

INTERNATIONAL MONETARY FUND



# Staff Country Reports

## **Kingdom of the Netherlands-Netherlands: Publication of Financial Sector Assessment Program Documentation—Detailed Assessment of Observance on Insurance Core Principles**

This Detailed Assessment of Observance on Insurance Core Principles on The Kingdom of the Netherlands-Netherlands was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed on July 22, 2011. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Kingdom of the Netherlands-Netherlands or the Executive Board of the IMF.

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FINANCIAL SECTOR ASSESSMENT PROGRAM UPDATE  
KINGDOM OF THE NETHERLANDS-  
NETHERLANDS

INSURANCE CORE PRINCIPLES  
DETAILED ASSESSMENT OF  
OBSERVANCE

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## GLOSSARY

AFM	Authority for Financial Markets <i>Stichting Autoriteit Financiële Markten</i>
AG	Actuarial Association of the Netherlands <i>Actuarieel Genootschap</i>
AML-CFT	Anti-money laundering/Counter financing of terrorism
Awb	General Act on Administrative Rules <i>Algemene Wet Bestuursrecht</i>
Bgfo	Decree on the Supervision of the Conduct of Financial Enterprises pursuant to the Wft <i>Besluit Gedragstoezicht financiële ondernemingen Wft</i>
Bptfg	Decree on Prudential Supervision of Financial Group <i>Besluit prudentieel toezicht financiële groepen Wft</i>
Bmfo	Decree on Market Access of Financial Institutions <i>Besluit markttoegang financiële ondernemingen Wft</i>
Bpr	Decree on Prudential Rules pursuant to the Wft <i>Besluit prudentiële regels Wft</i>
BW	Civil Code <i>Burgerlijk Wetboek</i>
CDD	Customer due diligence
CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors
CVS	Insurance Statistics Centre <i>Centrum voor Verzekeringsstatistiek</i>
DNB	The Netherlands Central Bank <i>De Nederlandsche Bank N.V.</i>
EIALI	Early Intervention Arrangement Life Insurers
EU	European Union
FATF	Financial Action Task Force on Money Laundering
FIRM	Financial Institutions Risk Analysis Method <i>Financiële Instellingen Risicoanalyse Methode</i>
FIU	Financial Intelligence Unit
FSAP	Financial Sector Assessment Program
GFC	Global Financial Crisis (that began in 2007)
IAIS	International Association of Insurance Supervisors
ICP	Insurance Core Principles
IFRS	International Financial Reporting Standards
Kifid	Complaints Board for Financial Services <i>Klachteninstituut Financiële Dienstverlening</i>
LAT	The Netherlands Liability Adequacy Test
Minister	Minister of Finance
MoF	Ministry of Finance
MoU	Memorandum of Understanding
NIRVA	Royal Institute of Certified Auditors of the Netherlands <i>Koninklijk Nederlands Instituut voor Register Accountants</i>
Rsmvtv	Regulation on Solvency Margin and Technical Provisions of Insurers <i>(Regeling Solvabiliteitsmarge en technische voorzieningen)</i>
URWWFT	Regulation implementing the WWFT

*Uitvoeringsregeling Wet ter voorkoming van witwassen en financieren van terrorisme'*

VvV	The Netherlands Association of Insurers <i>Verbond van Verzekeraars</i>
VVGB	Declaration of no objection <i>Verklaring Van Geen Bezwaar</i>
Wfd	Act on financial intermediaries <i>Wet financiële dienstverlening</i>
Wft	Financial Supervision Act <i>Wet op het financieel toezicht</i>
Wwft	Act on Money Laundering and Terrorist Financing <i>Wet ter voorkoming van witwassen en financieren van terrorisme</i>

## I. ASSESSMENT OF INSURANCE CORE PRINCIPLES (ICPs)

### A. Introduction and Scope

1. **This assessment provides an update on the significant legislative changes and regulatory developments in the insurance sector of the Netherlands since 2004.**<sup>1</sup> The current assessment was conducted from November 22-December 14, 2010. The Netherlands undertook an initial Financial Sector Assessment Program (FSAP) in 2004, which included a formal assessment of the Netherlands with the ICPs. The recommendations arising from the 2004 assessment were largely addressed.

2. **Both the initial FSAP and the current assessment are benchmarked against the ICPs issued in 2003.** The implications of the Global Financial Crisis that began in 2007 (GFC) and the authorities' responses in strengthening the resilience of the insurance sector are noted by way of comments, where appropriate. The current assessment also took account of the relevant International Association of Insurance Supervisors (IAIS) standards and guidance that complements the ICPs.

### B. Information and Methodology Used for Assessment

3. **The level of observance for each ICP reflects the assessment of the essential criteria only.** Advanced criteria are not taken into consideration in assessing observance of the ICPs. Each ICP is rated in terms of the level of observance as follows:

- **Observed**—where all the essential criteria are observed or where all the essential criteria are observed except for those that are considered not applicable.
- **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 requirements and practices that are in place at the time of Assessment.** Ongoing regulatory initiatives are noted by way of additional comments. The assessment is largely based on the authorities' self-assessment and other pertinent information provided. The assessors also received valuable inputs during meetings with industry and professional associations and significant insurers operating in the Netherlands.

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<sup>1</sup> The Assessment was conducted by Su Hoong Chang, Insurance Supervision Advisor, contracted by the IMF, and Rodolfo Wehrhahn, Technical Assistance Advisor, IMF.

5. The assessors are grateful to the authorities for their full cooperation and thoughtful logistical arrangements and co-coordination of various meetings with industry participants. In-depth discussions with and briefings by officials from the De Nederlandsche Bank (DNB) and Authority for Financial Markets (AFM) facilitated a robust and meaningful assessment of the Netherlands' regime.

### C. Overview—Institutional and Macro Prudential Setting

#### Market structure and industry performance

6. **The Netherlands recorded the highest insurance density in the world in 2009**, with premium per capita of US\$6,554 (US\$2,046 for life and US\$4,508 for non-life). Its insurance penetration was the second highest, at 13.6 percent of its GDP (4.3 percent for life and 9.3 percent for non-life).<sup>2</sup> The number of employees working in the insurance industry totaled 50,910 as at end-2009.<sup>3</sup>

7. **The Netherlands insurance industry has been consolidating as the number of insurers and insurance intermediaries was declining steadily since 2005** (see Table 1). As at end-2009, a total of 320 insurers were licensed, comprising 62 life insurers, 219 non-life insurers, 33 funeral-in-kind insurers, and 6 non-EU/EEA branches. The number of insurers further declined to 303 as at 3Q 2010 due to the exit of 11 non-life insurers, 5 life insurers, and 1 funeral-in-kind insurer. In 2009, DNB completed the licensing of 15 reinsurers that came under its supervision in 2008.<sup>4</sup>

**Table 1. The Netherlands: Declining Number of Insurers and Intermediaries**

	End-2005	End-2009
	76	62
Non-life insurers	227	219
Reinsurers	-	15
Funeral-in-kind insurers	41	33
Insurance intermediaries	20,086	10,123
Underwriting agents	398	338

Source: The Netherlands Insurance Industry in Figures 2010, The Netherlands Association of Insurers and DNB Annual Report 2009.

8. **Total assets held by the insurance industry rose marginally by 1.7 percent from the 2007 level to reach € 392 billion (84 percent of GDP) as at end-2009.** Life insurers represented 81 percent of the total assets (€ 317 billion) while non-life insurers held

<sup>2</sup> Swiss Re Sigma 2/10. The highest was Taiwan (16.8 percent of \$379 billion). The high insurance density in non-life is largely attributable to health insurance coverage provided by non-life insurers.

<sup>3</sup> The Netherlands Insurance Industry in Figures 2010, The Netherlands Association of Insurers

<sup>4</sup> The Netherlands non-life reinsurers provide cover against fire and storm damage mainly to mutual fire insurers, while a few reinsure cross-border risks.



€ 67 billion, with the remaining held by reinsurers (€ 7.5 billion) and funeral-in-kind insurers (€ 1.2 billion).

9. **The larger life insurers are part of the internationally active, large complex financial conglomerates that dominate the Netherlands financial system.** The benefits from diversification of risks by insurers across sectors and cross-borders and in adopting centralized risk management frameworks are recognized. Nonetheless, these conglomerates are exposed to significant contagion risks, as demonstrated by the GFC.

10. **The six largest insurance groups had a combined market share of 85.9 percent in terms of assets and 53 percent in terms of premiums in 2009** (see Table 2). The Top-2 insurance groups on global consolidated basis, ING Insurance<sup>5</sup> and Aegon<sup>6</sup>, derive only around 20 percent of their premiums domestically and held less than 30 percent of their assets in respect of their operations in the Netherlands.

**Table 2. The Netherlands: Netherlands Operations and Market Share of the Top 6 Insurance Groups**

*(in € mn)*

Group	Operations in the Netherlands	
	Assets @ end-2009	Premiums in 2009
Eureko (Achmea)	64,390	18,198
ING insurance	75,536	6,388
ASR (formerly Fortis)	39,291	4,873
SNS Reaal	53,575	4,362
Delta Lloyd groep	38,560	3,812
Aegon	66,122	3,729
<b>Total</b>	<b>337,474</b>	<b>41,362</b>
Industry total	392,855	77,683
Market share	85.9%	53.2%

Source: DNB and Annual Reports.

11. **Life insurers offer a diversified range of protection and investment-related products**, as analyzed in Table 3.

<sup>5</sup> At the consolidated level, assets totaled € 290.4 billion and premiums amounted to € 30.5 billion.

<sup>6</sup> At the consolidated level, assets totaled € 298.6 billion and premiums amounted to € 19.4 billion.

**Table 3. The Netherlands: Analysis of Gross Premiums—Life**  
(In € mn)

	2005	2009	% of total
<u>Regular premiums</u>			
Non-participating	7,479	7,620	31.2
Participating	5,861	5,542	22.7
<u>Single premiums</u>			
Non-participating <sup>7</sup>	4,511	3,815	15.7
Participating	6,696	4,537	18.6
Insurance-linked savings contracts	538	0	
Indirect business <sup>7</sup>	280	2,887	11.8
<b>Total</b>	<b>25,365</b>	<b>24,401</b>	100.0

Source: DNB website Supervisory data on insurers, Annexes Life insurers

12. **Non-life insurers are relatively smaller and the sector is less concentrated** with only 2 insurers holding assets exceeding 5 percent of the sector's total assets. The key products are accident & health, motor and fire (property) insurances (Table 4). Within the non-life sector, the health insurance segment is more concentrated than the property and casualty segment. Notably, accident & health premiums had increased sharply since 2005 due to the implementation of the health care reforms<sup>8</sup> in 2006. Some of the larger non-life insurers are also part of financial conglomerates. Premium rates have been under pressure across all lines of business due to intense competition. Long-term sustainability of non-life insurers hinges on achieving greater cost-efficiency.

**Table 4. The Netherlands: Analysis of Gross Written Premiums—Non-life**  
(In € mn)

	2005	2009	% of total
Accident & health	11,477	40,492	76.0
Motor	4,565	4,539	8.5
Fire	3,520	3,676	6.9
Transport	681	859	1.6
Others	3,452	3,717	7.0
<b>Total</b>	<b>23,695</b>	<b>53,282</b>	100.0

Source: DNB website Supervisory data on insurers T7.5: Benefits and premiums of supervised insurers.

<sup>7</sup> Non participating single premium products include annuities (*direct ingaande lijfrentes*) and single premium term insurance. The significant shift from single premiums non-participating business to indirect business in 2009 was due to the reclassification of premiums written for insurance cover of pension funds as indirect life business.

<sup>8</sup> With the new regime, health insurance is mandatory. Health insurers are obliged to accept all applicants for insurance at a premium rate determined by the authorities i.e., risk-rated premiums are not allowed. For different risks, insurers are compensated by contributions from the "risk equalization" fund.

13. **Insurers' investments are mainly concentrated in securities and equities.** As at June 2010, life insurers' investment in fixed income securities accounted for 44 percent (€ 140 billion) of investments while equities comprised 25 percent (€ 80 billion)<sup>9</sup>, followed by mortgage loans (8 percent or € 27 billion). Similarly, fixed income securities of non-life insurers constituted 59 percent of their investments (€ 24 billion) while their equities portfolio totalled € 5 billion (13 percent). Derivative investments of life insurers totalled € 14.36 billion (€ 0.7 billion in 2004) while non-life insurers reported negligible amounts.

14. **There is a need to monitor intra-group balances of insurers and address the potential contagion risks appropriately.** Investments in related companies constituted 6 percent and 11 percent of the investments of life and non-life insurers, respectively. The level of intra-group balances for some non-life insurers is high by international standards. Insurers are required to report significant intra-group transactions and balances and risk concentrations. While the DNB is legally restricted in imposing qualitative and quantitative thresholds on intra-group dealings directly, DNB has taken measures to influence intra-group transactions including adjusting the valuation basis for the purpose of computing solvency margin. DNB has indicated that one of its supervisory themes for 2011 is to focus on this area.

15. **On average, technical provisions consistently accounted for about 83 percent and 61 percent of the total liabilities of life and non-life insurers, respectively.** As at June 2010, life insurers maintained € 276 billion in technical provisions, of which € 113 billion were in respect of risks borne by policyholders under investment-linked policies. Technical provisions of non-life insurers totalled € 41 billion as at June 2010.

16. **The level of capital and reserves in relation to technical provisions held by life insurers were relatively low compared to non-life insurers.** As at 2010 June, life insurers' capital reserves of € 25 billion was only 9 percent of technical provisions. In contrast, non-life insurers' capital reserves totalled € 18 billion, representing 43 percent of technical provisions.

17. **While the revenues of life insurers declined sharply in 2008/09, non-life insurers recorded increases in gross premiums.** Changes in the tax regime, competition from banks and other financial products, weak demand for investment-linked insurance affected by depressed assets prices and loss of public confidence due to the profiteering policy affair<sup>10</sup> (*woekerpolisaffaire*) contributed to the unfavorable performance of life insurers. Sales of investment-linked policies fell sharply since 2006, from 391,000 policies to 78,000 policies in 2009.<sup>11</sup> On the other hand, earned premiums of non-life insurers grew by 9.5 percent in 2008 and increased another 3.7 percent in 2009 to € 49 billion, double that of earned life

<sup>9</sup> This is for the overall business. For the non unit-linked business equities represent just 4 percent of the related investments.

<sup>10</sup> This related to sale of policies with very high commission costs.

<sup>11</sup> Source: The AFM Annual Report 2009

premiums. Nonetheless, past experience suggests that non-life insurers could eventually be hit if the economic climate remains weak for a prolonged period.

18. **Profitability and solvency of life insurers were hit by the GFC.** Life insurers suffered a technical loss of € 6 billion in 2008, which reversed into a technical profit of € 2 billion in 2009 as the impact of the GFC subsided. Correspondingly, the overall solvency margin was reduced to € 10 billion in 2008 but recovered to € 14 billion in 2009 and the solvency cover<sup>12</sup> increased from 209 percent to 245 percent. Many life insurers also had to compensate policyholders for “profiteering policies” which also eroded their profitability. One life insurer reported a deficit in solvency margin and was marginally solvent at year end-2009. In the first half of 2010, the overall solvency margin fell to € 10 billion, while the solvency cover decreased to 220 percent.

