination requirements, licensees must meet certain minimum suitability requirements set out in Section 64 and 67 of the NLIA and Section 69 and 72 of the LIA (e.g., basic fit and proper requirements). They are also required to meet ongoing education requirements once licenced. Initial licences are for a one-year term and at the third renewal (third year) licences are issued for a term of five years. Agents may represent up to two insurers with the permission of each insurance company. There are no corporate agency licenses for intermediaries and insurers are required to be jointly liable for the actions of their agents.</p> <p>Individual Insurance brokers are required to meet requirements similar to agents in regard to qualifying exam and meeting minimum suitability requirements. Licence renewal provisions are similar to those of agents.</p> <p>Thailand also issues corporate broker licences. To be eligible for this form of licence, at least two authorized directors with signatory power must pass insurance examinations set by the OIC and they must have held a personal insurance broker licenses for at least one year prior to applying for a corporate license.</p> <p>Corporate brokers are also required to submit the details of their business plans (including governance and control systems with license renewal applications and are required to maintain a minimum capital fund (1,000,000 Baht - approximately \$33,000 US). These rules are set out in Clause 14 of the Notification of Rules and Conditions for the Issuance of Licenses for Corporate Brokers, 2011. Bancassurance is conducted through corporate insurance broker licenses issued to distributing banks and can be for life or non-life products.</p> <p>Personal indemnity insurance is not currently required for brokers or agents though many brokers purchase such insurance through the insurance association.</p> <p><b>Ongoing Supervision</b></p> <p>Agents and brokers are subject to license renewal processes. In addition, the OIC maintains risk based offsite, onsite, and targeted review programs for intermediary operations. It has a large supervisory team in head office in Bangkok but also substantial resources in 69 regional offices in 9 of Thailand's provincial districts.</p> <p>With respect to insurance brokers, OIC supervises more than 740 brokers. Approximately half of these are inactive licenses. During the last three years the OIC has conducted approximately 40–50 broker onsites per year. In prioritizing institutions and setting its program for onsite review, the OIC uses offsite reporting. The offsite process includes examination of premium information such as volume of premium,</p>
--	---

premium growth, premium accruals, complaint information, and any unusual transactions, or information that come to their attention during the year.

The onsite process looks at a number of risk categories including, sales conduct risk, operational risk, credit and reputational risk, liquidity risk, business entity (or governance) risk and other (e.g., AML/CFT, or use of personal information, know your client process, data storage, and continuity).

In examining agents, OIC focuses on complaints and on examination of whether insurers have adequate policies procedures, controls, and reporting over its agent distribution network. As many of the requirements for fair treatment of consumers are new, its supervisory program is evolving from a largely complaints-based focus to a more proactive focus involving fuller assessment of COB involving, fuller market analysis, offsite and onsite activity, and activities like mystery shopping.

With regard to Bancassurance, the OIC follows the general processes outlined above but with greater proactive focus. OIC actions include sampling of activities at branches, orders for the bank to clarify issues, more targeted inspections, and mystery shopping. Findings from Bancassurance supervision are shared with other group supervisors (e.g., BOT).

#### **Intermediary Governance, Conduct, and Disclosure Requirements**

For corporate insurance brokers and banks, the major requirements include:

- Requirements for a capital fund.
- Basic requirements for governance, risk management and internal controls.
- Requirements to protect client money and control product offering.
- Requirements to avoid conflict of interest and to protect customer data; and
- Requirements to keep appropriate books and records.

They are mainly found in the licensing requirements of the LIA and NLIA and the related licensing notifications.

For insurance agents, most of the governance requirements are set out as obligations on the insurance company in the Notification Re: Prescription of Rules and Procedures for Insurance Policy Issuance; Offering Insurance Policies for Sale by Non-life Insurance Companies; and Responsibilities of Non-life Insurance Agents, Non-life Brokers, and Banks, 2018. There is also a corresponding notification for life insurance. They include several obligations on the insurer:

- A general requirement to oversee and be responsible for the actions of their intermediaries.
- A requirement for a business plan to cover product distribution and intermediary area.
- Requirements to ensure that fair treatment of consumers is an integral part of the business culture.
- Requirements that the insurers maintain appropriate standards for conduct for the business.
- A requirement to ensure there is regular monitoring of consumer outcomes.
- Requirements that insurers have proper board governance, risk management and internal control systems including COB risk, even with respect to a broad range of customer groups (e.g., The elderly).
- Requirements to ensure that human resource policies are adequate.

- Requirements to ensure appropriate disciplinary policies and procedures for wrongdoing are in place.
- Requirements to ensure adequate files and records are maintained and are available for inspection.
- Requirements to ensure that there are appropriate controls over outsourced functions.
- Requirements to ensure compliance with all relevant legislation, including non-insurance legislation such as in respect of AML and fraud.

The Notifications 2018 also set out the major specific conduct and disclosure requirements applying to intermediaries and include (but are not limited to):

- Requirements to identify themselves, the licences they hold and the companies they represent.
- Requirements to state their objectives in communicating with the potential customer and receiving their consent to be offer insurance products.
- A requirement to use only sales presentation materials approved by the insurer in the selling process.
- A requirement to explain the principles of information disclosure in the insurance application and the consequences of providing false information.
- A requirement to identify the insurance company offering the specific insurance product.
- A requirement to avoiding abusive or pressure selling of insurance particularly if a customer expresses an unwillingness to purchase.
- A requirement to understand a customer's needs and objectives in purchasing insurance products.
- A requirement to notify the customer of insurance coverage term, premium details, and payment period.
- A requirement to explain bundled products offered for sale and some specific requirements on the sale of bundled products.
- A requirement to manage conflicts of interest.
- A prohibition on the "churning" of insurance products.
- A prohibition on giving false or misleading advice.
- A prohibition on engaging in coercive tied selling of insurance products.

Intermediaries must also maintain ethical standards established by the Thai Life Assurance Association and the General Insurance Association of Thailand.

#### **Conflict of Interest and Disclosure of Remuneration**

While intermediaries are required to disclose conflicts of interest there is little guidance on how to define or deal with perceived, potential or actual conflicts. In addition, there is no requirement for intermediaries to disclose the basis of their compensation or the amount of their compensation to their clients.

#### **Client Money Handling**

The Notification of Rules and Conditions for the Issuance of Licenses and Renewal of Licenses for Juristic Persons as Life Insurance Brokers, 2011 requires Brokers to have separate bank accounts for client moneys, and to forward client moneys to insurance companies as soon as possible.