19. **Overall solvency of non-life insurance sector remains relatively stable but the solvency position of individual non-life insurers vary widely.** Three non-life insurers failed to meet regulatory solvency requirements in 2008. Improved investment returns contributed to the positive solvency margin of all non-life insurers totaling € 10.5 billion in June 2010, with an average solvency cover of 271 percent. About 20 non-life insurers reported solvency covers of more than 10 times the required solvency margin, the majority with low minimum solvency requirements of less than € 1 million. One run-off non-life insurer was technically insolvent as of end-2009. (The solvency regime is described in ICP 23 under Section II–Detailed Principle-by-Principle Assessment.

20. **The Netherlands government provided financial support to two insurers,** Aegon Insurances and SNS Reaal NV. In October 2008, Aegon issued € 750 million of non-voting securities to Vereniging Aegon, funded by the government. In November 2008, the government bought € 750 million of securities issued by SNS Reaal NV to strengthen its capital position.<sup>13</sup> ING was under EU pressure to dispose of its insurance company, Nationale Nederlanden, as a consequence of the received state support. Aegon, SNS Reaal and ING repaid a total of 45 percent of the aid given to them in late 2009.<sup>14</sup>

21. **Going forward, the Netherlands insurance industry faces significant strategic challenges.** The insurance market is mature and saturated while confronting growing competition from banks and asset managers, which can now offer products with the same tax advantages. Life insurers also need to restore a dented public image and confidence resulting from the profiteering policies scandal. The migration to Solvency II is expected to provide appropriate regulatory incentives for insurers to price and manage their risks prudently and encourage proper asset-liability management.

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<sup>12</sup> Available solvency as a percentage of required regulatory solvency.

<sup>13</sup> Summary of Government Interventions in Financial Markets, the Netherlands (May 29, 2009)

<sup>14</sup> DNB Annual Report 2009, page 44.

## **Institutional framework and arrangements**

22. **The Netherlands has adopted the ‘Twin Peaks’, a functional cross-sectoral approach to regulation and supervision**, implemented in a phased approach as from 2002. The impetus for the reform was the recognition the increasing interconnectedness of the sectoral activities and the dominance of large financial conglomerates in the Netherlands financial system. A more flexible supervisory approach is required to keep pace with the increasingly complex financial products that do not fit neatly into traditional sectoral boundaries. It is also aimed at strengthening ties between central banking and supervision.

23. **The *Act on Financial Supervision (Wft)* provides a consolidated legal framework for supervising the financial sector in Netherlands.** The shift in the supervisory approach dovetailed with the reform of the legislative framework for the financial sector. The Wft came into force on January 1, 2007 and aims to better reflect the cross-sectoral functional approach of the supervisory system. It replaces seven supervisory statutes, which were structured along the traditional sectoral lines. Where appropriate, the Wft introduces cross-sectoral rules to replace the relevant sectoral rules.

24. **Under the current functional approach, DNB takes charge of prudential supervision while the AFM is responsible for conduct-of-business supervision.** The division of responsibilities between DNB and AFM is defined by the Wft. In addition, a covenant between the DNB and the AFM facilitates the legal framework for supervisory cooperation. The covenant also facilitates the implementation of the designation of a lead supervisor under the Wft i.e., DNB generally leads the supervision of banks, insurers, and pension funds, while the AFM leads for securities firms. The lead supervisor would defer to the judgment of the other supervisor in its areas of responsibility. Besides defining prudential and conduct-of-business supervision, the covenant also establishes mechanisms for consultation and sharing of supervisory information. The Financial Stability Department of DNB coordinates macro-prudential surveillance.

25. **An external Commission evaluated the extent of risk orientation of DNB’s insurance supervision and recommended enhancements.** While the Commission concluded that DNB actively embodied risk orientation in its supervision, it recommended enhancements of statutory reporting, solvency regime, and group supervision of internationally active insurers. On DNB’s supervisory processes, the Commission suggested improving coordination and harmonization within DNB to address cross-sectoral issues; greater involvement of internal risk experts; formalizing job rotation; active engagement with the Boards of Insurers; as well as leveraging on the work of other supervisors, external auditors and actuaries. Continual refinement to DNB’s *Financial Institutions Risk Analysis Method (FIRM)* is also a key recommendation (more details on FIRM under Section B, ICP 4).<sup>15</sup>

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<sup>15</sup> External Evaluation of Insurance Supervision—Summary by DNB, July 2009

26. **DNB's Supervisory Strategy for 2010-2014 incorporates the key lessons learned from the GFC.** DNB will implement tighter supervision by adopting a supra-institutional approach in macro-prudential supervision, to complement the traditional micro-prudential supervision at institutional level. DNB will also devote more attention to institutions' business models and strategies as well as their culture and conduct. The reorganization of DNB included the establishment of two new departments in January 2011. An Intervention Department specializes in dealing with troubled institutions, with a clear mandate to monitor the effect of any intervention and take appropriate supplementary measures. A new internal risk management department will ensure the orderly implementation of DNB's enhanced supervisory approach through peer reviews and assessment of whether supervisors are correctly assessing risks. DNB will also leverage on the technical competencies of its "expert centers" more effectively.

### **Key findings and recommendations**

27. **The Netherlands has updated its regulatory regime and supervisory arrangements since the initial FSAP in 2004.** The authorities have made significant progress in addressing the recommendations arising from the 2004 assessment. The Twin Peaks supervisory structure and the integrated Wft, have provided clarity to the authorities' supervisory mandates. The Wft and related regulations establish clear regulatory requirements for licensing, corporate governance, internal controls, group-wide supervision, technical provisions, and supervision of intermediaries as well as consumer protection. The FIRM methodology and the introduction of macro-prudential supervision have strengthened DNB's risk-based supervision and market analysis. Both the DNB and the insurance industry publish extensive industry and institution-specific data, contributing to more effective market discipline.

28. **While the updated regulatory framework has a high level of observance with the ICPs, the supervisory orientation of the authorities is in transition,** drawing from the lessons learned from the GFC. Recognising the increasing complexity and inter-connectedness of the financial system, the authorities have strengthened macro-prudential supervision to complement the traditional supervision approach at the institutional level. More intrusive supervision of insurers' business models and strategies, as well as their culture and conduct would allow better understanding of insurers' operations and risks. The impending implementation of Solvency II will sharpen DNB's risk-based supervision, to be supported by timely regulatory reporting by insurers and systematic on-site inspections. For a successful transition, the supervisory authorities have to be adequately resourced and empowered to fulfill their statutory mandates.

**Table 5. The Netherlands: Summary of Compliance with the ICPs**

Core Principle	Grading	Comments
1 Conditions for effective insurance supervision	O	Insurance supervision in the Netherlands is facilitated by sound and progressive financial sector policy framework and financial market infrastructure. The Netherlands adopts international accounting and auditing standards. Its deep and liquid financial market as well as the easy access to international markets contribute to the effectiveness of insurers' asset-liability management.
2 Supervisory objectives	O	DNB and the AFM have clear mandates for prudential and market conduct regulation and supervision, respectively.
3 Supervisory authority	LO	DNB and the AFM are subject to clear accountability mechanisms under the Wft. Their supervisory staffs are experienced and qualified. While the Wft provides adequate powers to DNB/AFM to supervise regulated entities within the legal parameters established by the MoF, there is scope for DNB and the AFM to be accorded broader legal authority and appropriate legal protection. There is also scope for strengthening supervisory resources particularly for the supervision of internationally active insurance groups.
4 Supervisory process	O	DNB adopts a well-defined and transparent supervisory approach, supported by the FIRM Framework that helps to ensure consistency in supervisory assessment and decisions. It has clear accountabilities to the Minister, the industry and the public through various channels.
5 Supervisory cooperation and information sharing	O	DNB/AFM are empowered and do regularly exchange information with other supervisors, both within and beyond EU. DNB is a signatory to the EU/EEA Protocols on Supervisory Cooperation and the IAIS Multilateral MoU.
6 Licensing	O	The licensing regime for insurers is clear, transparent and in line with EU Directives.
7 Suitability of Persons	O	In line with the current supervisory focus on integrity and culture, DNB performs robust due diligence on any proposed owner, controller or director prior to licensing and in approving the appointment and subsequent changes in key functionaries.
8 Changes in control and portfolio transfers	O	DNB will only issue an aanvraag verklaring van geen bezwaar (VVGB) for qualifying shareholding and controllers if it is satisfied of the applicant's fitness and propriety, taking into account other supervisory considerations. It may impose conditions or restrictions on VVGBs, where appropriate. Portfolio transfers must be approved by DNB.
9 Corporate governance	O	Drawing from the lesson learned during the GFC, DNB has strengthened the robustness of its assessment of insurers' corporate governance, not just in form but also in substance. Its supervisory activities in 2009 and 2010 focused on insurers

Core Principle	Grading	Comments
		<p>business models and strategies as well as conduct and culture.</p> <p>The impending release of the Code of Conduct by the insurance industry and the DNB's framework for supervising culture and behavior of supervised entities will further enhance the effectiveness of insurers' corporate governance.</p>
10 Internal Controls	O	DNB has articulated clearly its supervisory expectation of insurers in implementing appropriate internal controls tailored to the nature, scale and complexity of their operations. It proactively monitors insurers' internal controls systems and has promoted greater awareness and buy-in from insurers.
11 Market Analysis	O	DNB takes a proactive and transparent approach in market analysis to identify, assess and mitigate risks to the insurance sector. It takes appropriate measures to strengthen insurers' resilience to systemic risks. The publication of comprehensive insurance and other market statistics also facilitate insurers' better understanding of their potential macro-economic risk exposure.
12 Reporting to supervisors	LO	DNB has a systematic process in reviewing regulatory returns and information provided by insurers as part of its offsite surveillance. The quarterly returns introduced informally in 2009 should form part of DNB's routine supervisory tools to ensure timely supervision and intervention.
13 On-site inspection	O	DNB conducts thematic inspections of insurers, which are prioritized, based on holistic analysis of insurers' risk profiles, to complement its regular meetings with insurers. It has conducted joint inspections with foreign supervisors to address specific supervisory issues.
14 Preventive and corrective measures	O	DNB is empowered to take a wide range of preventative measures and adopts an Intervention Ladder to calibrate its supervisory responses to emerging supervisory concerns.
15 Enforcement or sanction	O	DNB takes a proportionate approach in exercising its enforcement and sanction powers under the Wft.
16 Winding-up or exit from the market	O	The Wft provides for orderly exits of insurers and a high degree of protection for policyholders in the event of insolvency.
17 Group-wide supervision	LO	The Netherlands' regulatory frameworks for insurance groups and conglomerates are broadly in line with EU Directives. As an integrated prudential supervisor, DNB has the capacity to effectively coordinate group/conglomerate supervision internally. The impending implementation of Solvency II will strengthen DNB's supervision of insurance groups, subject to the adequacy of supervisory resources.
18 Risk assessment and management	O	The Wft has established high-level requirements relating to insurers' risk management, supplemented by DNB's supervisory expectation under the Bpr. The effectiveness of insurers' risk management system is assessed by DNB under its FIRM framework.



Core Principle	Grading	Comments
19 Insurance activity	O	While DNB does not monitor insurers' underwriting and premium pricing, it monitors their insurance risks through its assessment of insurers' risk management systems, technical provisions and solvency. DNB also reviews the adequacy of insurers' reinsurance programs and the collectability of reinsurance recoverables.
20 Liabilities	O	There are clear legal principles and regulatory guidelines for insurers in estimating their insurance liabilities, the adequacy of which is to be supported by the LAT. DNB monitors insurers' technical provisions and has the power to require insurers to remedy any shortfall.
21 Investments	O	Regulatory requirements are in place for insurers to manage their investment risks in a manner proportionate to the nature, size, complexity and risk profile of their operations.
22 Derivatives and similar commitments	O	The regulatory policy and requirements for the use of derivatives by insurers are aligned with international best practice.
23 Capital adequacy and solvency	LO	The implementation of Solvency II by the Netherlands in 2012 will result in a more robust and risk-sensitive solvency regime that will enhance DNB's risk-based supervision.
24 Intermediaries	O	The AFM administers the licensing of intermediaries with clear and transparent criteria. The AFM actively monitors intermediaries' compliance with the regulatory requirements on professional conduct under the Wft and Bgfo.
25 Consumer Protection	LO	The Wft requires insurer and intermediaries to ensure fair treatment of consumers including the provision of adequate information for informed decision. However, the reputation of the life insurance industry has been tarnished by the sale of policies with excessive costs to policyholders. While the authorities have since strengthened supervision of intermediaries, there is scope for improving insurers' product development process. It will take time to strengthen consumer protection, which requires changes in culture, mindset and competency level of intermediaries.
26 Information, disclosure and transparency towards markets	O	DNB and the AFM publish extensive market data and analysis, including key performance data of individual insurers. Selected regulatory information is easily accessible by the public through their websites or public inspection of regulatory returns.
27 Fraud	O	DNB, as well as industry participants have taken a proactive approach to combating insurance fraud. There is also close cooperation and information exchange with enforcement agencies and other supervisors, both locally and internationally, to address fraud to preserve the integrity of the insurance sector.
28 Anti-money-laundering, combating the financing of terrorism	LO	The AML-CFT requirements applicable to insurers are broadly in line with the FATF recommendations.

### Summary of Grading

Observed (O)	22
Largely observed (LO)	6
Partly observed (PO)	0
Not Observed (NO)	0
<b>Total</b>	<b>28</b>

### Recommended action plan and authorities' response

#### *Recommended action plan*

**Table 6. The Netherlands: Recommendations to Improve Observance of the Insurance Core Principles**

Core Principle	Recommendation
2 Supervisory objectives	The authorities are advised to consider articulating more clearly how their supervisory mandates apply to their respective roles in protecting policyholders.
3 Supervisory authority	The authorities are advised to consider: <ol style="list-style-type: none"> <li>a) Broadening the legal authority of DNB and the AFM to enhance the effectiveness of their supervision;</li> <li>b) Providing explicit legal protection to DNB and the AFM, as well as their staff members, against lawsuits for actions taken in good faith while discharging their duties, provided they have not acted illegally;</li> <li>c) Publication of reason for removal of Board members; and</li> <li>d) Review the adequacy of supervisory resources particularly for effective supervision of internationally active insurance groups and implementation of Solvency II.</li> </ol>
7 Suitability of Persons	As external auditors and actuaries contribute to the effectiveness of supervision, there is scope for DNB to consider strengthening collaboration with the professional associations with the objective of promoting more robust quality control over the work of the auditors and actuaries without compromising its duty to preserve confidentiality of official information.
12 Reporting to supervisors	DNB should be empowered to require insurers to submit quarterly returns as a routine supervisory practice, with appropriate powers for enforcement and sanctions.
17 Group-wide supervision	The authorities are advised to consider: <ol style="list-style-type: none"> <li>a) removing the explicit legal restriction against DNB to impose qualitative and quantitative limits on intra-group transactions and balances under the Bptfg;</li> <li>b) reviewing the adequacy of supervisory resources, particularly for the effective supervision of international active groups/conglomerates;</li> <li>c) harmonizing the supervisory approach for insurance groups and conglomerates in the area of risk concentration and solvency requirements; and</li> </ol>

Core Principle	Recommendation
	d) formulating appropriate regulatory requirements applicable to non-regulated holding companies, in line with Solvency II and international regulatory developments.
25 Consumer Protection	The authorities are advised to carefully consider the trade-offs between self-regulation and robust supervision to protect the interests of policyholders.
28 Anti-money-laundering, combating the financing of terrorism	The authorities are advised to update the legal provisions on record retention, appointment of anti-money laundering compliance officers and the requirements where insurers rely on intermediaries to perform CDD, to bring these in line with FATF Recommendations.

### *Authorities' response to the assessment*

29. **The Dutch authorities want to express their appreciation to the IMF and the assessment team for their comprehensive work.** The Financial Sector Assessment Program has been a useful exercise. The worldwide experience of the IMF and the use of a common methodology have delivered a useful insight in the current state of financial regulation and supervisory practice in the Netherlands.

30. **The authorities welcome the overall assessment that indicates a high level of observance of insurance supervision with the well respected IAIS Insurance Core Principles.** Notwithstanding this good result, the developments in the financial sector and the experience from the global financial crisis continue to call for vigilant action. The recommendations of the IMF are therefore well received and will be considered carefully by the authorities in their continuous efforts for strengthening supervision.

31. **With regard to the recommendations, several initiatives have already been taken up since the conclusion of the FSAP mission.**

32. **As the assessment rightfully notes, most recommendations will be addressed with the upcoming implementation of the European Solvency II framework.** Capital adequacy standards will be more robust and risk-sensitive under the new framework. Also, the quarterly returns that are now received from the institutions on an informal basis will then be formally required. In addition, Solvency II will strengthen DNB's ability for group-wide supervision, including more stringent rules on intragroup transactions. The introduction of Solvency II will thus bring supervisory practice even further in line with the IAIS core principles.

33. **Effective supervision of international active groups will remain a priority and DNB actively seeks cooperation with international supervisors both bilaterally and through colleges of supervisors.** In addition, the scope of supervision with regard to holding companies will be strengthened under Solvency II and the review of the financial conglomerates directive. DNB will increase its supervisory resources to intensify its supervision and already started to do so in recent months, although its approach will remain risk-based and priorities will need to be made.

34. **The Minister has recently announced proposals with regard to the institutional framework and the division of responsibilities between the Ministry of Finance and the supervisors.** Also, the Ministry of Finance and the Ministry of Justice are exploring the possibilities to limit the liability of the financial supervisors by explicitly laying down the limitation in legislation.

35. **The report rightfully acknowledges that the insurance sector is currently under pressure, because of adverse market conditions and its damaged reputation.** Most of all, it is the responsibility of the sector itself to renew its business model and restore its reputation. Several initiatives have already been taken by the sector and the association of insurers. The AFM with its mandate for conduct of business supervision, is responsible for due care in the provision of services to clients and adequate consumer protection. In this context, it is noted that the supervision of intermediaries has been strengthened. The AFM is currently discussing with the Ministry of Finance whether its mandate in this respect should be strengthened.

## II. DETAILED PRINCIPLE-BY-PRINCIPLE ASSESSMENT METHODOLOGY

Conditions for Effective Insurance Supervision	
<b>Principle 1.</b>	<b>Conditions for Effective Insurance Supervision</b>
	Insurance supervision relies upon: <ul style="list-style-type: none"> <li>- a policy, institutional and legal framework for financial sector supervision</li> <li>- a well developed and effective financial market infrastructure</li> <li>- efficient financial markets.</li> </ul>
Description	<p>In terms of financial sector policy framework, the Minister of Finance (Minister) bears the political responsibility for the proper functioning of the Netherlands financial system. His mandate includes the regulatory structure, financial sector legislation and use of budgetary resources in crisis management.<sup>16</sup></p> <p>The Wft empowers DNB to conduct prudential supervision to ensure the stability of the financial system and assigns the responsibility to supervise the conduct-of-business of regulated entities to the AFM. DNB has set up a dedicated Financial Stability Department to coordinate macro-prudential surveillance.</p> <p>The Netherlands is a constitutional monarchy with a legal system that is based on civil law as well as domestic and EU legislations. Most of the financial sector regulations are derived from EU Directives. There is a well-developed judicial system, including courts that specialize in hearing financial disputes. There are also alternative dispute mechanisms to mediate complaints against insurers and intermediaries e.g., Complaints Board for Financial Services (Kifid–(Klachteninstituut Financiële Dienstverlening).</p> <p>Accounting standards are in line with International Financial Reporting Standards (IFRS) with national adaptations that are applied mostly by local undertakings. Internationally active insurers may apply IFRS in full. The Accounting Standards Board of the Netherlands (Raad voor de Jaarverslaggeving) issues guidelines on the implementation of accounting</p>

<sup>16</sup> Pursuant to the agreement between DNB and the Minister on information exchange and consultation regarding financial stability and crisis management, February 12, 2007.

	standards. Annual accounts and the annual prudential returns of insurers must be audited by a certified auditor. (Civil Code, Book 2, Title 9 and s3:72 of Wft).
	<p>Certified auditors are regulated under the Certified Auditors Act and registered with the Royal Institute of Certified Auditors of the Netherlands (NIVRA). As at end-2009, there were 12,246 active members registered with NIRVA and 6 firms with more than 100 members. A certified auditor must pass the examination administered by NIVRA and has at least 3 years of practical auditing experience. NIVRA has issued professional standards that are in line with the International Standards on Auditing, including ethics and independence. It also monitors continuous professional development of its members.</p> <p>The Actuarial Association of the Netherlands (AG) is a member of the International Actuarial Association. AG administers qualification examination for actuaries. The AG members must have at least 3 years of practical experience and are subject to continuous professional development requirements. There were about 900 full members registered with the AG, of which, around 120 are qualified to certify insurers' technical provisions. The AG issues technical and ethical standards that are binding on its members, including standards on independence. So far, the AG has not taken any disciplinary actions against its members. The actuarial reports submitted by insurers must be accompanied by an actuary's certification on the adequacy of the technical provisions. DNB has also established actuarial technical standards.<sup>17</sup></p> <p>While the NIRVA publishes disciplinary actions against auditors, if any, such decisions are not automatically notified to DNB. The AG will consider the severity of the breach in deciding whether to disclose any disciplinary action taken its members. NIRVA and the AG have also entered into an agreement on cooperation and coordination, in respect of their respective professional roles in insurance entities.</p> <p>Auditors and actuaries have whistle blowing obligations and are protected by legal immunity. DNB received 2 notifications from external auditors in 2009 and 2010 and none from actuaries. (<i>s:88, s3:89, s4:27 of Wft</i>).</p> <p>Extensive socio-economic data are available from the Central Bureau of Statistics (Centraal Bureau voor de Statistiek), The Netherlands Bureau for Economic Policy Analysis (Centraal Planbureau), Social and Cultural Planning Bureau (Sociaal-Cultureel Planbureau) and the financial industry. The Netherlands Association of Insurers (VvV) has also established an Insurance Statistics Centre (CVS). (Also refer to <u>ICP 11</u>).</p> <p>The Netherlands has a well-developed and internationally orientated financial sector. Insurers have access to a wide range of financial instruments, both locally and internationally, which contribute to effective asset-liability management. DNB facilitates a smooth functioning of the money and securities markets within the European System of Central Banks.</p> <p>Laws and regulations are regularly updated to reflect market and regulatory developments, both regionally and internationally. The Wft was recently updated (Reparatiebesluit Wft) and the changes took effect on January 1, 2009.</p>
Assessment	Observed.
Comments	Insurance supervision in the Netherlands is facilitated by sound and progressive financial sector policy framework and financial market infrastructure. The Netherlands adopts international accounting and auditing standards. Its deep and liquid financial market and the easy access to international markets contribute to the effectiveness of insurers' asset-

<sup>17</sup> Regulation on Technical Provisions and Solvency Margin.

	liability management.
<b>The Supervisory System</b>	
<b>Principle 2. Supervisory Objectives</b>	
The principal objectives of insurance supervision are clearly defined.	
Description	<p>The Wft clearly defines the objectives of prudential and conduct of business supervision of financial undertakings, including insurers. “Prudential supervision shall focus on the solidity of financial undertakings and on the contribution to the stability of the financial sector.” “Conduct-of-business supervision shall focus on orderly and transparent financial market processes, integrity in relations between market parties and due care in the provision of services to clients.” (<i>s1:24 and s1:25 of Wft</i>)</p> <p>While DNB and the AFM have clear mandates for prudential and conduct-of-business supervision, their supervisory mandates do not explicitly address the objectives of insurance supervision, particularly in the protection of policyholders and legitimate third party claimants.<sup>18</sup></p> <p>DNB and the AFM have established cooperation and coordination mechanisms to provide greater clarity on their respective roles and address potential conflicts arising from these supervisory objectives. (refer to ICP 5).</p> <p>Both DNB and the AFM do not play any formal role in promoting the development of the financial sector in the Netherlands.</p>
Assessment	Observed.
Comments	<p>DNB and the AFM have clear mandates for prudential and market conduct regulation and supervision, respectively.</p> <p>The authorities are advised to consider articulating more clearly how their supervisory mandates apply to their respective roles in protecting policyholders.</p>
<b>Principle 3. Supervisory authority</b>	
<ul style="list-style-type: none"> <li>- has adequate powers, legal protection and financial resources to exercise its functions and powers;</li> <li>- is operationally independent and accountable in the exercise of its functions and powers;</li> <li>- hires, trains and maintains sufficient staff with high professional standards; and</li> <li>- treats confidential information appropriately..</li> </ul>	
Description	<p>DNB is a state-owned public limited company. The Minister represents the Netherlands State, as the sole shareholder, at the general meeting of shareholders. Oversight of DNB is exercised by the Governing Board and Supervisory Board. DNB has also established a Bank Council to serve as a sounding board for the Governing Board on general financial and economic trends.</p> <p>The Governing Board of DNB is in charge of the management of DNB. It consists of the</p>

<sup>18</sup> Essential Criterion (b) states “The key objectives of supervision promote the maintenance of efficient, fair, safe and stable insurance markets for the benefit and protection of policyholders.”

President and between 3 to 5 Executive Directors, who are appointed for a term of 7 years.<sup>19</sup> The President and the Executive Directors may be suspended or relieved from office only if they no longer fulfill the conditions required for the performance of their duties or if they are found guilty of serious misconduct. Dismissal must be made public. However, the reasons for dismissal need not be disclosed.

The Governing Board is overseen by a Supervisory Board comprising 9 to 12 members who are appointed by the Minister for a term of 4 years. The Supervisory Board has established an Audit Committee and a Remuneration Committee.

The Internal Audit Department of DNB reports to the Supervisory Board/Audit Committee through the Governing Board, in line with the Dutch Code of Corporate Governance. While the Head of the Internal Audit function is to be appointed by the Supervisory Board, the performance appraisal is done by the Governing Board, with inputs from the Supervisory Boards. The Head of Internal Audit meets the Audit Committee separately without the Governing Board once a year.

The AFM is an autonomous administrative authority governed by a Supervisory Board and an Executive Board. The Minister appoints the Chairs and members of the Executive and Supervisory Boards; the former based on the non-binding recommendation of the Supervisory Board. Suspension and dismissals of Board members, on specified grounds, are published in the Government Gazette (*s1:26 & 1:27 of Wft*).

At the time of assessment, DNB was organized into 12 divisions, each headed by a Division Director. Three Divisions are responsible for prudential supervision and one Division is involved in policy development. A dedicated Financial Stability Division has also been set up.

The Ministry of Finance (MoF) is responsible for establishing financial sector laws and regulatory policies including the enactment of the necessary regulations pursuant to the Wft. The Wft authorizes DNB and AFM to issue supervisory rules within the legal parameters defined by the MoF. DNB/AFM are also authorized to issue guidelines to implement rules and supervisory requirements under the General Act on Administrative Rules (Awb).

DNB/AFM have to request the MoF for additional legal powers not currently provided for under the Wft or related regulations, in order to discharge their supervisory objectives.<sup>20</sup> Arising from the review by the Scheltema Commission, the Minister has instituted a new procedure where DNB and the AFM will report identified regulatory/supervisory bottlenecks to the Parliament annually via “Letters of Legislation.” The Letter of Legislation dated October 18, 2010 outlined justifications for broadening the possibilities to establish further regulations on a timely basis to keep pace with financial market developments, “without obstructing the primacy of politics.” The list also included specific requests for legal authorities e.g., a statutory basis to supervise the product development process of financial institutions, including insurers.

Examples where DNB lacks legal power to take decisive action include the submission of routine quarterly returns, a common supervisory tool adopted in many jurisdictions (refer to

<sup>19</sup> At the time of assessment, the Governing Board comprises 4 members, including the President, of which one Executive Director is in charge of prudential supervision of insurers and pension funds and one is in charge of prudential supervision of banks and other financial undertakings.

<sup>20</sup> Essential criterion 3c) states: “The legislation grants sufficient powers for the effective discharge of supervisory responsibilities.”

ICP 12); and determining qualitative and quantitative thresholds on intra-group transactions directly (refer to ICP 17).

In addition, the Minister may revoke supervisory rules that are deemed to “impose an unreasonable burden on the financial markets.” DNB has confirmed that the Minister had not exercised such powers, which are reserved for very rare cases and would be subject to public disclosure. *(s1:29(2) of Wft)*

DNB and the AFM have a range of powers to take preventive and corrective action and may take immediate enforcement actions, where necessary to protect the interests of policyholders (also refer to ICP 14 and ICP15).

The budgets and financial statements of DNB/AFM are subject to the approval of the Minister, whose approval may be withheld if the budget is contrary to the law or public interest. Part of the budget of DNB/AFM is financed through levies on supervised entities. The tariffs to determine the levies are issued by the Minister. The draft budget for supervision is open for consultation with panels of representatives of supervised institutions, twice a year. DNB’s budget must firstly be approved by the Supervisory Board and subsequently by the Minister and the Minister of Social Affairs and Employment. *(s1:39 and s1:40 of Wft)*

Once an annual budget is approved, DNB has discretion in the allocation of resources, aligned with its risk-based supervision framework. (refer to ICP 4). Fines and financial penalties imposed on regulated entities may be used to offset budgeted costs in the following year.

DNB is transparent and accountable for its supervisory activities. Its yearly budget identifies the objectives and themes of financial supervision for the upcoming year, aligned with its longer-term strategy (e.g., DNB Supervisory Strategy 2010-2014 and Themes 2010). The Annual Reports of DNB/AFM outline the supervisory actions taken and results achieved and are available on their websites. DNB also accounts for its performance to various external bodies, including the Netherlands Court of Audit. *(s1:30 to s1:36 of Wft)*.

DNB has established internal policies and procedures which are applicable to its Board members and staff covering conflicts of interest; gifts and invitations; private investments; professional conduct; complaints; use of information and data; and integrity.

DNB/AFM consult the industry on material changes to the Wft, regulations and supervisory practices. Draft bills are open for public consultation before submission to the Parliament.

The Minister shall assess the efficiency and effectiveness of DNB/AFM and their collaboration, 3 years after the Wft entered into force and every 5 years thereafter. The Minister may take necessary measures if he is of the opinion that DNB or the AFM “seriously fails to perform its duties” *(s1:42 to s1:44 of Wft)*.