The Notification "Rules for Agents and Brokers" for life insurance provides that upon the receipt of premium agents and brokers must issue a document evidencing the life

	<p>insurance company's receipt of payment. In the case of a broker, the company's power of attorney for receipt of premium payment must be presented. These safeguards are also addressed in primary legislation under Sections 71 and 71/2 of the LIA and Sections 66 and 66/2 of the NLIA.</p> <p>The Notification "Rules for Agents and Brokers" provides that agents and brokers need to deliver the application form and insurance premiums received from the client to the company at the first opportunity available, but no later than the following working day.</p> <p>Insurance companies are expected to have internal controls in place to ensure these requirements are adhered to (mentioned above). They are checked as a matter of course during onsite inspections.</p> <p><b>Regulatory Enforcement</b></p> <p>The insurance legislation provides penalties for major breaches of regulatory requirements. Where it is found that licensed agents and/or brokers have not acted in accordance with their license conditions, action is taken under Section 81 of the LIA and Section 76 of the NLIA, however, there is not currently a power to issue administrative orders to licensees, or the power to suspend licences. Our understanding is that legislation has been developed to remedy this problem, it has been passed by the legislature and that the proposal includes an increase in potential fines as well.</p>
Assessment	Largely Observed
Comments	<p>Largely Observed is based on the observation that many of the COB conduct requirements for intermediaries are new and have not yet been fully tested in the market, and supervisory programs for brokers, agents and insurers are still evolving.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• Legislation be amended to require intermediaries to disclose the amount and/or the basis of their compensation to clients.</li> <li>• Greater guidance be provided by the OIC to the industry on expectations regarding the handling of perceived, potential, and real conflicts of interest.</li> <li>• Legislation be implemented to provide OIC with a power to issue administrative orders and allow suspension of intermediary licenses—the is currently underway.</li> <li>• OIC consider establishing a requirement for professional indemnity insurance for insurance intermediaries operating in its market to ensure that the public is adequately protected by intermediary errors and omissions.</li> </ul>
<b>ICP 19</b>	<p><b>Conduct of Business</b></p> <p>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.</p>
Description	<p><b>Legal Authority</b></p> <p>Major requirements with respect to conduct of business are found in the following Notifications:</p>

- The Notification of the Insurance Commission Re: Prescription of Rules on Procedures for issuing and Offering Insurance Policies for Sale, and Performance of Duty of Life Insurance Agent and Broker and Bank, 2018 (Notification 2018).  
The Notification is intended to closely reflect the requirements of ICP 18 and 19 but has only recently been brought into force.
- The Notification on Rules, Procedures and Conditions for Indemnity or Compensation under Insurance Contracts by Non-Life Insurance Companies, 2016 (Notification 2016). This Notification sets out regulatory requirements for complaint handling including the prompt handling of complaints.
- Notification Re: Specification of Rules and Conditions for Offering Insurance Policies for Sale through Advertising Media under the Law Governing Non-Life Insurance/Life Insurance, 2013 (Notification 2013). This notification establishes some basic requirements for insurance product advertising intended to ensure that advertisements are clear, honest and not misleading and that images, statistics and illustrations are not misleading.

**Requirements to Act with Due Skill, Care and Diligence and to Have Policies and Procedures for Fair Treatment of Consumers**

The Notification 2018 requires that insurers and their intermediaries act with due care and diligence when dealing with policyholders and customers. Notification 2018 also specifies that fair treatment of customers must be an integral part of an insurer or intermediaries' business culture. The Notification also requires that the outcome of fair treatment of customers be enshrined in an insurer's policies and procedures with respect to intermediaries.

In particular:

- Fair treatment policies and strategies should be designed, implemented and monitored by the Board and senior management.
- The insurer must have sufficient staff and agents to ensure fair treatment of customers.
- Internal control and risk management activities should include fair treatment and servicing of policyholders.

**Development and Distribution of Insurance Products**

Pursuant to the NLIA and the LIA, the policy wording and premium range of new products needs to be approved by the OIC. The OIC conducts thorough consumer focused product reviews

Notification 2018 sets out the requirements for insurers and the process of developing and marketing products. These include the suitability to target customers, fairness of terms and conditions, the ability of customers to compare and evaluate products, the ability to the customer to understand the policy, and the provision of information and advice by the intermediary to the consumer.

There are different approval processes for different types of products. Most insurance products in Thailand, are common basic retail insurance products (e.g., simple endowment policies, term life, third party motor, and Casco). The OIC has developed and requires the use of standard policies for these. The standard policies are

developed with the assistance of industry. The OIC approval process for non-standard products is more specific but is focused on the same consumer focused criteria.

Review of products helps ensure compliance with general conditions established in the insurance law, compliance with the Commercial and Civil Code, and to ensure that there are not adverse implications for policyholders.

#### **Promotion and Marketing of Insurance Products**

Notification 2018 requires that products be promoted in a manner that is fair, clear and not misleading. It sets out the procedures for insurers for promoting, selling and issuing insurance policies for sale.

The Notification of the Insurance Commission “Re: Specification of Rules and Conditions for Offering Insurance Policies for Sale through Advertising Media under the Law Governing Non-Life Insurance/Life Insurance, 2013” also set out rules and conditions on advertisement and illustration of products to ensure that they are not misleading.

During the product approval process (discussed above), attention is also paid to product promotion materials which are reviewed for suitability.

#### **Timing, Delivery, and Content of Information at Point of Sale**

Notification 2018 sets out both general and detailed requirements with respect to the timing, clarity and adequacy of pre-contractual and contractual information to customers.

These include such matters as the name of the insurer the type of product, key features of the product, significant/ unusual exclusions, the right to cancel and the right to complain. There are additional disclosure requirements for the more complex products and/or products of greater financial significance for policyholders, such as unit linked investment products.

The Notification 2018 provisions require the prompt delivery of policy documents. Many documents include summaries of key features and many life products include “cooling-off periods” (e.g., 15 or 30 days).

#### **Customers Receive Appropriate Advice Taking into Account Disclosed Circumstances**

Requirements for appropriate advice are also contained in the Notification 2018. A customer “fact find” is required to be carried out by intermediaries before selling more complex life insurance products to ensure they understand consumer needs.

According to Notification 2018, the responsibility of controlling the provision of advice by intermediaries is the responsibility of the insurer. The OIC onsite process checks that this function is being properly carried out by insurers and corporate brokers are similarly supervised.

The OIC also requires additional licencing requirements for intermediaries selling investment products to ensure that these products are being appropriately sold.

#### **Conflict of Interest**

Notification 2018 requires that for those entities and persons dealing with customers, conflicts of interest are to be avoided; however, (as noted under ICP 18), there is little

	<p>available guidance on how to deal with potential perceived, or actual conflicts of interest.</p> <p><b>Claims Handling, Complaint Handling, and Dispute Resolution</b></p> <p>Claims handling, is covered under the Notification 2016 and a similar Notification for Life Companies. These Notifications detail the requirements for fair and transparent claims handling including (See Clauses 5–10):</p> <ul style="list-style-type: none"> <li>• The insurer’s board of directors has the responsibility to ensure compliance with the regulation.</li> <li>• The insurer must have a claims department.</li> <li>• Systems and processes must be in place to handle claims.</li> <li>• Claims must be paid “without delay.”</li> <li>• The insurer must be pro-active in finding the insured to make payment.</li> <li>• A complaint handling unit needs to be in place, managed by a senior manager. In the case of a high value claim, or complex claim, there needs to be in place a complaints committee composed of decision makers and representatives from the underwriting department, the claims management department and legal department, overseen by the compliance unit.</li> </ul> <p>Clause 10 of the Notification “Rules, Procedures and Conditions for Indemnity or Compensation under Insurance Contracts by Non-Life Insurance Companies (2016)” sets out the regulatory requirements for complaints handling, including the prompt handling of complaints and requiring independence of the complaint handling function from the subject area of the complaint.</p> <p>Consumers also have access to complaint mediation and arbitration services through the OIC. Its is mandatory for insurers to participate in these processes but arbitrary for consumers to use them.</p> <p><b>Servicing of Policies</b></p> <p>The Notification 2018 requires that insurers must also have work systems, procedures and channels to deal with cancellation of policies and timely return of premiums.</p> <p><b>Requirements Applying to Alternative Distribution Channels:</b></p> <p>The OIC has considered how fair treatment requirements should be applied to distribution channels other than agents, brokers, and banks and, in particular, to the distribution of products through electronic means. The Notification on Offering for Sale of Insurance through Electronic Means sets out requirements for this area. These look to be broadly consistent with the ICP.</p> <p><b>Privacy Protection</b></p> <p>While insurers are required to adhere to strong requirements to protect consumer information in their possession, there do not appear to be strong requirements regarding the use of information for marketing purposes (e.g., the use of information gathered for the sale of one product for cross selling purposes).</p>
--	--