Various external investigations into the authorities’ activities were conducted in 2008 and 2009. An external Commission was formed in the run-up to Solvency II to evaluate the risk-based supervision framework of DNB as described in its Vision on Supervision 2006-2010. The Commission issued a public report in July 2009. (Paragraph 25 under Section A). The Scheltema Committee investigated the authorities’ role arising from the failure of DSB Bank, involving questionable mortgage lending and the sale of life policies and single premium insurances with high commissions (ICP 25).

Decisions made under the Wft are subject to an appeal process as laid down in the Awb. Such appeals must be submitted at the Court of Justice in Rotterdam. Appeals against fines imposed must be submitted to the College of Appeal for the Industry (College van Beroep



	<p>voor het bedrijfsleven) (<i>s1:110 of Wft</i>).</p> <p>DNB considers its terms of employment, benchmarked against the private banks, to be competitive. At the time of assessment, the Insurance Supervision Division has 134 staff and the average period of employment with DNB is 10 years. In support of its emphasis on professional development, DNB has set up a Supervision Academy (Toezichtacademie) in 2010 to conduct in-house training of its staff. DNB is advised to review the adequacy of its supervisory resources for effective supervision of internationally active insurance groups and implementation of Solvency II.</p> <p>The DNB and its staff are not explicitly protected against legal actions brought by third parties under the Wft. The Netherlands Civil Code (BW) protects the employees of DNB/AFM, provided that they carry out their duties in good faith. However, there is no legal protection for DNB and AFM.<sup>21</sup> At the request of DNB and the AFM, the MoF and the Ministry of Justice are exploring the possibility of limiting the liabilities of DNB/AFM explicitly under the law.</p> <p>The BW contains conditions that need to be fulfilled to legally honour third parties' claims in the case of imputable and culpable actions or negligence. While these conditions had been interpreted restrictively by the courts in past cases, the authorities are advised to carefully consider whether the existing level of legal protection is in line with ICP 3 i.e., "The supervisory authority and its staff (should) have the necessary legal protection to protect them against lawsuits for actions taken in good faith while discharging their duties, provided they have not acted illegally."</p> <p>DNB has the legal authority and the operational independence to hire third parties. Any in-sourced companies or personnel are subject to its confidentiality requirements. Outsourcing to third parties as been limited to administrative activities e.g., IT.</p> <p>DNB/AFM must observe strict confidentiality of non-public information obtained in the course of official duties. Disclosures are only allowed if the information cannot be traced back to individual institutions, subject to certain specified exceptions. (<i>s189 and s190 of Wft</i>).</p>
Assessment	Largely observed.
Comments	<p>DNB and the AFM are subject to clear accountability mechanisms under the Wft. Their supervisory staffs are experienced and qualified. While the Wft provides adequate powers to DNB/AFM to supervise regulated entities within the legal parameters established by the MoF, there is scope for DNB and the AFM to be accorded broader legal authority and appropriate legal protection. There is also scope for strengthening supervisory resources particularly for supervision of internationally active insurance groups.</p> <p>The authorities are advised to consider:</p> <ol style="list-style-type: none"> <li>a) Broadening the legal authority of DNB and the AFM to enhance the effectiveness of their supervision;</li> <li>b) Providing explicit legal protection to DNB and AFM and their staff members against lawsuits for actions taken in good faith while discharging their duties, provided they have not acted illegally;</li> <li>c) Publication of reason for removal of Board members; and</li> <li>d) Review the adequacy of supervisory resources particularly for effective supervision of</li> </ol>

<sup>21</sup> ICP3 essential criteria q) states, inter alia: "The supervisory authority and its staff are adequately protected against the costs of defending their actions while discharging their duties.

	internationally active insurance groups and implementation of Solvency II.
<b>Principle 4.</b>	<b>Supervisory process</b> The supervisory authority conducts its functions in a transparent and accountable manner.
Description	<p>The supervisory process of DNB is risk-based and it has introduced the FIRM Framework in 2004. FIRM comprises 3 key features:</p> <ul style="list-style-type: none"> <li>a) Methodology for assessing the risks and sustainability of supervised entities;</li> <li>b) Process for conducting the assessment that is supported by appropriate tools; and</li> <li>c) “FIRM scores” to reflect different risk profiles of supervised entities.</li> </ul> <p>FIRM facilitates a risk-based supervisory approach, whereby scarce resources are targeted at those areas where the risks are or are considered to be high. FIRM scores translate to 3 key supervisory programs of increasing intensity and scope: base, risk identification, and risk mitigation. FIRM scores are communicated to supervised entities.</p> <p>FIRM provides a well-structured and consistent approach to understanding the risk profiles of entities and to facilitating meaningful comparisons. It ensures consistent application of supervisory assessment and standards. The methodology is calibrated to support consistent scoring across entities of different sizes, risk profiles or other characteristics. Properly implemented, FIRM serves as a sound basis for internal and external accountability in respect of supervisory decisions and measures.</p> <p>One of the key recommendations of the external Commission appointed by DNB to assess its insurance supervision is the continual refinement of FIRM. The areas for enhancements include better differentiation between large and small institutions; inclusion of macro and meso prudential risks; involving experts in risk assessments and stress tests; distinguishing economic rather than legal entities; making it more user-friendly; introducing a peer group benchmark; presenting FIRM scores to insurers as a standard measure; linking FIRM to the primary supervisory process; transparent monitoring of risks; and using FIRM consistently in management reports.</p> <p>DNB is currently reviewing and updating the FIRM framework to take account of the external Commission’s inputs, to incorporate macro-prudential elements and more robust assessment of entities’ business strategy and behavior. FIRM currently does not consider the impact of risk explicitly. In this regard, DNB has introduced criteria to identify systematically important financial institutions in 2010.</p> <p>DNB has developed and regularly reviews its longer-term supervisory strategies, most recently outlined in <i>DNB Supervisory Strategy 2010-2014</i>. The strategy set supervisory priorities that are translated into an action plan. A key focus is to strengthen supervision by adopting a supra-institutional approach in macro-prudential supervision, to complement the traditional micro-prudential supervision at an institutional level.</p> <p>DNB adopts proactive external communication to promote transparency relating to its supervisory strategy, regulations, findings, and results. One example is its Open Book Supervision (<i>Open Boek Toezicht</i>), an internet knowledge platform that is intensively used by supervised entities. Open Book provides all relevant regulations, policies and factual context or explanation, including the full documentation of FIRM. In addition, consultation documents and proposed rules, e.g., the Solvency II implementation, are available. DNB publishes its Supervisory Themes annually.</p> <p>DNB/AFM are empowered to issue “generally binding regulations” after consulting the relevant regulated entities. Both supervisors are also authorized to issue temporary regulations, without industry consultations in “special circumstances”. While there is no</p>

	<p>definition of “special circumstances” under the law or regulations, AFM has invoked this section to deal with short selling of securities in 2008. (<i>s1:28 of Wft</i>)</p> <p>DNB’s supervisory decisions are subject to an established appeal process and it is obliged to inform a supervised entity involved in exercising its enforcement powers. Decisions of DNB remain in force during the appeal process; although the appellant can seek a preliminary injunction against enforcement of the DNB’s decision. So far, the court has not granted any injunction to an appellant.</p> <p>DNB publishes a monthly review of the entire financial sector and pertinent insurance statistics, both at the industry as well as at the individual insurer’s level. (refer to <b>ICP 26</b>).</p> <p>With effect from January 2011, DNB will implement the VITA framework to enhance the effectiveness of its supervision. VITA encompasses change in culture and conduct of the DNB based on strategic principles covering: elements of good supervision (inclusive, conclusive, skeptical but proactive, comprehensive and adaptive), thematic Vs institution specific, experts Vs supervisors, intervention and enforcement and risk management of supervisory process.</p>
Assessment	Observed.
Comments	DNB adopts a well-defined and transparent supervisory approach, supported by the FIRM Framework that helps to ensure consistency in supervisory assessment and decisions. It has clear accountabilities to the Minister, the industry and the public through various channels.
<b>Principle 5.</b>	<p><b>Supervisory cooperation and information sharing</b></p> <p>The supervisory authority cooperates and shares information with other relevant supervisors subject to confidentiality requirements.</p>
Description	<p>Domestically, the Twin Peaks supervisory structure calls for close cooperation and contact between DNB and the AFM. The Wft sets the legal foundation for cooperation, including procedural rules that ensure that the supervisors adequately take into account their respective roles. In particular, DNB shall provide AFM with reasonable time to submit its view before taking specified measures including licensing; and <i>vice versa</i>. (<i>s1:46 to s1:50 of Wft</i>)</p> <p>The legal provisions under the Wft are supplemented by a covenant between the AFM and DNB concerning cooperation and coordination in the area of supervision, regulation and policy, national and international consultation and other issues of shared importance. In addition, there are regular meetings between DNB and the AFM at board and senior management levels to coordinate information exchange and decision-making. DNB has also executed a covenant with the Netherlands Health Authority.</p> <p>The Minister has commissioned the Institute on Governmental Expenditures (Instituut voor Overheidsuitgaven) to evaluate the cooperation between DNB and the AFM. The Institute has reported no significant problems in the cooperation between DNB and the AFM.<sup>22</sup> In its Annual Report 2009, the AFM noted that “the cooperation is progressing well, but also sees possibilities for optimising this relationship further.” These areas for improvements include proactive rather than reactive in coordination, greater coordination on thematic and joint surveys, and Further reducing duplication in request for data. The authorities have also initiated annual joint risk assessment meetings to set supervisory priorities for the coming</p>

<sup>22</sup> <http://www.minfin.nl/dsresource?objectid=81617&type=org>

	<p>year.</p> <p>From the international perspective, DNB has the power to conclude an agreement to exchange information with other supervisors. However, such agreements are not a prerequisite to exchange supervisory information. DNB is a signatory to the EU/EEA Protocols regarding the cooperation between supervisory authorities, underpinned by EU-directives. Outside of the EU, DNB has signed MoU with Australia, Canada, and 2 States in the US. DNB has also signed the IAIS Multilateral MoU.</p> <p>DNB may decline requests for information only where: the purpose of the request has not been adequately determined; the intended use of the information does not relate to financial market supervision; incompatible with The Netherlands law, public interest or the WFT; inadequate safeguard for confidentiality or used for unintended purpose. The AFM may only decline if the request is incompatible with The Netherlands sovereignty, national security or public interests; or where legal proceedings are pending or judgment has already been delivered in the Netherlands on the same charge and against the same person (<i>s1:51, s1:65, s1:90 of Wft</i>).</p> <p>Before taking supervisory actions that affect the supervisory duties of the supervisor(s) of another EU State, the DNB must consult the relevant supervisor(s) or seek advice from the lead supervisor. DNB is obliged to provide adequate information to facilitate supervision of financial groups or conglomerates by relevant supervisors in EU states. DNB/AFM may also instruct a Netherlands insurer to comply with the instruction issued by another EU supervisor (<i>s1:51a, s1:53, 1:54, 1:57 &amp; s1:59 of Wft</i>).</p> <p>DNB/AFM officials are required to observe official confidentiality (unless specifically exempted) and ensure that confidentiality of information exchanged comply with the requirements applicable to the relevant data/information under European directives (<i>s1:89, s1:90, s1:91 to s1:93 of Wft on exemptions</i>).</p>
Assessment	Observed.
Comments	DNB/AFM are empowered and do regularly exchange information with other supervisors, both within and beyond EU. DNB is a signatory to the EU/EEA Protocols on supervisory cooperation and the IAIS Multilateral MoU.
<b>The Supervised Entity</b>	
<p><b>Principle 6. Licensing</b></p> <p>An insurer must be licensed before it can operate within a jurisdiction. The requirements for licensing are clear, objective and public..</p>	
Description	<p>The Wft refers to the Civil Code (BW) for the definition of “insurance” and assigns the licensing for insurers to DNB. There are 4 categories of insurance operations: life insurance, non-life insurance, funeral services in kind insurance and reinsurance. (<i>s2:26, s2:27, s2:48 and s2:54 of Wft</i>).</p> <p>Any person conducting insurance business in the Netherlands must be licensed by DNB. Since July 2009, DNB has been able to take measures against de-facto Directors of illegal (unlicensed) firms. In these cases, DNB may penalize the natural person directly by issuing an administrative fine and/or a cease-and-desist order.</p> <p>Life insurers are not allowed to conduct non-life insurance business, and vice-versa. Life insurers may conduct pension funds management activities. Insurers are exempted from licensing requirements for performing advisory services in respect of financial products other than financial instruments. Insurers may not pursue a business other than the business for which the licence was granted. (<i>s2:27, s2:28, s2:30, s2:76 , s3:36 of Wft</i>).</p>

EU-based insurers may “passport”<sup>23</sup> their services to the Netherlands through notification from their home supervisor under the “single license” arrangement. Insurers operating under a single license are, in principle, supervised by their home supervisor, subject to DNB’s conditions for reasons of public interest. The Netherlands insurers must seek DNB’s approval before operating branch offices in, or provide insurance services to, other EU states or non-EU states (*s2:34, s2:115, s2:117, s2:120 of Wft*)

EU-based re-insurers and branches of reinsurers based in jurisdictions designated by the Minister (published in government gazette) may also provide services to the Netherlands. Non-EU re-insurers licensed in a designated State may conduct reinsurance activities in the Netherlands by notification to DNB (*s2:26c to f of WFT*).

The Wft establishes licensing requirements relating to: the expertise and propriety of the applicants; policy on the sound conduct of business; management and governance; control and operational structures; legal form; minimum equity capital, and solvency. In particular, DNB requires insurers to have a transparent group structure. Also refer to ICP 7 and ICP 17. (*s2:26b, s2:31, s2:37, s2:41, s2:49, s2:51, s2:54a, s2:54e. s3:10 & s3:16 of Wft*).

Detailed licensing requirements are elaborated under the Decree on Market Access of Financial Undertakings pursuant to the Wft (*Besluit markttoegang financiële ondernemingen Wft*). Applicants must submit information on their proposed business model including reinsurance program and 3-year financial forecasts. (*s1:2 and s1:3 of the Decree*).

Before granting an insurance license, DNB shall consult the relevant EU supervisor where applicable. In the event of withdrawal of license or supervisory status certificate, DNB/AFM must inform relevant EU supervisor in the jurisdictions where The Netherlands insurers and insurance intermediaries conduct business. (*s1:60, s1:61, s1:64 of Wft*).

The Wft requires DNB to maintain a public register of licensed entities with key information and any applicable limitations. (*s1:107 of Wft*)

All elements in the licensing procedure form part of DNB’s ongoing supervision, and are included in the FIRM Framework. The intensity with which a new insurer is being supervised largely depends on the outcome of the FIRM analysis.

Non-life mutual insurers of a limited size and business lines<sup>24</sup> are exempted from licensing and certain prudential supervision under the Wft. These mutual insurers must derive at least half of the gross annual premiums from their members. To qualify for this regime, mutual insurers require a certificate from DNB. Article 3 of the Decree on the Scope of the Provisions of the Act on Financial Supervision applies to those with less than 3,000 policyholders and gross annual premiums of less than € 455,000.<sup>25</sup> Article 4 imposes stricter supervisory requirements to those with gross annual premiums higher than € 455,000 but less than € 5 million. (*s7 of the decree*).

<sup>23</sup> European Directives 2002/83/EC and 92/49/EC. Insurers authorized in one EU State acquire passporting rights enabling them to provide cross-border services either by establish branches in other EU State or on a cross-border basis.