Assessment	Largely Observed
Comments	<p>Largely Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• Many COB requirements are new to the market and have just been implemented. While the OIC has engaged in extensive consultation and provision of implementation assistance, time will tell whether or not they are being fully adhered to.</li> <li>• Requirements concerning the use of client information by insurers are basic and do not guard against misuse of client information for purposes like unwanted cross selling of products.</li> <li>• While the OIC has good information on complaints that it directly receives, and good information on complaints received by banks, it does not have a comprehensive system gathering data on all insurer and intermediary complaints and on their timely disposition.</li> </ul> <p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> <li>• In conjunction with the industry associations work together to develop a notification on the use of client information for cross selling and other ancillary purposes.</li> <li>• To bolster its supervisory program, the OIC consider development of an industry complaint handling system to collect information from all insurers and brokers on the number of complaints they receive, the types of complaints received and how the complaints were dealt with.</li> </ul>
<b>ICP 20</b>	<p><b>Public Disclosure</b></p> <p>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.</p>
Description	<p>The OIC's first Notification on Public Disclosure became a regulation in 2008, requiring insurers to disclose their financial standing (balance sheet and capital status; key financial ratios); operating results (income and cash flow statements, direct premiums and percentage of premiums by type of insurance); paid losses; company contact information; and annual audited financial report.</p> <p>The 2008 Notification on Public Disclosure was repealed and replaced by a newer notification, effective October 1, 2018, which is intended by the OIC to be ICP 20compliant. It covers both quantitative and qualitative information about the company's profile, business policies, objectives, and strategies; corporate governance framework and internal control processes; ERM and ALM; foreseeable and material underwriting risks that may affect the financial position, reinsurance management, interaction between capital adequacy and risk, and insurance risk concentration; value, methods and assumptions for determination of insurance liabilities; investments; business performance; capital adequacy and capital management; and audited financial statements.</p>

	<p>Disclosures made pursuant to the 2018 notification have been tailored by the OIC to the nature, scale and complexity of Thai insurers and the local insurance marketplace. Moreover, they are intended to benefit the public, primarily consumers and policyholders. The OIC did not intend to replicate the detailed technical disclosures of the nature required in by the Securities and Exchange Commission in reports to investors; rather, to arrive at a means by which more basic and easily understood information could be gathered, accessed, and displayed in a comparable way across insurers to benefit the public. To that end, a template was developed by the OIC to assure a more means by which such disclosures by insurers can be made in a more comparable format.</p> <p>Disclosed information must be up to date, reliable, comparable with other insurers operating in the same market, and include business trends. In addition, such disclosed information must be certified by the board and subject to review annually.</p> <p>Commissioner's Order 47/2561 (2018) for life insurance, and Order 48/2561 (2018) for non-life insurance, underpin the requirements of the Notification on Public Disclosure. These orders set out a template of the detailed information that is required to be disclosed publicly, on a quarterly and on an annual basis. The orders specify that information for year-end 2017 and for the first two quarters of 2018 was to be disclosed by November 1, 2018.</p> <p>While most of the larger insurers licensed in Thailand are investees or branches of foreign-based groups, the emphasis on public disclosure is on the Thai-based operations and the assets held locally to the policy benefits and claims they back related to policies protecting Thailand-based insureds and personal and commercial risks. In other words, while consolidated statements of foreign-based groups may be informative and publicly disclosed, that alone would not be sufficient to comply with the requirements of the Commissioner's Orders.</p> <p>Thailand uses TFRS for general purpose financial reports, which Thai insurers are required to have audited and then publicly disclosed along with the auditor's report thereon. Quarterly financial information, reviewed by external auditors as required by Clause 8, Registrar Order on Public Disclosure, must also be publicly disclosed, including an assessment of capital adequacy with the Capital Adequacy Ratio and its components of total capital available and TCR. In addition, listed insurance companies are subjected to additional disclosure requirements of Thailand's SEC, e.g., regarding the operation of the business, management, financial status and operational results.</p> <p>The Notification on Public Disclosure 2018, when considered with the Commissioner's Orders, requires insurance companies to disclose quantitative and qualitative information about the following matters:</p> <p><u>Methods, valuation and assumptions relating to insurance contract liabilities:</u> This includes both valuation for financial reporting purposes (accounting basis), for solvency purposes, and the amount by which may differ (see section herein on ICP 14 as to why they there may be differences), showing specific components for life insurers, e.g., long-term technical reserves; short-term technical reserves; unpaid policy benefits; and due to insureds; and for non-life insurers (premium liabilities, and claim liabilities).</p> <p><u>Capital adequacy, the policy, objectives and procedure of capital management, including capital adequacy evaluation:</u> Information on statutory capital, total capital available, and the CAR must be provided on a quarterly basis, including total assets</p>
--	---

	<p>and liabilities; also the insurance contract liabilities; other liabilities; shareholders equity; CAR (percent); Total Capital Available (TCA); and TCR.</p> <p><u>Investments, including investment policy and objectives:</u> Insurers are required to disclose valuations including underlying assumptions, both for financial reporting and capital adequacy reporting; policies, objectives and investment procedures; and approaches to valuations of capital assets. Amounts by asset class must be separately stated, i.e., for deposits and certificate of deposit; debentures (government bonds, corporate bonds, promissory note, bills of exchange, convertible bonds, and saving certificates); investments in subsidiaries and affiliates; equities; unit trusts; policy loans; loans (including vehicle hire-purchasing loans); warrants; derivatives; and other investments.</p> <p><u>ERM including ALM:</u> Insurers must provide an overview of their risk management policy and procedures, methodologies for measuring assets and liabilities for ALM purposes, and an asset-liability adequacy analysis with duration matching.</p> <p><u>Financial performance:</u> Disclosures are required with respect to business performance, investment results, claims statistics and claim development, and adequacy of insurance premium, together with relevant analyses. Amounts to be reported include gross and net premiums written; net investment income; technical reserves and changes from the previous year; net claims; net profit/loss; underwriting expense ratios both for first year and renewal business; ROE; return on assets and return on investment ratios, both including, and excluding, unit-linked and universal life business; investment assets; and policy reserves (valuation for solvency purposes).</p> <p><u>Relevant material insurance risk exposures and management:</u> Insurers must disclose quantitative and qualitative information about underwriting risk, reinsurance management including risk retention criteria and other forms of risk transfer; risk concentration; interactions between capital adequacy and risks; and loss forecasting methods used.</p> <p><u>General information about the company:</u> This includes information about the company's profile and history; policy, objectives and business strategy including about the external environment in which the company operates; business characteristics including key services and products and the degree of product/service diversification and specialization; and company contacts and claim settlement procedures.</p> <p><u>Corporate governance framework and internal controls:</u> Required disclosures include a description of such framework and controls; the organization structure/organization chart; management structure including positions and responsibilities of the board and senior management; board committees and their responsibilities, including committees overseeing the audit, risk management, and investment functions as well as the nomination, compensation and other committees, if applicable; directors, including independent directors, executives, and their respective qualifications and remuneration.</p> <p>The OIC monitors such disclosures on insurance companies' websites on a quarterly basis and notifies insurers to correct any deficiencies that have been identified.</p>
Assessment	Largely observed