<sup>24</sup> The business operations are limited to only one (Article 3 on the Scope of Provisions of the Act on Financial Supervision) or more (Article 4 on the Scope of Provisions of the Act on Financial Supervision) classes of insurance business, excluding accident, health, motor vehicle liability, road transport liability, aircraft liability, marine liability, general liability, credit insurance, surety ship, and assistance.

<sup>25</sup> As at time of assessment, there were 102 insurers exempted under Article 3. Their gross premiums written totaled € 9.2 billion in 2009 covering about 14,400 policyholders.

	<p>Non-life insurers specializing in export credit insurance contracts are exempted on the basis that they are guaranteed by the Netherlands' government. Non-life Swiss insurers with branches in the Netherlands are exempted, based on a similar approach to the EU passporting.</p> <p>In 2009, DNB completed the licensing of The Netherlands reinsurers under its supervision since September 2008.</p>
Assessment	Observed.
Comments	The licensing regime for insurers is clear, transparent and in line with EU Directives.
<b>Principle 7.</b>	<b>Suitability of persons</b>
	The significant owners, board members, senior management, auditors, and actuaries of an insurer are fit and proper to fulfil their roles. This requires that they possess the appropriate integrity, competency, experience and qualifications.
Description	<p>The Wft requires persons who determine or co-determine the day-to-day policy of insurers (key functionaries) to have appropriate expertise and propriety beyond doubt. Based on the fit and proper criteria established under the Wft, DNB conducts integrity assessment by screening key functionaries' background i.e., criminal law, financial, supervisory, tax, administrative law, and other past history. If key functionaries no longer meet the criteria of fitness and propriety, DNB will inform the relevant supervised entities and they are expected to take necessary measures. (<i>s3:8 and s3:9 of Wft</i>).</p> <p>The Decree on Prudential Rules (Bpr) pursuant to the Wft sets out the basis for DNB's assessment of properness, taking into account criminal, financial, supervision, fiscal and other relevant antecedents (<i>s2 to s9 of DPR</i>).</p> <p>A significant owner or persons acquiring a qualifying holding in an insurer must obtain a <i>Declaration of No Objection (Verklaring van geen bezwaar; VVGB)</i> from DNB and are subject to fit and proper assessment. They are required to dispose of their interest when they no longer meet fit and proper requirements. Insurers must notify DNB annually of all persons owning a qualifying holding and changes in control. (refer also ICP 8) (<i>s3:99, s3:103 of Wft and Directive 2007/44/EC</i>).</p> <p>No specific fit and proper requirements for auditors and actuaries have been set in the Wft. DNB does not have the legal power to approve the appointment of external auditors and actuaries. However, certifying auditors or actuaries must comply with the applicable professional standards including independence set by NIVRA and AG.. While DNB has not disqualified any auditor or actuary, the appointment of one auditor was withdrawn arising from informal discussion with the insurers concerned.</p> <p>Both the AG and NIVRA do not have any formal arrangement to exchange information with DNB. AG has no means and information to check whether its members comply with the qualification requirement in certifying insurers' technical provision. NIVRA's role in quality assurance is limited to audits of small-and-medium sized enterprises, while the AFM is responsible for monitoring auditing standards applied to statutory audits.</p> <p>DNB may invoke its right of objection against an auditor or actuary who is not in a position to perform their duties satisfactorily or where there are reasonable doubts about fitness, propriety or independence. In such a case, DNB contacts the auditor/actuary directly, prohibiting him/her from continued involvement. Such a direction is addressed to an individual auditor/actuary and not to a firm of auditors/actuaries. DNB is unable to share disciplinary actions taken against auditors and actuaries with AG and NIVRA due to confidentiality of official information. Nonetheless, DNB has initiated tripartite meetings</p>

	<p>with insurers and auditors on an annual basis. (<i>s1:78 of Wft</i>)</p> <p>DNB and the AFM issued a joint policy on fit and proper requirements on September 1, 2010, which is intended to apply as from January 1, 2011. The policy sets requirements for fitness with regard to the composition and functioning of both the governing board and the supervisory board of insurers. The key principles for the assessment of expertise covering knowledge, skills, and professional conduct. Factors to be considered include the position of the person to be assessed, the nature of the supervised institution and the composition of its Governing and Supervisory Boards. The basic principle underlying the assessment is that an insurer must ensure and be capable of convincing DNB of the expertise of the key functionaries.</p> <p>In 2009, DNB assessed the fitness and/or propriety of 375 key functionaries of insurers.<sup>26</sup></p> <p>Based on the Wft, DNB cooperates closely with other supervisory authorities on the assessment of fitness and propriety. Cooperation with the AFM is formalized under the covenant between DNB and AFM.</p> <p>Insurers are expected to ensure proper segregation of duties to minimise potential conflict of interests (refer ICP 10)... Insurers are required to notify DNB of any proposed changes of key functionaries, whose fitness and propriety will be assessed. In addition, changes in the information that form the basis of DNB's assessment must also be notified to the DNB.</p>
Assessment	Observed.
Comments	<p>In line with the current supervisory focus on integrity and culture, DNB performs robust due diligence on any proposed owner, controller or director prior to licensing and in approving the appointment and subsequent changes in key functionaries.</p> <p>As external auditors and actuaries contribute to the effectiveness of supervision, there is scope for DNB to consider strengthening collaboration with the professional associations with the objective of promoting more robust quality control over the work of the auditors and actuaries without compromising its duty to preserve confidentiality of official information.</p>
<b>Principle 8.</b>	<p><b>Changes in control and portfolio transfers</b></p> <p>The supervisory authority approves or rejects proposals to acquire significant ownership or any other interest in an insurer that results in that person, directly or indirectly, alone or with an associate, exercising control over the insurer.</p> <p>The supervisory authority approves the portfolio transfer or merger of insurance business.</p>
Description	<p>Any person wishing to own, acquire or increase a qualifying holding in a Netherlands insurer must obtain a VVGB from DNB. Qualifying shareholding is defined as a direct or indirect holding representing 10 percent or more of an insurer's capital or the right to exercise 10 percent or more of the voting rights or the right to exercise, directly or indirectly, equivalent control over an insurer. (<i>s1:1 of Wft</i>).</p> <p>Holders of VVGBs are required to notify DNB of changes regarding their qualifying shareholdings. Insurers are also required to notify the DNB annually of all persons owning a qualifying holding and changes in control. (<i>s3:103, s3:104 of Wft</i>).</p> <p>DNB shall issue a VVGB unless the acquisition might: a) jeopardize the sound and prudent</p>

<sup>26</sup> DNB Annual Report 2009

	<p>operations of the insurer; b) result in a control structure that impedes effective supervision; c) lead to an undesirable development in the financial sector. Failure to obtain the VVGB and comply with DNB's conditions may render the acquisition null and void. (<i>s3:95, s3:100, s3:103 &amp; s3:104 of Wft</i>).</p> <p>DNB may impose conditions or restrictions on VVGBs. DNB may also set specific requirements on financial resources on a case-by-case basis. As a matter of policy, DNB does not issue a VVGB if the applicant's (consolidated) equity is not positive. (refer also to ICP 17).</p> <p>The acquisition of qualified holding in one of the 5 largest insurers (based on gross premium volume) in the Netherlands is subject to approval of the Minister. Similarly, the acquisition of qualifying holding in one of the 5 largest insurers by another bank/insurer/reinsurer who are amongst one of the 5 largest must be approved by the Minister. (<i>s3:97 of Wft</i>).</p> <p>DNB assesses VVGB applications based on the procedure laid down in the European Directive of September 2007 regarding holdings in the financial sector. The European Directive is to be transposed into The Netherlands law at a later stage. In 2009, DNB issued 64 VVGBs and 2 group VVGBs in respect of insurers.</p> <p>Portfolio transfers of insurance contracts are subject to DNB's consent, unless the transfers are requested by policyholders. In considering whether to give consent, DNB has to assess the solvency impact on the insurers concern, taking in account the proposed transfer. (<i>s3:112 to s3:114a, s3:118 &amp; s3:118a, s3:122, s3:126, s3:127, s3:128 of Wft</i>)</p> <p>A life insurer is required to publish notifications of a proposed portfolio transfer, giving policyholders and legitimate beneficiaries concerned an opportunity to file their objections to the DNB. If more than 25 percent of the policyholders object, DNB shall withhold consent. The transfer of non-life insurance contracts does not require the permission of parties that may derive rights under contracts affected. Non-life policyholders affected by a transfer may opt to cancel their contracts and be entitled to pro-rata refund of premiums. (<i>s3:119 &amp; s3:120 of Wft</i>)</p>
Assessment	Observed.
Comments	DNB will only issue a VVGB for qualifying shareholding and controllers if it is satisfied of the applicant's fitness and propriety, taking into account other supervisory considerations. It may impose conditions or restrictions on VVGBs, where appropriate. Portfolio transfers must be approved by DNB.
<b>Principle 9.</b>	<p><b>Corporate governance</b></p> <p>The corporate governance framework recognizes and protects rights of all interested parties. The supervisory authority requires compliance with all applicable corporate governance standards.</p>
Description	<p>General requirements concerning corporate governance are established under the BW, Book 2. The BW outlines the responsibilities of the Board of Directors and individual Directors. In the Netherlands, the majority of companies have a two tier system comprising a Supervisory Board (non-Executive Directors) and a Management Board (Executive Directors).</p> <p>Listed insurers are expected to observe the Corporate Governance Code, based on the "comply or explain" approach. The Code was updated in 2008, to incorporate emerging developments in risk management, remuneration policies, shareholders' responsibilities, board composition, and corporate social responsibility. The application of the Code is</p>



	<p>monitored by the Netherlands Corporate Governance Code Monitoring Committee. External auditors issue a statement on the compliance with the Code, as part of the Annual Report of Listed Companies.</p> <p>The Wft regulates the interface between corporate governance and internal controls from the perspective of controlled and sound business operations. (refer to ICP 10) (<i>s3:10, s3:15 to s3:17 of Wft</i>).</p> <p>Insurers are in the process of drafting an industry code of conduct or Insurers Renew, (VerzekeraarsVernieuwen) largely based on the corporate social responsibility code and to reflect current developments in the Netherlands arising from Parliamentary inquiries into the GFC. DNB, the MoF, and the AFM are in close contact with the industry to provide guidance.</p> <p>Drawing from the lessons learnt during the GFC, DNB will devote more attention to insurers’ business models and strategies and to their conduct and culture. In 2009, DNB focused on insurers’ business integrity i.e., an atmosphere and climate in which, besides complying with laws and regulations, insurers also behave in a way that allows for transparency and accountability. This hinges on a culture in which professional responsibility is stimulated and rewarded and in which people act in the spirit of the law.</p> <p>In May 2009, DNB and the AFM jointly published principles for controlled remuneration policy. These principles apply to the structure, governance and transparency of remuneration policies. DNB also conducted an investigation into the remuneration practices of 27 financial undertakings, assessed against the principles for controlled remuneration policy. The investigation revealed that the risks attached to remuneration policies are, in some important respects, not yet adequately controlled. Sound remuneration requirements will be incorporated in the financial supervision legislation. The authorities have issued new supervisory rules for remuneration policy (<i>Besluit en regeling beheerst belongingsbeleid</i>) in 2010.</p> <p>DNB is developing a framework for supervising culture and behavior of supervised entities. The general outline of the framework has been published.<sup>27</sup> Detailed guidance for supervisors is currently being worked on.</p> <p>The Boards of Directors of supervised entities are obliged to communicate and meet with DNB. <i>Decree on Prudential Rules pursuant to the Wft (Bpr)</i> requires insurers to establish effective and independent compliance function to verify their compliance with statutory rules and internal rules. (<i>s1:72-s1:74 of Wft and s21 of Bpr</i>)</p> <p>In the Netherlands, the concept of a “responsible actuary” does not apply. Nonetheless, insurers’ prudential returns include an actuarial report that needs to be certified by an independent actuary. This certifying actuary must have direct access to the Board of Directors or a Committee of the Board of Directors.</p>
Assessment	Observed.
Comments	<p>Drawing from the lesson learnt during the GFC, DNB has strengthened the robustness of its assessment of insurers’ corporate governance, not just in form but also in substance. Its supervisory activities in 2009 and 2010 focused on insurers’ business models and strategies as well as conduct and culture.</p> <p>The impending release of the Code of Conduct by the insurance industry and the DNB’s</p>

<sup>27</sup> <http://www.dnb.nl/en/news-and-publications/news-and-archive/nieuws-2010/dnb229276.jsp>

	framework for supervising culture and behavior of supervised entities will further enhance the effectiveness of insurers' corporate governance.
<b>Principle 10.</b>	<b>Internal Controls</b> The supervisory authority requires insurers to have in place, internal controls that are adequate for the nature and scale of the business. The oversight and reporting systems allow the board and management to monitor and control the operations.
Description	<p>Bpr outlines DNB's supervisory expectations of insurers' internal controls to ensure sound business operations including policies and procedures on:</p> <ul style="list-style-type: none"> <li>a) proper checks and balances and proper segregation of duties (<i>s10 &amp; s18 of Bpr</i>);</li> <li>b) measures to minimize conflict of interest and to ensure that related party transactions are executed at arms' length (<i>s11 of Bpr</i>);</li> <li>c) handling and recording of incidents (conduct or event that poses serious threats to an insurer) which must be notified to DNB (<i>s12 of Bpr</i>); and</li> <li>d) assessment of the propriety of persons whom they wish to appoint to an integrity sensitive position (<i>s13 of Bpr</i>).</li> </ul> <p>Insurers should align their internal controls with the nature, size, risks, and complexity, their activities. In this regard, they are expected to adopt appropriate organizational structures with clear/documented and adequate division of tasks, authorities, and responsibilities as well as unambiguous reporting lines. They should maintain adequate management information. It is also important to establish an effective and independent internal audit function and ensure that identified deficiencies are remediated promptly. DNB has access to reports of the internal audit function and reviews such reports as part of its supervision. Arising from its review, it has required one insurer to strengthen its internal audit function. (<i>s17 &amp; s20 of Bpr</i>).</p> <p>The scope of an external audit of an insurer shall include high-level testing and assessment of the adequacy of the organization structure, risk management and compliance with relevant legal requirements. (<i>s22 of Bpr</i>).</p> <p>In outsourcing any work to third parties, insurers remain ultimately accountable for risk management and effective oversight. The risks arising from outsourcing should be carefully assessed, regardless of whether outsourcing takes place inside or outside the group to which an insurer belongs. (<i>s3:18 of Wft</i>).</p> <p>Certifying actuaries shall present the actuarial report to the Executive Board and the Supervisory Board. They must also provide any information requested by DNB.</p> <p>DNB has found that small and mid-size insurers often have weak internal control. Their in-house assessment of the effectiveness of control measures is frequently inadequate; and up-to-date risk analysis is sometimes non-existent. In 2009, with a view to improving the degree of professionalism, DNB organized workshops and developed a questionnaire to assist directors of these insurers in improving internal controls. DNB has since observed improved risk analyses and performance of internal audits by these insurers.</p> <p>In 2009, DNB requested insurers to perform a self-assessment of their operational management and around 190 self-assessments were submitted. The results indicate that insurers must pay more attention to integrity policy, to a systematic analysis of integrity risks and to internal supervision of sound operational management.</p>
Assessment	Observed.