Comments	<p>The notifications do not explicitly require certain disclosures that are contained in the ICP 20 principles. For example, the notifications do not explicitly require reporting of information concerning the key assumptions employed in measuring assets and liabilities for ALM purposes and any capital and/or provisions held as a consequence of a mismatch between assets and liabilities; financial performance by segment.</p> <p>It is therefore recommended that the OIC amend the notifications to address, at a minimum, all the risk and factors covered by the principle statements of ICP 20. Also, the OIC's reliance on TFRS and audited financial statements as a backstop for its own public disclosure requirements results in a bifurcated disclosure approach; the OIC should consider revising its disclosure requirements to apply more broadly and explicitly to any risk arising from insurance contracts.</p>
<b>ICP 21</b>	<p><b>Countering Fraud in Insurance</b></p> <p>The supervisor requires that insurers and intermediaries take effective measures to deter, prevent, detect, report and remedy fraud in insurance.</p>
Description	<p>All fraud, including insurance fraud, is covered by the Criminal Code (Sections 341 to 347), the Civil and Commercial Code (Sections 879 and 895). Sanctions and penalties are addressed by the Criminal Code, consisting of fines, imprisonment or both. Such penalties are imposed on the person or entity having committed the fraud, i.e., the insurer is not penalized for having incurred losses resulting from fraudulent actions of others taken against the insurer.</p> <p>Section 43 of the NLIA provides that a responsible investigating officer under the Criminal Procedure Code can request the OIC to order an insurer to suspend payments involving suspicious claims pending an investigation. An insurer that fails to comply with the OIC's order can be fined up to THB 500,000. In addition, further fines can be levied up to THB 20,000 for every consecutive day that the violation continues.</p> <p>In Thailand, insurance-related fraud primarily relates to staged accidents and thefts to claim motor insurance, false claims for medical fees and hospital benefits (which industry data has shown to cost the industry nearly THB 246 million from 2014–2016); premiums diverted by licensed intermediaries as well as others posing as intermediaries. To more effectively address such fraudulent activities, the OIC worked to amend the LIA/NLIA through bills that were passed by the Parliament on February 14, 2019, which will become effective approximately six months thereafter.</p> <p>Amendments covering insurance fraud activities include:</p> <ul style="list-style-type: none"> <li>• Any person who in bad faith deceives any other person to enter into a life insurance agreement and by such deception receives a financial reward or benefit shall be liable to imprisonment, or a fine, or both. Where the offence is committed through making false statements to the public, or concealment of any fact should have been notified to the public, the offender shall be liable of a major offence which leads to severe punishment.</li> <li>• Where the offence is committed through making false statements to the public, or concealment of any fact should have been notified to the public, the offender shall be liable of a major offence.</li> </ul>

- Any person who in bad faith makes fraudulent claims will be liable to imprisonment, a fine, or both. A person who assists or facilitates any other person in committing the offence shall also be subject to punishment.
- Any person who agrees to give a financial reward or benefit to or for a director, person who has power of management, an officer, employee or person authorized by the company, in order to induce compensation or payment or provision of benefits under an insurance policy shall be liable to imprisonment, a fine, or both.
- A person who agrees to accept any benefit for him or herself in order to receive compensation or payment or benefits under an insurance policy shall be liable to imprisonment, a fine, or both.

The Notification on Internal Control, 2014, specifies responsibilities of an insurer's internal audit unit to include "investigating fraud, errors, omissions and other irregularities" and to report on "material items found upon inspection, including recommendations and rectification of deficiency and submitting the report to the audit committee or the board of directors." Further, Clause 36 states that if the audit committee "finds any fraud or act which seriously affects the company's financial position and operating results" the audit committee must report the issue to the board of directors without delay and, if not rectified in a timely manner, any audit committee member is to report the matter to the OIC.

OIC meets regularly with the insurance industry through the Life Insurance Association and the Non-Life Insurance Association to collect information on activities related to insurance fraud and to analyse the characteristics of such activities in order to create a coordinated approach from both OIC and the insurance industry to such matters. Representatives of the associations indicate that they collect data from members about fraudulent activities of agents.

A committee has been established of insurance industry representatives (Life Insurance Association, Non-Life Insurance Association, Insurance Agent Association and Insurance Broker Association), the Chief of Royal Thai Police, and the Council of Lawyers and Economic Journalists, to establish plans and approaches to dealing with fraud when the recently adopted LIA/NLIA amendments are in effect and can be enforced. After its first meeting in June 2018, the committee agreed to issue a fraud prevention handbook by early 2019 to enhance fraud awareness of the public.

The OIC also engages with Thailand's private sector Collective Action Coalition Against Corruption, and encourages all life and non-life insurers to be CAC members and to adopt CAC's Fraud Risk Management Framework.

The Notification on Fraud Risk Management 2018 prescribes the procedures and measures to manage the risk of insurance fraud, including management's responsibility to oversee the effectiveness of fraud risk management systems. It requires insurance companies to establish a fraud risk management policy including procedures and measures to deter, prevent, detect, report and remedy fraud in insurance and which covers both internal fraud and external fraud (policyholder/claims fraud and intermediary fraud). The policy must be communicated throughout the entire organization to provide operational guidance to all staff. Insurers must regularly review the effectiveness of their policy, taking into account changing internal and external circumstances, as well as lessons learned from incidents of actual or suspected fraud, to enhance its management of fraud risk. The policy must be part of the

	<p>company's risk management framework required in the Notification on Risk Management 2017.</p> <p>The Notification on Fraud Risk Management 2018 provides that insurers establish fit and proper standards for members of the Board, senior managers and other staff, and intermediaries; client acceptance procedures including Know Your Customer and Customer Due Diligence (CDD); claim assessment procedures to mitigate the risk of claims fraud; guidelines on outsourcing; a whistleblowing policy and adequate legal protection for fraud reporting in good faith monitor performance and trends with a view to detecting intermediary fraud; develop a code of conduct for its employees and establish an ethical culture; and provide regular training on fraud matters for board members, senior management and other staff as appropriate.</p> <p>More specifically regarding whistleblowing, the notification requires insurers to "establish whistleblowing rules and procedures and provide legal adequate legal protection for fraud reporting in good faith to encourage stakeholders from within and outside the company to report clues in the event of fraud." That said, whistleblowers are not provided immunity under Thai law.</p> <p>The Notification of Fraud Risk Management 2018 will go into effect July 2019, although Thai insurers have been anticipating and preparing for its enactment. It requires insurance companies to assign suspected fraud cases to designated person(s) for review and investigation. Sound fraud investigations are to be conducted by appropriate personnel, independent of the business unit in which the alleged fraudulent conduct has occurred. Incident reports must be provided to the audit committee on a quarterly basis. In case of any fraud or act with a potentially material impact to the financial position, business or reputation and operating results, the audit committee must report it to the board of directors for rectification. The report also is to be submitted to OIC unless there is any action to recover such material fraud events in a timely manner.</p> <p>Pursuant to the same notification, insurance companies must establish and maintain a fraud database; monitor and review its fraud risk management annually; submit a three-year business plan and risk management policy to OIC; and conduct internal reviews of their fraud prevention scheme. Notably, the requirement for insurers to collect fraud data is a key element, as the OIC has powers to act against fraud if evidence exists.</p> <p>The OIC has the means to access data from individual insurers' fraud databases on a consolidated platform. Resources to address fraud are within the OIC's litigation unit, which includes three full-time staff, supplemented by a multi-departmental OIC committee. Finally, OIC's onsite inspections check for compliance with the aforementioned fraud risk management requirements.</p>
Assessment	Largely observed
Comments	<p>Largely observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The new notifications on fraud (2018) have only recently been enacted and do not go into force until mid-2019.</li> <li>• The LIA was also recently amended in February 2019 to increase penalties and sanctions and does not take effect until August 2019.</li> </ul>

	<ul style="list-style-type: none"> <li>The 2018 notifications do not require that frauds or acts with a material impact on the financial position, performance or reputation of an insurer be reported by an insurer to the OIC, if the company has rectified the matter within a timeframe deemed appropriate by the audit committee. While information was provided to the assessors to demonstrate that the OIC responds to fraud that has been reported to it, the current language in the 2018 notifications suggests some fraudulent acts with a material impact may occur but are not required to be reported to the OIC.</li> </ul> <p>It is therefore recommended that the OIC:</p> <ul style="list-style-type: none"> <li>Avail itself of the data that will soon be available through fraud databases at insurers and consider a centralized fraud database at the OIC to analyze bad actors and their actions across the sector, identify trends, and work with insurers and industry trade organizations to be more proactive in combatting fraud.</li> </ul> <p>Amend the notifications to require that any fraud or act that may have a material impact on an insurer be reported to the OIC on a timely basis, whether or not the insurer may have rectified the matter.</p>
<b>ICP 22</b>	<p><b>Anti-Money Laundering and Combating the Financing of Terrorism</b></p> <p>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.</p>
Description	<p>The Anti-Money Laundering Office (AMLO) is designated as the AML/CFT supervisory authority in Thailand since the amendment of the Anti-Money Laundering Act (AMLA)<sup>3</sup> in 2013. Sections 40(3)/1( and )4( of AMLA prescribe AMLO as the main state authority entrusted with AML/CFT regulation and supervision to establish guidelines, examine, monitor and evaluate implementation of AML/CFT obligations in cooperation with sector-specific supervisors (BOT, SEC, and OIC). Financial institutions must comply with the regulations of both the OIC and other regulators, including AMLO's AML/CFT regulations:</p> <ul style="list-style-type: none"> <li>Reporting Requirements: Section 13 of AMLA specifies transaction reporting to include suspicious transaction reporting (STR) requirements.</li> <li>CDD and Internal Controls requirements: The Ministerial Regulation on Customer Due Diligence (MR CDD), Section 4 and Section 20/1 of AMLA, set out customer acceptance, risk assessment and management, CDD and ongoing monitoring requirements. The MR CDD also sets up requirements on correspondent banks, wire transfer, new technologies, reliance on third party, internal controls, foreign branches and subsidiaries, high risk countries, tipping-off, and confidentiality.</li> </ul> <p>AMLO's power to perform inspections is stated in Section 40(3)/1 and 40(4) of AMLA, whereas OIC's inspection power is in the LIA/NLIA. The OIC supervisors coordinate with AMLO, in accordance with the MOU of April 2010. OIC supervisors focus primarily on the AML-related systems and procedures in place at insurers, and if found to be not</p>

<sup>3</sup> The Anti-Money Laundering Act B.E. 2542 and its amendment.

	<p>compliant with AMLO requirements, OIC will inform AMLO, and AMLO may send its officers to further investigate or join with the OIC examination team. After that, AMLO will proceed under the law and its authority as it has access to the sanctions list, whereas OIC does not. Annually, AMLO meets with OIC to share findings across the insurance sector.</p> <p>While the AMLO is the designated AML/CFT competent authority, the OIC, as a supervisor, needs to be aware and have an understanding of ML/FT risks to which insurers and intermediaries are exposed, liaising with AMLO as necessary and with effective mechanisms in place which enable it to cooperate, coordinate and exchange information with other domestic authorities, including in other jurisdictions, for AML/CFT purposes. In that regard, OIC utilizes an onsite examination checklist for underwriting and money receiving processes to determine if insurers have effective preventive measures in place as required by AMLO.</p> <p>Thailand participated in the World Bank's National Risk Assessment on AML/CFT focusing on AML/CFT threats and vulnerabilities of Thailand in 2013. OIC participated in both assessments and provided opinions on the draft of the assessment.</p> <p>Thailand participated in a Mutual Evaluation of International Standard on AML/CFT by the Asia/Pacific Group on Money Laundering (APG). APG's report, published December 2017, reported that insurance presented the lowest money laundering and terrorism financing risks of the financial sectors subject of the study.</p> <p>OIC appointed staff to take part in the AMLO's sub-committees in order to adopt strategies more efficiently. In addition, OIC has cooperated with AMLO on drafting an insurance Sector Risk Assessment on AML/CFT which concluded that the risk and vulnerability of insurance sector and control measures is low.</p> <p>OIC supports AMLO in protecting the insurance industry from ML/TF threats by enhancing insurers' awareness of such risks and enforcing the adoption of AML/CFT measures into insurers' operations.</p> <p>The OIC enforces fit and properness of managers, executives and directors through various regulations, for example, in the application process for an insurance business license, maintaining qualifications of such persons as well as consultants throughout the tenure of their positions with the insurer, and specifying conditions—including having been sentenced under the Anti Money Laundering Act—that would result in any such individual being deemed unqualified to continue to act in such a position.</p> <p>OIC requires insurers to adopt the following AML/CFT measures through their operations:</p> <ul style="list-style-type: none"> <li>• <u>Product and premium rate approvals process</u>: Insurers must present and certify the AML/CFT risk mitigation measures according to AMLO Notification on mitigation of AML/CFT risk from new products, services and technology 2013 in order to control and reduce AML/CFT risk on new insurance products that may be sold.</li> <li>• <u>Internal Controls</u>: Clause 35 of Notification on Internal Control requires insurers to establish compliance and audit systems for AML/CFT.</li> <li>• <u>Sale of insurance products and claim payment via electronic means</u>: Clause 4 of Notification on insurance selling via electronics requires insurers to comply with AML/CFT regulations and other relevant regulations.</li> </ul>
--	--

	<p>OIC consulted with AMLO about the operation of the Motor Vehicle Victim Protection Fund, and the Life and Non-life Policyholder Protection funds regarding issues related to AML/CFT.</p> <p>To enhance insurers' awareness on AML/CFT threats to the industry, both OIC and the industry have held seminars and workshops. OIC participates in various AMLO subcommittees and working groups, including on AML/CFT national strategy; financial institutions supervision; Thailand mutual evaluation on AML/CFT standards preparation; coordination for AML/CFT risk assessment; supervision of AML/CFT reporting entities; and on the integration of AML/CFT compliance of reporting entities.</p>
Assessment	Observed
Comments	None
<b>ICP 23</b>	<p><b>Group-wide Supervision</b></p> <p>The supervisor supervises insurers on a legal entity and group-wide basis.</p>
Description	<p>From the perspective of group-wide supervision, the 83 insurance entities operating in Thailand can be viewed as comprising several categories:</p> <ul style="list-style-type: none"> <li>• Category 1: comprised of 34 insurers or branches (11 life, 23 non-life) backed by foreign insurers. In the case of domiciled insurers, foreign investment is currently capped at 49 percent although that can be increased in certain circumstances with OIC approval. In each case, the responsibility of group-wide supervisor rests with the home jurisdiction, not Thailand.</li> <li>• Category 2: comprised of 6 insurers (4 life, 2 non-life) that are part of Thailand-based financial conglomerates and for which the BOT serves as the group-wide supervisor.</li> <li>• Category 3: comprised of 7 Thai insurers (2 life, 5 non-life) that hold more than 20 percent of the shares of an insurance company in another jurisdiction; in each case, the foreign operations are immaterial to the group (involving subsidiary insurers in Cambodia and Laos with aggregate annual premiums of US\$ 62,000), and, accordingly, the OIC does not formally apply group-wide supervisory measures to these groups, although it did host a meeting with the Cambodia authorities in 2017 to share information relative to two insurers located there in which Thai insurers had interests.</li> <li>• Category 4: the remaining 36 insurers which operating only in Thailand.</li> </ul> <p>Given the foregoing profile of the Thai market from a group perspective, the OIC does not serve as group-wide supervisory for any group. OIC focuses primarily on legal entity supervision, ring-fencing of funds supporting Thai-based insurance obligations locally, and on participating as an involved supervisor in supervisory colleges convened by, and other information exchanges with, group-wide supervisors in other sectors or jurisdictions.</p> <p>OIC has participated in supervisory colleges involving five of the foreign investee insurance entities in Category 1, hosted by group-wide supervisors in Australia, Hong Kong, and Japan. For some of the insurers in Category 1, the Thai operations are not</p>