Comments	DNB has articulated clearly its supervisory expectation of insurers in implementing appropriate internal controls tailored to the nature, scale and complexity of their operations. It proactively monitors insurers' internal controls systems and has promoted greater awareness and buy-in from insurers.
<b>Ongoing Supervision</b>	
<b>Principle 11.</b>	<b>Market analysis</b>  Making use of all available sources, the supervisory authority monitors and analyses all factors that may have an impact on insurers and insurance markets. It draws the conclusions and takes action as appropriate.
Description	<p>As part of its micro-prudential and macro-prudential monitoring process, DNB periodically reviews the conditions, developments, and risks/vulnerabilities of the insurance sector. DNB conducts its analyses based on both (internal) confidential and public data, taking into account insurers' operating environment.</p> <p>DNB monitors key market indicators such as the trend of premium income, investment portfolio, solvency ratios, as well as the impact of market developments (e.g., equity markets, interest rates) on insurers' financial condition. Market studies on current and future trends included a recent study on the structure of the financial system of the Netherlands and a confidential study into The Netherlands insurers' business models. In both cases, DNB involved external experts as sparring partners and to aid the analysis.</p> <p>After analyzing the risks and vulnerabilities, DNB will conduct formal risk assessment as the basis for deciding on appropriate risk mitigating measures. Residual risk (after mitigation) will be evaluated. This process of analysis, assessment, mitigation and evaluation forms the core of DNB's macro-prudential framework.<sup>28</sup></p> <p>DNB publishes non-confidential or aggregate information regularly and provides an overview of the conditions and developments in the Netherlands insurance sector as part of its quarterly bulletin. In addition, a forward-looking review of risks and vulnerabilities for the insurance sector is published in DNB's "Overview of Financial Stability", twice a year.</p> <p>Insurance statistics, including balance sheet, profitability, and solvency are available on DNB's website. The VvV and the CVS also provide a wealth of information on their websites. (Refer to <b>ICP 1</b>).</p> <p>DNB may request insurers to provide additional information on an ad-hoc basis to gain better insight into emerging risks and vulnerabilities. E.g., declines in sale of life insurance policies, impact of reputation risks arising from mis-selling (profiteering policy affair or woekerpolis affaire), exposures to certain asset classes and susceptibility to a low interest rate environment. In 2009, DNB carried out a risk analysis of insurers, which revealed that there might be an increased prudential risk at a number of small and mid-size insurers. These insurers were requested to submit details of their commission structure. DNB has since taken steps to reduce the level of risks of 6 insurers.</p> <p>DNB conducts macro stress tests to identify and assess the vulnerabilities of the insurance sector using macro scenarios e.g., national sectoral exercise in 2009 and as part of a European stress test initiated by Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) in 2010.</p> <p>While the economy of the Netherlands is small and open, the Netherlands insurance sector</p>

<sup>28</sup> Towards a more stable financial system: macro-prudential supervision at DNB.

	is large and internationally oriented. Thus, DNB takes an international perspective (in terms of economic climate, financial markets, financial sector and financial infrastructure) in its market analyses. DNB periodically surveys the international environment as part of its Overview of Financial Stability. Recent examples include analysis on the risks and developments in the international variable annuities business and the risks and losses of The Netherlands insurers operating in the US. The increased prominence of group supervision under the Solvency II regime will further support such analyses.
Assessment	Observed.
Comments	DNB takes a proactive and transparent approach in market analysis to identify, assess and mitigate risks to the insurance sector. It takes appropriate measures to strengthen insurers' resilience to systemic risks. The publication of comprehensive insurance and other market statistics also facilitate insurers' better understanding of their potential macro-economic risks exposures.
<b>Principle 12.</b>	<b>Reporting to supervisors and off-site monitoring</b> The supervisory authority receives necessary information to conduct effective off-site monitoring and to evaluate the condition of each insurer as well as the insurance market.
Description	<p>The Wft requires insurers to submit financial statements, annual reports and other statutory returns within 5 months after the end of the financial year, accompanied by auditors' opinion and actuarial certifications on adequacy of technical provisions. Life insurers must submit actuarial basis for premium rating and technical provisions for new products introduced. Some of the statutory returns are available for public inspection. Insurers must also submit annual summaries of policies issued in the Netherlands and other EU states during the financial year. (<i>s3:71 to 3.74 of Wft</i>).</p> <p>The Boards of Directors of insurers are responsible for the accuracy and completeness of the information submitted to DNB in their prudential returns. DNB is empowered to impose administrative fines and to issue cease and desist orders if regulated entities breach their reporting obligations such as late or inaccurate reporting.</p> <p>DNB may require insurers to submit returns more frequently under special circumstances e.g. major events such as a financial crisis or doubts about the financial situation of an insurer. Arising from the financial crisis in 2008, , DNB introduced a quarterly reporting scheme for all Dutch insurers in 2009. The quarterly returns are due within 6 weeks of the end-of-quarter and provide more details e.g., composition of assets and liabilities. However, in the absence of such special circumstances, quarterly reporting by insurers is only made on a voluntarily basis. Thus, there is no firm legal basis for DNB to enforce the submission of the quarterly returns and it has no sanction power with respect to quarterly returns. (<i>s131 of Bpr</i>).</p> <p>The use of quarterly reports that provide key performance indicators is a common supervisory tool that facilitates early identifications of potential supervisory issues and timely intervention. There is no additional regulatory burden as such information should be part of management reporting, so that Boards of Directors have adequate information to exercise effective corporate governance.</p> <p>DNB has a systematic process to review insurers' returns. Insurers submit their returns via the reporting platform. The submissions are subject to validation and plausibility checks and DNB employs early warning indicators to flag out unusual trends or ratios for further inquiries. Its review of the new quarterly returns introduced in 2009 resulted in 200 resubmissions.</p> <p>The Supervisory Regulation on Prudential Returns for Financial Undertakings (<i>Regeling</i></p>

	<p>Staten financiële ondernemingen) specifies the content and format of the returns e.g., reporting on both solo and on a consolidated basis and the permissible scope of consolidation. The prudential returns also include information on off-balance sheet activities, outsourced functions, and activities.</p> <p>The Decree on Prudential Supervision of Financial Group (Bptfg) requires insurers to submit information on a group-wide basis. DNB is empowered to request any information with respect to any subsidiary of the supervised entity. (refer to ICP 17).</p> <p>Reporting requirements do not distinguish between legal form or jurisdiction of origin of an insurer but are only driven by prudential considerations. The Amendment Annual Accounts Rules Insurers 2007 reduces the accounting options for non-IFRS reporting insurers.</p> <p>Insurers are required to notify DNB immediately of any (expected) deficit in the required solvency margin. Moreover, auditors and actuaries have whistle-blowing obligations to DNB if they are aware, in the course of their professional work, of any non-compliance with prudential requirements or of any situation that might threaten the viability of an insurer. DNB received 2 notifications from external auditors in 2009 and 2010 and none from actuaries. (<i>s3:57, s3:88 &amp; 3:89 of Wft</i>)</p>
Assessment	Largely observed.
Comments	<p>DNB has a systematic process in reviewing regulatory returns and information provided by insurers as part of its offsite surveillance. The quarterly returns introduced informally in 2009 should form part of DNB's routine supervisory tools to ensure timely supervision and intervention.</p> <p>DNB should be empowered to require insurers to submit quarterly returns as a routine supervisory practice, with appropriate powers for enforcement and sanctions.</p>
<b>Principle 13.</b>	<p><b>On-site inspection</b></p> <p>The supervisory authority carries out on-site inspections to examine the business of an insurer and its compliance with legislation and supervisory requirements.</p>
Description	<p>The Wft authorizes inspections of insurers and intermediaries. If the regulated entity is licensed by AFM, DNB's power to conduct inspection is restricted and <i>vice versa</i>. DNB is empowered to inspect insurers' outsourced activities. (<i>s1:72 of Wft</i>).</p> <p>To minimize duplication and regulatory burden, DNB places reliance on the work of the external auditors, internal auditors and compliance functions of insurers. Under their professional standards, external auditors are expected to take account of insurers' internal control mechanisms, in expressing an opinion on whether the financial statements present a true and fair view. Periodically, DNB meets with insurers to discuss any regulatory issues.</p> <p>DNB visits insurers regularly and as needed, to discuss the operations and any supervisory concerns. If DNB deems it necessary to undertake on-site inspections it has the power to do so. It has not conducted any full-scale inspection, as its supervisory approach is to have continuous monitoring of the larger insurers through a rolling program of thematic inspections, focusing on specific supervisory issues.<sup>29</sup> Nonetheless, a full-scale inspection covering the core activities of an insurer may provide useful insights on the interaction of</p>

<sup>29</sup> Explanatory Note to ICP 13 states that "The criteria envisage that on-site inspection may be carried out in a manner that is either full scale or on a focused basis"

	<p>different risks and common issues across the operations of an insurer.</p> <p>At the time of assessment, DNB does not have a formal operations manual for on-site inspections. The thematic reviews are based on checklists by the different expert centers.</p> <p>Inspection findings are discussed with the insurers and DNB may issue letters to insurers' management outlining its findings and recommendations. Where necessary, DNB may require insurers to take remedial measures within specified timelines.</p> <p>Under the VITA framework to be implemented in January 2011, the expert centers are responsible for thematic inspections, either independently or in consultation with the relevant supervisors with "integral responsibility" for the supervised institution. The supervisors account managers must ensure that inspection findings and recommendations are properly addressed. The effectiveness of coordination between the expert centers and their respective accountabilities should be continually reviewed.</p> <p>DNB may inspect the records of EU-branches of Dutch insurers or insurers based in other EU states (the latter for the purpose of consolidated supervision). Alternatively, it could request the relevant EU supervisors to verify data/information of the branches or insurers. DNB has conducted a number of joint inspections with foreign supervisors both in the Netherlands and overseas. (<i>s1:55 to s1:57 of Wft</i>).</p>
Assessment	Observed.
Comments	DNB conducts thematic inspections of insurers, which are prioritized based on holistic analysis of insurers' risk profiles, to complement its regular meetings with insurers. It has conducted joint inspections with foreign supervisors to address specific supervisory issues.
<b>Principle 14.</b>	<b>Preventive and Corrective Measures</b>
	The supervisory authority takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.
Description	<p>In achieving norm-compliant behavior, DNB and the AFM do not take immediate legal enforcement actions for every violation of regulatory requirements. As a first step, the authorities may use non-legal measures such as warning letters, meetings, consultations and investigation reports.</p> <p>In achieving norm-compliant behavior, DNB and the AFM do not take immediate legal enforcement actions for every violation of regulatory requirements. As a first step, the authorities may use non-legal measures such as warning letters, meetings, consultations and investigation reports.</p> <p>Nonetheless, the authorities may intervene in the following ways:</p> <ul style="list-style-type: none"> <li>• Prohibiting branches of insurers based in other EU-States from conducting new business in the Netherlands if the branch fails to comply with its instructions or breaches the Wft (<i>s1:58 of Wft</i>).</li> <li>• Disallow a Netherlands insurer from conducting new business in another EU State if it fails to comply with the instruction of the host supervisor (<i>s1:59 of Wft</i>).</li> <li>• Require insurers to submit a recovery scheme if the interests of policyholders and legitimate beneficiaries are threatened and/or meet higher solvency margin requirements (<i>s3:132 to s3:134, s3:139 of Wft</i>).</li> <li>• Require an insurer to propose a restructuring scheme if it fails to meet minimum solvency margin. If the insurer's solvency falls below the required guarantee, it has to submit a financing scheme (<i>s3:136 of Wft</i>).</li> <li>• Mandate the submission of a list of an insurer's assets and changes in its assets and</li> </ul>

	<ul style="list-style-type: none"> <li>to restrict or prohibits insurers from disposing assets for failure to maintain adequate technical provision or solvency requirements (<i>s3:135, s3:137, s3:138, s3:139 to s3:142 to s3:145 of Wft</i>).</li> </ul> <p>DNB applies an Intervention Ladder in monitoring of the solvency of insurers. Supervisory intervention will intensify, starting from levels of 200 percent of the current Solvency I minimum solvency margin requirement through 150 percent and 130 percent. At 130 percent, a recovery plan will be considered. Additionally, insurers may not be allowed to pay dividends or other payments to shareholders or purchase its own shares.</p> <p>In case of special circumstances, DNB has the power to issue temporary, generally binding regulations in order to contribute to the stability of the financial sector. (<i>s1:28 of WFT</i>).</p>
Assessment	Observed.
Comments	DNB is empowered to take a wide range of preventative measures and adopts an Intervention Ladder to calibrate its supervisory responses to emerging supervisory concerns.
<b>Principle 15.</b>	<p><b>Enforcement or sanctions</b></p> <p>The supervisory authority enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>
Description	<p>In deciding whether to take enforcement action, going beyond preventive and corrective measures, DNB takes into account the seriousness of breaches of rules and regulations, guided by its supervisory judgment. DNB and the AFM have jointly issued the Enforcement Policy of the AFM and DNB (Handhavingsbeleid van de Autoriteit Financiële Markten en De Nederlandsche Bank). Internally, DNB applies the Working Instruction (Werkinstructie Handhaving).</p> <p>DNB/AFM may take the following enforcement measures in respect of insurers or insurance intermediaries who fail to comply with the Wft:</p> <ul style="list-style-type: none"> <li>Issue a Directive requiring remedial action within a reasonable time, if an insurer breaches regulatory requirements or there are solvency concerns (<i>s1:75 of Wft</i>).</li> <li>Appoint a receiver, where an insurer fails to comply with its instruction or where the violation seriously jeopardizes their operations or the interests of consumers/policyholders (<i>s1:76 of Wft</i>).</li> <li>Disallow insurers to passport their services to other EU States (<i>s1:77 of Wft</i>)</li> <li>Disqualify auditors and actuaries (<i>s1:78 of Wft</i>).</li> <li>Disqualify Directors and key functionaries (<i>s3:8 and s3:9 of Wft</i>).</li> <li>Impose financial penalties or administrative fines up to a maximum of € 8 million (<i>s1:79 to s1:81, s1:98 to s1:100 of Wft</i>).</li> <li>Issue public warnings on violations (<i>s1:94 of Wft</i>).</li> <li>Modify or withdraw a license or impose licensing conditions for false or misleading application information and failure to meet licensing requirements (<i>s1:104 of Wft</i>)</li> <li>Bring criminal proceedings against the offender (<i>s1:86 of Wft</i>).</li> <li>Declare emergency regulations in the winding of an insurer and apply to the court for a receiver to be appointed (refer ICP 16).</li> </ul> <p>DNB/AFM may impose administrative fines ranging from € 4 million to € 8 million, in</p>

	<p>proportion to the gravity of the offence, in order to have effective deterrent effect. The amount of the fine also depends on the entity's ability to pay.<sup>30</sup></p> <p>Since July 1, 2009, DNB is empowered to impose an administrative sanction on the natural person who is de facto in control of a regulated entity that has violated regulatory requirements.</p> <p>In 2009, DNB has taken the following legal measures against insurers: cease and desist order (20), submission of restructuring plan (4) and recovery plan (3) and silent receivership (3).</p>
Assessment	Observed.
Comments	DNB takes a proportionate approach in exercising its enforcement and sanction powers under the Wft.
<b>Principle 16.</b>	<b>Winding-up and exit from the market</b>
	The legal and regulatory framework defines a range of options for the orderly exit of insurers from the marketplace. It defines insolvency and establishes the criteria and procedure for dealing with insolvency. In the event of winding-up proceedings, the legal framework gives priority to the protection of policyholders.
Description	<p>Insurers must consult DNB before implementing any winding up or resolution of their insurance business. (<i>s3:30 &amp; 3.44 of Wft</i>).</p> <p>The Wft specifies the criteria upon which DNB can decide to withdraw a license. Furthermore, DNB may also request the court to declare bankruptcy of an insurer under the Bankruptcy Act. (<i>s1:104 of Wft</i>).</p> <p>DNB may declare emergency regulations in the winding-up of an insurer and apply to the court for a receiver to be appointed. A receiver may be authorized to transfer all or part of the obligations of an insurer or wind up, in full or in part, the insurer's business. The effect of the emergency regulations is that the insurer concerned cannot be required to fulfill its obligations existing prior to the declaration. Executions that commenced prior to the declaration shall be suspended, except for secured debts and financial guarantee contracts. An insurer may appeal against the declaration (<i>s3:161 to s3:163, s3:176, s3:189, s3:191, s3:203, s3:207 of Wft</i>).</p> <p>A Confidential Advisory Committee for Early Intervention Life Insurers (Vertrouwenscommissie opvangregeling leven),<sup>31</sup> appointed by the Minister, shall advise the DNB on the application of the Early Intervention Arrangement Life Insurers (EIALI) (a legal arrangement to provide relief to a troubled life insurer). The arrangement may be granted either as reinsurance or portfolio transfer to a special purpose vehicle—sleeping “relief company”.<sup>32</sup> DNB may issue instructions to the life insurer and the relief company in the interest of the proper operation of the relief plan under the EIALI, which in the case</p>

<sup>30</sup> The Penalty Scheme in Financial Legislation (Amendment) Act [*Wet wijziging boetestelsel financiële wetgeving (the “Boetewet”)*] and the Decree on Administrative Penalties in the Financial Sector [*Besluit bestuurlijke boetes financiële sector*] took effect on August 1, 2009.