	<p>significant to the overall group and therefore the OIC does not formally participate as a participant in the supervisory college, however it communicates and coordinates with the group-wide supervisor and other involved supervisor on an ad hoc basis as necessary. For the colleges in which the OIC does participate, it assists the group-wide supervisor in determining the scope of group-wide supervision.</p> <p>In the case of the subject financial conglomerates in category 2, in each case the BOT is the group-wide supervisor and has established a supervisory college in which the OIC participates. In supervising the insurance companies of the financial conglomerates, OIC works closely with BOT and SEC, including determining the scope of group-wide supervision and reviewing group risk profiles. There is a three-regulator steering committee (OIC, BOT, and SEC) with subordinate working groups of supervisors involved in specific topics to exchange information and discuss issues. All group entities have been identified, including those entities which are not directly regulated. The roles and scope of supervision are discussed through these forums.</p> <p>OIC, SEC and BOT also closely coordinate and exchange information regarding regulated entities within a financial conglomerate during inspections. BOT discusses issues with OIC and SEC before carrying out inspections and invites OIC and SEC to participate in meetings with the financial institution regarding findings and recommendations resulting from inspections. The inspection of the insurer is however handled by the OIC. Informal arrangements are also in place between the supervisors BOT, SEC, and OIC, with the management of financial conglomerates, so that all entities are effectively able to be supervised.</p> <p>Beside the three-regulator committee meetings and supervisory colleges, BOT, SEC, and OIC also communicate on an extensive array of supervisory issues, e.g., potential mergers and acquisitions, and market conduct issues relating to bancassurance.</p> <p>BOT considers each financial conglomerate at 2 levels:</p> <ul style="list-style-type: none"> <li>• The entire group, including the insurance operations under OIC's authority.</li> <li>• A subset of the entire group, comprising the financial institutions and those subsidiaries involved in the granting of credit or credit-like transactions (which would exclude the insurance operations, among potentially others).</li> </ul> <p>While the distinction between each level is of relevance to how BOT applies its group-wide supervisory powers and measures, it has no impact on the OIC and its powers and responsibilities relative to the insurance operations of the group.</p> <p>A Thai insurance company may have subsidiaries or affiliated entities involved in activities tangential to the business of insurance (e.g., insurer broker, or fund manager) as prescribed in the Notification on Investment. If it desired to hold more than 20 percent of the total equity of the investee, it would require prior OIC approval and, if approved, the OIC would then also subject those entities to its supervision. However, there is an aggregate cap in that such investments may not exceed 15 percent of the company's total assets. Also, the insurance company is required to submit financial statements of such investees annually and prepare and submit any information or data to OIC upon request. The insurance company must inform OIC on a timely basis when there any significant circumstances arise involving the investees, especially cases that may affect the company's position and reputation. In a case of ASEAN insurance company and a holding company of ASEAN insurance company, the insurance</p>
--	---

	company must inform OIC if those companies are ordered to take actions by home supervisors.
Assessment	Observed
Comments	The OIC does not serve in the capacity of a group-wide supervisor for any groups. As an involved supervisor it cooperates and coordinates with the BOT as the group-wide supervisor of Thailand-domiciled financial conglomerates, and with insurance supervisors in other jurisdictions who serve as group-wide supervisors for groups operating on a cross-border basis in Thailand through investment in local insurers or through branches.
<b>ICP 24</b>	<p><b>Macroprudential Surveillance and Insurance Supervision</b></p> <p>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.</p>
Description	<p>OIC's Insurance Stability Policy Department performs macroprudential surveillance. This includes collection and analysis information on a quarterly basis.</p> <p>On a microeconomic level, this includes size and business volume indicators of insurers, earnings trends, capital adequacy and leverage, underwriting performance, investment composition and performance, reinsurance exposure, liquidity, as well as general market characteristics. The primary data source are quarterly financial reports required of each licensed insurer which are electronically submitted to the OIC where they are housed in its financial repository and can then be accessed for various analysis purposes via XML.</p> <p>On a macroeconomic level, data collection and analysis include GDP statistics, unemployment rate, inflation rate, exchange rate, bank sector exposure measures, fiscal balance, as well as risk indicators for credit and market risk, and insurance market measures.</p> <p>Cross sectoral data is also considered, including exposure of insurers to other financial institutions such as banks, and to identify channels of transmission or amplification of systemic risk and to assess risk of Interconnectedness of insurers to other parts of the broader economy.</p> <p>A set of over 50 quantitative risk indicators is collected and aggregated into an Insurance Stability Dashboard, which forms the basis of OIC's macroprudential surveillance framework. The Dashboard enables a quantitative assessment of key risks across the sector with criteria to display (e.g., traffic light) as being of lower, medium or higher risk. Moreover, it enables a side-by-side comparison of the risks of any selected insurer to the risk profile of the sector overall.</p> <p>The scoring methodology for calculating risk considers historical trends as well as the absolute level of risk in the current environment through threshold and horizontal reviews. Historical trends, volatility, current risk environment and other supervision targets are considered in the market analysis to determine the current risk level.</p>

	<p>Specific emphasis is given to data on the insurance market and sector trends that could potentially result in shocks to the wider financial system. The framework recognizes cross disciplines and sectoral effects through consideration of the interconnectedness of insurers to other industries.</p> <p>Outcomes of market analysis are applied to the development of adverse but plausible forward-looking scenarios in stress test exercises due to the quantitative and widely-used nature of these risk indicators. Interest rate risk is considered the most significant risk factor for life insurance sector, as is catastrophe risk for the non-life sector. Five stress tests are conducted with OIC-prescribed top-down scenarios where both factors had been included. The scenarios tested include a macroeconomic scenario, financial crisis scenario, pandemic scenario for life insurers, catastrophe and flood scenarios for non-life insurers, and interest rate reduction reverse stress scenario (i.e., the minimum interest rate at which the insurer remains able to meet solvency requirements). Insurers also perform stress tests using their own bottom-up scenarios. All the test results currently indicate a high tolerance of the insurance system to stress factors with little to no spillover effect to other financial sectors.</p> <p>OIC also conducted internal stress tests of the life insurance sector in 2016 out of concern for the rapid reduction in interest rates seen in the second quarter of that year. Stress test results showed the overall capacity of the industry to tolerate still lower interest rates without signs of risk of systemic impact to the insurance system. However, a few insurers showed potential adverse solvency positions and were required to discuss with the OIC their strategies to handle the situation and any recovery plans, if necessary.</p> <p>OIC has regular communications with insurers' senior management on stress test results, and overall results are publicly available on the OIC's website. OIC requires insurers to present the stress test results, recovery plan and risk reduction strategies to the board of directors and to submit the minutes of the board meeting to OIC.</p> <p>Studies on the impact of the financial stability of the insurance market are carried out on an annual basis by a financial stability working group consisting of executives from the BOT, OIC, and SEC. The results of the studies are then used to produce an annual Financial Stability Report (FSR) that contains an overview and future outlook of the overall financial sector as well as focused discussion on the banking, securities, and insurance sectors. The FSR is made publicly available on the OIC website.</p> <p>OIC also regularly publishes overall insurance market data on the OIC website on a monthly or quarterly basis, depending on the frequency of data submission. The OIC website also has links to other related agencies and organizations (e.g., MOF, BOT, SEC, TLAA, TGIA) with data regarding the insurance market, other financial sectors' data and macroeconomic data, as well as links to each insurer's financial data.</p> <p>OIC coordinates with other regulatory bodies under through various fora:</p> <ul style="list-style-type: none"> <li>• Joint Monetary Policy Committee (MPC) and Financial Institution Policy Committee (FIPC) meetings: as the heads of BOT, OIC, and SEC are members of the FIPC, they exchange views on the interconnectedness between monetary policy, and the impact on financial institutions.</li> <li>• Three-regulator Steering Committee meeting: The BOT, OIC and SEC share their perspectives on supervisory issues as well as risks and concerns of each sector.</li> </ul>
--	--

	<ul style="list-style-type: none"> <li>Financial stability working group: the main focus is on risks that may affect the whole financial sector, and on potential risks that may spill over from one sector to another.</li> </ul> <p>OIC also consults with Thai Life Assurance Association (TLAA) and TGIA regarding the prescription of insurance-related scenarios and factors to be included in the joint stress tests.</p> <p>OIC assesses the systemic importance of insurers based on the key factors of size, interconnectedness, asset liquidation, and substitutability, and generates a score that distinguishes between insurers with risk scores below a set threshold for which no further analysis is warranted unless at the discretion of OIC, from those with risk scores above the threshold and will be further analysis is deemed warranted. The process is modeled in part on the G-SII methodology of the IAIS, but tailored for the size, scale and nature of the local market. The results of the overall assessment are approved by the board of OIC. The assessment process was developed in 2017 will be carried out annually; two years of data is taken into account before confirming subsequent changes to an insurer's systemic rating status.</p> <p>Results indicate that no insurer is, or has been, systemically important to the wider financial or insurance systems in Thailand.</p>
Assessment	Observed
Comments	None
<b>ICP 25</b>	<p><b>Supervisory Cooperation and Coordination</b></p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements.</p>
Description	<p>(As a precursor to this description of ICP 25 for Thailand, see ICP 23 for a profile of the insurers subject to OIC oversight from the perspective of group supervision and involvement by the OIC in supervisory colleges, and ICP 3 regarding information sharing in supervisory colleges.)</p> <p>Building on the description in ICP 23, the most important supervisory colleges in which the OIC participates and from a Thai market perspective involve the cooperative efforts with the BOT involving six domestic financial conglomerates, and with the Hong Kong Insurance Authority and Japan's Financial Services Agency as group-wide supervisors of insurance groups that include Thailand's largest life insurer (a branch of a Hong Kong-based insurance group) and three of its largest non-life insurers, respectively.</p> <p><u>Arrangement with the BOT</u></p> <p>The BOT supervises financial institutions that can be part of financial conglomerates, which may include insurance companies supervised by the OIC. Various arrangements have been established to facilitate coordination between the BOT and the OIC as well as with other involved authorities including the SEC, and AMLO. High-level cooperation emphasizes policy-making decisions, and has been achieved through</p>

	<p>cross-directorships, the Financial Institutions Policy Committee (FIPC), and the 3-Regulators Steering Committee</p> <p>Working-level coordination emphasizes execution and information exchange:</p> <ul style="list-style-type: none"> <li>• The BOT, the SEC and the OIC have conducted semi-annual 3-Regulators Meetings since 2009. Matters of discussion include financial stability, financial sector development, areas of common regulatory and supervisory interest, and the ASEAN financial integration.</li> <li>• The working groups, formed under the 3-Regulators Steering Committee, hold regular meetings and execute the action plans. One of the outcomes of 3-Regulators coordination is the harmonized macro stress test framework, designed to assess the impact of unfavorable conditions on the CAR, liquidity, and overall financial stability.</li> <li>• Recently the BOT, the SEC, and the OIC jointly conducted mystery shopping for banking, securities and insurance products offered by bank branches, aiming to raise market conduct standard of the banking industry.</li> <li>• Another Mid-level coordination arrangement are the domestic supervisory colleges, as a meeting platform with the BOT, the SEC, the OIC and the financial conglomerates. The colleges aim to promote effective sharing of information, monitor risks of the groups, and ensure financial stability. Since 2015 the BOT has hosted such colleges to discuss relevant matters in respect of the business plan of financial groups, their organizational structure, examination procedures, corporate governance, cross business and cross-selling transactions, supervisory concerns, market conduct and mis-selling. Section 154 (4) of FIBA gives the BOT power to disclose information to domestic and foreign supervisors. In this respect, the BOT has the ability to share information with other domestic regulators. In addition, the OIC has entered into MOUs with the BOT and SEC (most recently amended in 2018) and with AMLO (2011).</li> </ul> <p><u>Arrangements with International Insurance Supervisors:</u></p> <p>The OIC has participated in the supervisory colleges of five foreign-based insurance groups that operate in Thailand: QBE Group (however QBE has now exited the Thai market), AIA Group, Tokio Marine Group, MS &amp; AD Group (Mitsui Sumitomo Insurance Group, Aioi Insurance Company, and Nissay Dowa General Insurance company) and FWD group (FWD Life Insurance Company). While significant to the Thai market as measured by domestic market share of assets, the Thai-based operations of these groups are nonetheless relatively minor to the respective group overall. Within this context, OIC's role in the five colleges as a host supervisor involves sharing supervisory concerns and providing information on group structure, risks and incidents that might require capital injection from the head office. To support these efforts, OIC has signed an MOU with supervisory authorities in Japan and Hong Kong.</p> <p>OIC has also signed MOUs with insurance supervisors in other jurisdictions, for various purposes, including to communicate and coordinate in respect of Thai insurers that are part of foreign groups but for which the OIC is not a member of the supervisory college; to receive training and consultation services; and to share information</p>
--	--

	<p>regarding fit and proper aspects of potential directors and executives. These include supervisory authorities in the United States, Canada, Germany, South Korea, China, Laos, Malaysia, Cambodia, Brunei, and Myanmar. The OIC is not currently a signatory to the IAIS MMOU but indicates it intends to sign in the near future.</p> <p>Also, OIC has mechanisms to coordinate with other supervisors who do not have an MOU or supervisory college with OIC, such as Singapore, and some ASEAN countries with high reinsurance volume from Thailand, executives working in both countries, or in which a Thai insurance company has a large investment. These include an annual meeting such as the ASEAN Insurance Regulators' Meeting &amp; ASEAN Insurance Council Meeting, where insurance supervisors in ASEAN countries share matters of concern.</p> <p>The OIC is also an active member of AITRI, the association of SE Asian supervisors, and regularly hosts meetings in order to further supervisory regional education on topics of mutual interest. The OIC will host the next meeting in April 2019, on microinsurance.</p> <p>Arrangements with the international supervisory colleges cover communication, information flows, and meeting frequency. During meetings, information is shared, and group assessments are carried out. There are Terms of Reference, e.g., for the AIA supervisory college the terms cover the objectives, membership, roles of the group-wide supervisor and host supervisors, meetings among members, scope of activities of the college, confidentiality, and crisis management. The arrangements of the supervisory colleges require at least annual face-to-face meetings or conference calls, however other communications occur on an ad hoc basis as needed.</p>
Assessment	Observed
Comments	None