<sup>31</sup> The members of the Confidential Advisory Committee are appointed for a maximum of 5 years on the joint nomination by DNB and the representative organizations for life insurers, Article 5 of the FSA Implementing Regulation (*Uitvoeringsregeling Wft*).

<sup>32</sup> At the time the arrangement is activated the company needs a license as a (re)insurer.



	<p>of a forced portfolio transfer to the relief company is subject to court sanction. DNB may consider the application of the EIALI in case a life insurer breaches the guarantee fund requirement and the plan to restore a sound financial position has not been approved, under the condition that the life insurance portfolio of the concerned company is still viable (<i>s3:150 to s3:155, s3:200 of Wft</i>).</p> <p>The amount made available at any time for providing relief shall not exceed € 249,062,018 (2010) on the understanding that:</p> <p>a) a maximum € 124,531,009 (2010) may be made available per relief situation; and  b) the available amount, where there is a significant risk that it will not be redeemed, may not exceed € 124,531,009 (2010)</p> <p>The amount made available for relief will be funded by way of levies on life insurers (<i>s3:156/7 of Wft</i>)</p> <p>Insolvency proceedings taken in the home State of an EU insurer shall be recognized in the Netherlands. Rationalization measures shall be governed by the laws of the EU State where the measures are adopted. The receiver from the home State of an EU insurer shall be entitled to exercise all the powers it has in the home State, except for the power to use a compulsory measure and the power to pass judgement in a legal action or dispute. The manner in which these powers are exercised in the Netherlands shall be governed by The Netherlands law. (<i>s3:239, s3:240, s3:255 of Wft</i>).</p> <p>Insurance related claims shall rank ahead of all unsecured debts, with the exception of pension awards and wages due to employees and past employees. For non-EU insurers, the Netherlands court and DNB shall seek to coordinate their actions with the administrative or judicial bodies and the supervisory authorities of in their home countries. The priority of insurance related claims does not apply to entities for risk acceptance and reinsurers (<i>s3:198, s3:204, s3:211, s3:213 &amp; s3:224 of Wft</i>)</p>
Assessment	Observed
Comments	The Wft provides for orderly exits of insurers and a high degree of protection for policyholders in the event of insolvency.
<p><b>Principle 17. Group-wide Supervision</b></p> <p>The supervisory authority supervises its insurers on a solo and a group-wide basis.</p>	
Description	<p>The Wft defines insurance group, financial conglomerate, and other related terms.<sup>33</sup> It has established the criteria for determining whether a financial group should be supervised as a financial conglomerate. Insurance groups must be organized in such a way that they can supply the information needed for effective and efficient group supervision. At the time of assessment, there were 62 insurance groups/ conglomerates that meet the criteria. Of which, the top 6 held 86 percent of the total assets of the industry as at end-2009. (<i>s3:16 &amp; s3:269 of Wft</i>).</p> <p>Financial groups are subject to supplementary supervision under the Wft. Insurance groups must satisfy fit and proper criteria and are required to adopt procedures and processes that</p>

<sup>33</sup> The following terms are defined by Wft: participating enterprise, affiliated enterprise, holding (20 percent or more in share capital or 20 percent or more of voting rights), financial holding company, mixed activity holding company, mixed financial holding company, mixed activity insurance holding company, and insurance holding company

are coherent, well integrated and meet regulatory reporting requirements. (*s3:268 to 3.272 of Wft*).

Supplementary supervision shall be exercised in respect of: holding companies of insurers; subsidiaries of insurance holding companies or non-EU insurers; and the Netherlands insurers whose parent is a mixed-activity insurance holding company. Entities subject to supplementary supervision are required to report significant intra-group contracts and positions to DNB periodically and observe the applicable group solvency requirements. (*s3:282 to s3:286 of Wft*).

Where DNB has been designated as the coordinator for a financial conglomerate, it shall: coordinate the collection and dissemination of relevant supervisory information; supervise and assess the financial situation of the financial conglomerate as a whole; supervise compliance with regulatory requirements on capital adequacy, risk concentration and intra-group contracts and positions as well as rules regarding the operations of the financial conglomerate; and plan and coordinate supervisory activities with the relevant supervisory authorities. (*s3:290, s3:294 of Wft*).

DNB may take enforcement action against regulated entities that are part of a financial conglomerate if there are risks that their solvency might be jeopardized or the intra-group contracts and positions or the risk concentrations threaten or the financial position of that regulated entity. (*s3:295 of Wft*).

A financial conglomerate shall comply with capital adequacy on a consolidated basis and ensures that appropriate capital adequacy strategies are in place for the conglomerate as a whole. All significant risk concentrations and intra-group contracts and positions must be reported to the DNB as the coordinator. The ultimate holding company shall ensure that the financial soundness of the group is safeguarded by: effective risk management, sound strategies and the policies and proper resolution of conflicts of interest and relationships between entities in the group. (*s3:296 to s3:299 of Wft*).

Financial groups/conglomerates must have adequate procedures in respect of capital adequacy and risk management as well as proper reporting and accounting systems for measuring, monitoring, and controlling risks at the group/conglomerate level. (s28 of Besluit prudentieel toezicht financiële groepen (Bptfg)(Decree on Prudential Supervision of Financial Groups).

Bptfg prescribes in more details, the regulatory requirements relating to insurance groups:

- a) reporting of significant intra-group contracts or positions that exceed a threshold determined by DNB. However, “the DNB shall not determine any qualitative or other quantitative threshold” (*s5 of Bptfg*). Instead, DNB assesses the risks and nature of each intra-group contract. If assets derived from intra-group transactions are not deemed to be immediately at the disposal of the insurer without any restrictions, the accounting valuation of such assets may not be fully recognised for the purpose of computing available solvency margin (*s89 of Bpr*);
- b) adjusted solvency requirements - an insurance group can choose any one of the three methods prescribed as long as the method is applied consistently (*s6, s7 and three methods are prescribed under Annex A of Bptfg*);
- c) prohibiting multiple gearing of financial resources and restrictions on circular/cross financing arrangements within the group (*s8 to s12 of Bptfg*); and
- d) Supplementary supervision of insurers that are a subsidiary of a non-EU insurance holding company or (re)insurer; (*s21 and s22 of Bptfg*).

Regulatory requirements relating to financial conglomerates under the Bptfg include:

	<p>a) Supplementary capital requirements using prescribed methods. The computation shall include solvency deficits of subsidiaries and non-regulated entities. In contrast with the adjusted solvency of insurance groups, DNB may (after consultation with the other relevant supervisors and the financial conglomerate) decide which method the financial conglomerate must apply (<i>s23, s24, s25 and 4 methods prescribed under Annex B of Bptfg</i>);</p> <p>b) prohibition against multiple gearing of financial resources (<i>s25 of Bptfg</i>);</p> <p>c) limits and quality (effectively transferable and available among the various group members) of equity capital (<i>s25 of Bptfg</i>);</p> <p>d) calculation of the theoretical solvency requirement in accordance with the sectoral regulations of the most important subsector in the financial conglomerate (<i>s25 of Bptfg</i>); and</p> <p>e) reporting of significant risk concentration and significant intra-group contracts or positions. (The former is not an explicit requirement for insurance groups) (<i>s26, s27 of Bptfg</i>).</p> <p>The Supervisory Regulation of Prudential Supervision of Financial Groups (Regeling Prudentieel toezicht financiële groepen) sets out the supervisory expectation of Bptfg. In particular, it defines significant intra-group transaction as one where the amount/position exceeds 20 percent of an insurer's required solvency margin. A risk concentration shall be significant if it exceeds 20 percent of the own funds of a financial conglomerate.</p> <p>DNB observes the CEIOPS Protocol relating to the collaboration of EU supervisory authorities with regard to the supplementary supervision of insurance undertakings in an insurance group (Helsinki Protocol). For major cross-border insurance groups, supervisory colleges have been established and DNB has implemented CEIOPS' action plan on colleges. Information exchange with non-EU/EEA county supervisory authorities has been relatively limited.</p>
Assessment	Largely Observed.
Comments	<p>The Netherland's regulatory frameworks for insurance groups and conglomerates are broadly in line with EU Directives. As an integrated prudential supervisor, DNB has the capacity to effectively coordinate group/conglomerate supervision internally. The impending implementation of Solvency II will strengthen DNB's supervision of insurance groups, subject to the adequacy of supervisory resources.</p> <p>The authorities are advised to consider:</p> <p>a) removing the explicit legal restriction against DNB to impose qualitative and quantitative limits on intra-group transactions and balances under the Bptfg;</p> <p>b) reviewing the adequacy of supervisory resources, particularly for the effective supervision of international active groups/conglomerates;</p> <p>c) harmonizing the supervisory approach for insurance groups and conglomerates in the area of risk concentration and solvency requirements; and</p> <p>d) formulating appropriate regulatory requirements applicable to non-regulated holding companies, in line with Solvency II and international regulatory developments.</p>

<b>Prudential Requirements</b>	
<b>Principle 18.</b>	<b>Risk assessment and Management</b> The supervisory authority requires insurers to recognise the range of risks that they face and to assess and manage them effectively.
Description	<p>Insurers are required to implement effective risk management and controls to ensure sound business operations, compliance with laws and regulations and professional conduct in accordance with generally accepted standards (<i>s3:17 of Wft</i>).</p> <p>Bpr requires insurers to manage all relevant risks (concentration risk, credit and counterparty risk, liquidity risk, market risk, operational risk, interest-rate risk resulting from non-trading activities, residual risk, securitisation risk and insurance risk). Unlike banks, investment firms or clearing institutions, there is no explicit requirement for insurers to take into account macroeconomic risks.</p> <p>Insurers' risk management framework should be aligned with the nature, the size, the risk profile and the complexity of their activities. They must ensure that any deficiencies in risk management are remedied promptly. They are also expected to establish independent risk management functions. (<i>s23, s23c, s24 of Bpr</i>).</p> <p>Listed insurers are required to establish risk management committee under the Netherlands Corporate Governance Code. Enterprise risk management is not yet a common practice in the Netherlands insurance industry.</p> <p>Insurers who use internal models for risk management must assess the validity of their models and the underlying assumptions and variables systematically, including comparing the projections of the model with the actual outcomes. (<i>s25 of Bpr</i>).</p> <p>Insurers must manage risks arising from outsourcing arrangements, the terms of which must be clearly and properly documented. The Wft empowers DNB to define core activities that cannot be outsourced and the terms of outsourcing agreements. Bpr prohibits outsourcing of activities if it hinders the adequate supervision of compliance with Wft or adversely affect the quality of internal audits. In particular, the outsourcing agreement should make provision for DNB to inspect the outsourced activities. (<i>s3:18 of Wft, s27 to s31 of Bpr</i>).</p>
Assessment	Observed.
Comments	The Wft has established high-level requirements relating to insurers' risk management, supplemented by DNB's supervisory expectation under the Bpr. The effectiveness of insurers' risk management system is assessed by DNB under its FIRM Framework.
<b>Principle 19.</b>	<b>Insurance Activity</b> Since insurance is a risk taking activity, the supervisory authority requires insurers to evaluate and manage the risks that they underwrite, in particular through reinsurance, and to have the tools to establish an adequate level of premiums.
Description	<p>Insurers' risk management frameworks must address management of insurance risks, including strategic underwriting, pricing policies, and risk transfer arrangements. (refer to ICP 18).</p> <p>Insurers submit information on expenses related to premiums and claims in their supervisory returns. Although FIRM incorporates the evaluation of the risk management framework of insurers, DNB does not on, on a regular basis, evaluate the risks insurers underwrite and that insurers establish and maintain an adequate level of premiums.</p>

	<p>Nonetheless, life insurers are required to submit profitability tests for new products as part of the supervisory returns. DNB also assesses the adequacy of premium ratings indirectly through evaluating the technical provisions and solvency of insurers.</p> <p>DNB assesses the proposed reinsurance strategy and arrangements of an applicant at the licensing stage. While insurers are not required to submit reinsurance contracts for approval, DNB expects insurers to adopt sound reinsurance strategies that provide for coverage commensurate with their financial resources and risk profiles.</p> <p>DNB is empowered to adjust the value of an insurer's reinsurance recoverables to a lower value than shown in its accounts or to disqualify certain assets covering technical provision, if deemed appropriate. Accounting requirements under the BW and DNB's prudential returns do not allow for recognition of risk mitigation instruments where such instruments do not constitute effective risk transfer. (<i>s122 of Bpr</i>).</p> <p>As of September 1, 2008, prudential supervision of reinsurers was introduced in the Netherlands, implementing the EU Directive on Reinsurance (2005/68/EC). DNB is in charge of the supervision of reinsurers, and is in a position to assess some of the reinsurers used by insurers under DNB's supervision.</p> <p>Non-life insurers are not permitted to underwrite risks caused, by or arising from armed conflict, civil war, insurrection, civil commotion, riot, or mutiny. (<i>s3:38 of Wft</i>)</p>
Assessment	Observed.
Comments	While DNB does not monitor insurers' underwriting and premium pricing, it monitors their insurance risks through its assessment of insurers' risk management system, technical provision and solvency. DNB also reviews the adequacy of insurers' reinsurance program and the collectability of reinsurance recoverables.
<b>Principle 20.</b>	<p><b>Liabilities</b></p> <p>The supervisory authority requires insurers to comply with standards for establishing adequate technical provisions and other liabilities, and making allowance for reinsurance recoverables. The supervisory authority has both the authority and the ability to assess the adequacy of the technical provisions and to require that these provisions be increased, if necessary.</p>
Description	<p>The Wft requires an insurer to establish adequate technical provisions. The valuation of an insurer's other liabilities is based on the accounting standards for financial reporting. (<i>s3:67, s3:68 and s3:69 of Wft</i>).</p> <p>Bpr prescribes the elements to be included in estimating insurers' insurance liabilities. Technical provisions of life insurers are to be computed based on conservative prospective actuarial methodologies. Non-life insurers shall maintain technical provisions that are adequate to cover unearned premiums, outstanding claims and incurred but not reported claims. Discounting of non-life technical provision is only allowed if the settlement of the claims will take at least 4 years. Insures must carry out tests on the adequacy of their technical provisions. (<i>s114 to s121 of Bpr</i>).</p> <p>The Regulation on Solvency Margin and Technical Provisions of Insurers (Rsmtv) prescribes the standards for the Netherlands Liability Adequacy Test (LAT). Under the LAT, the liabilities are set at best estimate plus a risk margin, paving the way for implementing Solvency II. The best estimate is calculated on the basis of cash flow projections that are discounted at a term structure of the interest rate. The LAT standards relate to the discount rate, homogeneous risk groups, financial guarantees, and embedded options and risk margins. Furthermore, insurers have to report the specific methods and assumptions used and show that the assumptions used is based on experience data. An</p>