<p><b>ICP 26</b></p>	<p><b>Cross-border Cooperation and Coordination on Crisis Management</b></p> <p>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.</p>
<p>Description</p>	<p>(As a precursor to this description of ICP 25 for Thailand, see ICP 23 for a profile of the insurers subject to OIC oversight from the perspective of group supervision and ICP 25 for discussion of the OIC’s efforts to cooperate and coordination with other supervisors, including through supervisory colleges. The following description supplements that specifically with respect to crisis management.)</p> <p>As noted in ICP 25, only a handful of foreign-based groups have operations in Thailand that are considered significant to the OIC from an overall market perspective. Even so, the OIC largely relies on legal entity supervision and ring-fencing of funds in Thailand to protect local policyholders. The OIC cooperates with supervisors from various countries and in supervisory colleges established by some of the foreign supervisors to exchange information and engage in discussions to improve the effectiveness of the insurance groups’ supervision, including with respect to issues that might arise involving crisis management. Through these activities, the involved supervisors develop a shared view of the respective group and become better prepared for a coordinated effort in the event of a crisis. Whether an insurer is the subject of a college or not, in all cases OIC has the power to request them to send any plans or documents, pursuant to Section 48 of the LIA and Section 51 of the NLIA.</p> <p>There are two insurance groups that have been identified by the IAIS and the FSB as globally systemically important insurers (GSIs) and, as a result, their respective group-wide supervisor must oversee a crisis management group. However, the Thai-based operations of those groups are quite small relative to that of other jurisdictions in which they operate, and as a result the OIC does not participate in those CMGs.</p> <p>Reference is also made to ICP 24 and the work that has been underway by the OIC to evaluate if any domestic insurer is systemically important to the Thai economy. The current conclusion is that no insurer currently meets that criteria; ongoing efforts will continue to assess insurers to see if that changes in the future.</p> <p>As a practical matter, given the profile of the foreign-based insurance groups operating in Thailand, the OIC’s role as an involved supervisor rather than a group-wide supervisor in respect of any such group, its focus on legal entity supervision and ring-fencing of funds to protect Thai policyholders, crisis management has largely been focused on risks specific to the Thai market, including the impact of the low interest rate environment primarily on life insurers, and the risk of catastrophes on non-life insurers. While there are some cross-border aspects to each involving the subject groups, the concern is primarily a domestic issue. For example:</p> <p><u>2011 Flood in Thailand</u></p> <ul style="list-style-type: none"> <li>• In November 2011, the OIC met with insurance companies affected by the floods to discuss and assess their financial stability, liquidity, and claim management including their domestic and foreign reinsurance agreements. Some companies required immediate capital injections.</li> </ul>

	<ul style="list-style-type: none"> <li>• OIC required non-life insurance companies to prepare cash flow projections and report every two weeks.</li> <li>• Special inspections were carried out to ensure that the reinsurers would have the ability to pay claims adequately according to policy commitments. OIC staff traveled to meet with the President and Chief Executive Officer of three key reinsurers in Japan as well as the major reinsurers in Europe to discuss the payment of claims and measures to help smooth the payment of claims.</li> <li>• OIC encouraged foreign investors to inject more money into insurance companies that suffered from the flood by issuing the Notification on increasing foreign shareholders in insurance companies.</li> <li>• OIC also required insurers to maintain contingency plans and procedures as a result of losses sustained in the floods.</li> <li>• Stress testing was performed as well after the flood, and updated in 2014; by 2014, most companies had adjusted their risk management strategy on insurance and reinsurance in response to the flood, which resulted in a less adverse impact from the stress test from that shown in 2011. The stress tests have been updated in 2018. <i>Results?</i></li> </ul> <p><u>2008–2009 Financial Crisis</u></p> <p>The crisis presented an immediate issue because of concerns about AIG and, by extension, about its subsidiary, AIA, Thailand’s largest life insurer. OIC and the MOF established an emergency economic resolution committee to oversee the situation and plan measures to deal with the public on this situation, including conducting teleconferences with foreign regulators including in the USA and Hong Kong to regularly to update information. Because AIA operates in Thailand through a branch whose assets are held on deposit with the OIC or with Thai trustees, and because the source of AIG’s problems did not involve its Thailand or Hong Kong operations, the issue was largely one of educating the public. In due course, AIG spun off AIA which is now a separate company headquartered in Hong Kong.</p>
Assessment	Partly observed
Comments	<p>Partly observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The OIC does not formally participate in all supervisory colleges or, where applicable, of crisis management groups, of foreign-based groups operating in Thailand, due in part to the relatively small share of the domestic business of some groups relative to the group on a consolidated basis.</li> <li>• For firms operating in Thailand on a cross-border basis, contingency plans are not required as a matter of course, but they may be required on an ad hoc basis by the OIC in light of events or emerging risks.</li> <li>• Certain aspects covered by the ICP principles, e.g., for the supervisor to share certain information with other relevant supervisors, are not covered by a specific local requirement (although, as a practical matter, may be handled by the OIC in the course of inter-supervisor communications including through colleges. Such information includes about group structure (including legal, financial and operational intragroup dependencies); interlinkages between the insurer and the</li> </ul>

	<p>financial system in each jurisdiction where it operates; and potential impediments to a coordinated solution.</p> <p>It is therefore recommended that the OIC:</p> <ul style="list-style-type: none"><li>• Develop criteria to identify groups operating in Thailand on a cross-border basis for which the OIC should require a contingency plan to protect Thailand policyholders, both on a gone and going concern basis.</li><li>• Amend notifications to address, at a minimum, all the information required to be shared by the principle statements of ICP 26.</li></ul>
--	---

## THE AUTHORITIES' RESPONSE TO THE ASSESSMENT

**53. The Office of Insurance Commission, Thailand (OIC) has appreciated the opportunity to have been assessed against the IAIS Insurance Core Principles.** The OIC would also like to express its gratitude to the World Bank, the IMF and the Assessors for their understanding and the fruitful exchange of views throughout the assessment process. The entire process has provided an opportunity for the OIC to thoroughly review the insurance regulatory framework of Thailand and pave ways for further improvement.

**54. The OIC agrees with the Assessors' comments and observations.** The OIC also agrees with the recommendations contained in the report, which will be put into practice over the coming years. The implementation of many of the Assessors' recommendations will help the OIC make insurance supervision even more effective.

**55. The Thai government's policy of supporting the insurance supervisor's independence is apparent and significantly contributes to the maintenance of a fair, safe and stable insurance sector for the benefit and protection of policyholders.** Even though, the OIC has a close relationship with the Government, it has never occurred that the government has interfered with the OIC's policies, operations or the supervision of the insurance sector.

**56. The OIC is currently amending the Non-Life Insurance Act (NLIA) and the Life Insurance Act (LIA) to improve supervisory legislations to align with international standards.** The latest amendments of the NLIA and the LIA, were approved by the National Legislative Assembly in February 2019, increasing the enforcement powers of the OIC over intermediaries. In addition, there are other NLIA and LIA amendments, approved by the Cabinet in November 2018, addressing other shortcomings such as the OIC's power to approve changes in control, improvement of preventive and corrective measures, and specification of a clear point at which it is no longer permissible for an insurer to continue its business.

**57. With respect to recommendations on new insurance regulations, the OIC is committed to ensure the effectiveness of these requirements by working closely with industry and related stakeholders in order to achieve these objectives and enhance the overall performance of the insurance industry for the benefit and protection of policyholders.**

## REFERENCE

IAIS, 2017, "*Insurance Core Principles and Methodology*," available at the IAIS web site [www.iaisweb.org](http://www.iaisweb.org).