	<p>insurer's Netherlands LAT is audited and certified by an actuary and reported to DNB annually. If the technical provisions maintained by an insurer are lower than the LAT, it has to be increased to the level of the LAT. (<i>s121 of Bpr</i>).</p> <p>DNB can object to the nature and valuation of any asset covering the technical provisions. The prudential returns require insurers to provide both gross and net figures relating to reinsurance (<i>s122b of Bpr</i>).</p> <p>Insurers' internal controls must ensure timely and proper recording of all insurance liabilities. External auditors are responsible for auditing the reliability of the data.</p> <p>As of 2007, the prudential returns include an Organization and Risk Form (<i>Staat Organisatie en Risico</i>) on insurers' strategic risk management, governance policies, and procedures and risk exposures. The latter include sensitivity tests (increase/decrease of 1 percent in interest rate and increase/decrease of 10 percent in equities prices) on assets, technical provision, other liabilities and own funds.</p> <p>Insurers who are active in the credit sector shall maintain equalization provision for their credit policies. (<i>s120 of Bpr</i>).</p>
Assessment	Observed.
Comments	There are clear legal principles and regulatory guidelines for insurers in estimating their insurance liabilities, the adequacy of which is to be supported by the LAT. DNB monitors insurers' technical provisions and has the power to require insurers to remedy any shortfall.
<p><b>Principle 21. Investments</b></p> <p>The supervisory authority requires insurers to comply with standards on investment activities. These standards include requirements on investment policy, asset mix, valuation, diversification, asset-liability matching, and risk management.</p>	
Description	<p>Insurers are expected to have strategic investment policy and investment risk management that is proportionate to the nature, scale, risk profile, and complexity of their operations. The policies should cover pledging or lending of assets and the use of derivatives. In particular, insurers must have clear policies to address specific risks, such as market, credit, liquidity, concentration, and operational risks. (<i>s23 of Bpr</i>).</p> <p>Insurers should have effective asset-liability management to ensure that the nature of assets that are intended to cover their technical provisions is appropriate for their liability profiles. The regulatory requirements regarding insurers' investments are as follows:</p> <ul style="list-style-type: none"> <li>• investments must be adequately diversified (<i>s122 of Bpr</i>);</li> <li>• concentration limits for single undertaking (5-10 percent of gross technical provisions), single property (10 percent of gross technical provisions) and non-guaranteed loans (1 percent of gross technical provisions) (<i>s123 of Bpr</i>);</li> <li>• no more than 40 percent of assets covering technical provisions in registered covered bonds of a particular issuing bank. (<i>s124a of Bpr</i>); and</li> <li>• proper recording of all rights and obligations (<i>s17 of Bpr</i>).</li> </ul> <p>BW requires investments to be valued according to accounting rules or IFRS. Moreover, DNB is empowered to revalue or disqualify assets covering technical provisions and solvency margin. (<i>s89 &amp; s122 of Bpr</i>).</p> <p>Insurer must ensure that key functionaries, including investment managers, are fit and proper and have policies and procedures to minimise conflicts of interest (<i>s13 &amp; s11 of</i></p>

	<p><i>Bpr</i>).</p> <p>Bpr requires an insurer to have in place policies and procedures regarding contingency plans. (<i>s23(4) of Bpr</i>).</p>
Assessment	Observed.
Comments	Regulatory requirements are in place for insurers to manage their investment risks in a manner proportionate to the nature, size, complexity and risk profile of their operations.
<b>Principle 22.</b>	<p><b>Derivatives and Similar Commitments</b></p> <p>The supervisory authority requires insurers to comply with standards on the use of derivatives and similar commitments. These standards address restrictions in their use and disclosure requirements, and internal controls and monitoring of the related positions.</p>
Description	<p>Derivative financial instruments are permitted insofar as these are used to limit the investment risk or to enable an efficient portfolio management. (<i>s122 of Bpr</i>).</p> <p>DNB has issued a policy on the key principles for assessing the risk management of alternative investments of financial undertakings and pension funds (<i>Beleidsregel uitgangspunten beoordeling risicobeheer van alternatieve beleggingen</i>). This policy is applicable to all assets, including those covering technical provisions. While it does not impose specific limits on the use of derivatives, use of derivatives should comply with the generally applicable guiding principles of investments and be integrated in the overall investment strategy and risk control.</p> <p>Disclosure requirements for derivatives and similar commitments are established under the BW, IFRS, and requirements under DNB's prudential returns.</p>
Assessment	Observed.
Comments	The regulatory policy and requirements for the use of derivatives by insurers are aligned with international best practice.
<b>Principle 23.</b>	<p><b>Capital Adequacy and Solvency</b></p> <p>The supervisory authority requires insurers to comply with the prescribed solvency regime. This regime includes capital adequacy requirements and requires suitable forms of capital that enable the insurer to absorb significant unforeseen losses.</p>
Description	<p>Currently, the solvency regime for insurers is based on Solvency I, with some enhancements. In 2009, the Solvency II Directive was adopted by the European Parliament and the Council (2009/138/EC). Implementation of Solvency II is planned to commence in December 2012.</p> <p>Paving the way for the implementation of Solvency II, DNB has introduced the RiSK tool in 2009, through which insurers report their solvency position based on the Quantitative Impact Study (QIS4) of Solvency II.</p> <p>About 200 small-sized insurers will fall outside the scope of the Solvency II because of their low volume of business. For these insurers, the proposed Solvency II Basic will provide for an appropriate national risk-based supervisory regime, in which the intensity of supervision is commensurate with the complexity of operations and the risk exposures. DNB is currently formulating Solvency II Basic that would apply to about 100 insurers. The rest of the insurers would be exempted from the solvency requirement if they meet stringent criteria on scale and limitation on nature of activities.</p>

	<p>Insurers are required to have minimum equity capital (i.e., Guarantee fund) and meet solvency margin requirements. A Guarantee Fund must constitute one third of the required solvency margin. An insurer shall notify the DNB if it reasonably expects a shortfall in solvency margin (<i>s3:53 and s3:57 of Wft</i>).</p> <p>Rules on minimum Guarantee Funds, localization of assets representing solvency margin, technical provisions, and assets backing technical provisions are established by the Wft and Bpr and further by DNB Regulation Solvency Margin and Technical Provisions of Insurers. (<i>s3:54 and s3:67 of Wft</i>).</p> <p>Bpr prescribes the minimum amount of Guarantee Funds to be held by life and non-life insurers and branches in the Netherlands, ranging from € 1.1 million to € 3.5 million. The guarantee fund shall comprise of equity capital<sup>34</sup> less specified deductions (e.g., intangible assets). The minimum amount of the solvency margin for some small exempted mutual non-life insurers is € 205,000. (<i>s49, s50 and S95 of Bpr</i>).</p> <p>Bpr also outlines the minimum solvency requirements. Solvency requirement for life insurers is computed generally as a percentage of technical provision or risk capital. For non-life insurers, minimum solvency is computed as a percentage (based on average retained claims) applied to the higher of a specified percentage of: a) booked/earned premiums plus policy costs; and b) average claims booked and addition to claims provision. (<i>s59, s65 and s67 of Bpr</i>).</p> <p>In consultation with the relevant EU supervisors, DNB may grant dispensation to a non-EU based insurer operating a branch office in the Netherlands and other EU States on the computation of solvency margin based on the entire business of the insurer's branch operations in EU and maintenance of Guarantee Fund in the EU State supervising the solvency margin. (<i>s1:63 and s3:60 of Wft</i>).</p> <p>The Wft and Bptfg provide for adjusted solvency calculations for insurance groups to eliminate double gearing. Branch operations are included in the solvency assessment of regulated insurance entities. (<i>s3:298 of Wft</i>).</p> <p>Insurers are required to perform sensitivity tests (increase/decrease of 1 percent interest rate and increase/decrease of 10 percent in equity rates) on a yearly basis. The tests calculate the impact on assets, technical provision, other liabilities and own funds.</p> <p>The capital adequacy and solvency regime in the Netherlands is largely driven by EU Directives. Nonetheless, DNB has made a conscious decision to introduce the Netherlands LAT and improve disclosures and the supervisory reporting in general, paving for the implementation of Solvency II.</p>
Assessment	Largely observed.
Comments	The implementation of Solvency II by the Netherlands with effect from January 2013 will result in a more robust and risk-sensitive solvency regime that will enhance DNB's risk-based supervision.

<sup>34</sup> Suitable forms of capital listed in s95 of Bpr are: paid-up capital; reserves (excluding hedging transactions); undistributed profit; specified valuation of interests in subsidiaries and related companies; cumulative preference shares, subordinated loans that satisfied certain conditions; and debt certificates with an indefinite subject to certain conditions.



<b>Markets and Consumers</b>	
<b>Principle 24.</b>	<b>Intermediaries</b>
	The supervisory authority sets requirements, directly or through the supervision of insurers, for the conduct of intermediaries.
Description	<p>The AFM is responsible for licensing and registering insurance intermediaries (insurance brokers, reinsurance brokers, agents and sub-agents). It also administers the Decree on the Supervision of the Conduct of Financial Enterprises pursuant to the Wft (Bgfo). The Wft empowers the AFM to take action against unlicensed intermediaries. <i>(s2:80 of Wft)</i>.</p> <p>The licensing criteria for insurance intermediaries include: expertise, professional competence and propriety of the applicant, sound policy on the conduct of business; control and operational structure; and professional liability insurance (applicable to brokers only). The AFM may extend the license to the affiliated entities of these licensees on the condition that they have adequate control over, and capacity to support, their affiliates. <i>(s2:83, s2:84, s2:86, s2:89, s2:92, s2:94 and s2:105 of Wft)</i>.</p> <p>Financial service providers, including banks, shall ensure the professional competence of their employees and of other natural persons who are directly engaged under its responsibility in providing financial services to clients. Financial services include advice on financial products and insurance and brokerage services. <i>(s4:9 of Wft and Chapter 2 of Bgfo on Professional Competences of Employees)</i>.</p> <p>Insurance brokers and reinsurance brokers shall notify the AFM of their intention to establish branches, in or provide broking services to, other EU States, subject to advice from the Commission of the European Communities that the relevant host supervisors consider the notification desirable. <i>(s2:125 and s2:126 of Wft)</i>.</p> <p>Insurers must authorize insurance agents and sub-agents in writing and they may impose restrictions on the authorizations. They must also ensure that the broker, through whom it concludes an insurance contract, complies with the Wft, including licensing requirements. An insurer is obliged to report infringements of the Wft by a broker or agent to AFM. <i>(s4:79, s4:93, s4:94 and s4:97 of Wft)</i>.</p> <p>The AFM assesses the propriety of persons providing financial services. Insurers and insurance/reinsurance brokers shall also ensure the professional competence of its employees and persons who are directly engaged in providing financial services. <i>(s4:9 of Wft and s5, s12, s28 and Annex B &amp; C of Bgfo)</i>.</p> <p>Intermediaries shall implement adequate policies that safeguard controlled and sound business operations. These include measures to prevent offences or other transgressions of the law and outsourcing activities. <i>(s4:11 and s4:16 of Wft)</i>.</p> <p>Insurance brokers and agents shall not deal with or act for offerors without appropriate license or contravening a prohibition under the Wft. <i>(s4:96 of Wft)</i>.</p> <p>An advisor or broker shall inform its clients, whether it provides advice on the basis of an objective analysis and whether it has a contractual obligation exclusively to advise for one or more offerors; basis of its remuneration; and any potential conflict of interests. An objective analysis must be adequate to enable the advisor/broker to recommend a product that meets the needs of clients. <i>(s4:72, s4:73 of Wft)</i>.</p> <p>While the Bgfo limits the initial commission of a broker to 50 percent of total remuneration, there is currently no cap on the remuneration payable to brokers. Also refer to ICP 25 <i>(s150 of Bgfo)</i>.</p>

	<p>An insurance broker or reinsurance broker shall be covered by professional liability insurance in respect of errors, omissions or negligence. The minimum coverage is € 1 million per incident of loss and at least € 1.5 million per annum for all incidents of loss in aggregate.<sup>35</sup> Both brokers and agents are accountable and responsible to the insurer for collection of premiums, unless agreed otherwise. (<i>s4:75, s4:76, s4:104 and s159 of Bgfo</i>).</p> <p>BW provides for a system of relieved payment (bevrijdende betaling). The legal effect is that payment by the client to an intermediary is considered as a payment to the insurer, and the client has no further liability. Thus, there is no requirement for brokers to properly segregate clients' monies. (<i>s7:936 of BW</i>).</p> <p>The AFM actively monitors the conduct of insurance intermediaries e.g., study on endowment policies in 2007 and review of the quality of advice given by insurance brokers. It is empowered to take supervisory measures against intermediaries that are found to have engaged in malpractices, ranging from issuing directions, order to comply with directions, imposing fines, disqualifying persons and revocation of licenses. The AFM has also established an Integrity Unit to encourage whistle blowing of misconduct.</p>
Assessment	Observed.
Comments	The AFM administers the licensing of intermediaries with clear and transparent criteria. The AFM actively monitors intermediaries' compliance with the regulatory requirements on professional conduct under the Wft and Bgfo.
<b>Principle 25.</b>	<b>Consumer Protection</b>
	The supervisory authority sets minimum requirements for insurers and intermediaries in dealing with consumers in its jurisdiction, including foreign insurers selling products on a cross-border basis. The requirements include provision of timely, complete and relevant information to consumers both before a contract is entered into through to the point at which all obligations under a contract have been satisfied.
Description	<p>The Wft requires insurers to provide adequate information to consumers to enable a proper assessment of the product/services at all relevant stages of the sales process, after the sales and during the term of the contract. Insurers and intermediaries must obtain information about clients' financial position, knowledge, experience, objectives and risk tolerance, which should form the basis for advice. (<i>s4:20, s4:23, s4:24 of Wft</i>).</p> <p>The detail disclosure requirements in respect of life and non-life insurances are elaborated under the Bgfo. The requirements also cover distance agreements and telemarketing. Providers of complex products and their agents/sub-agents shall also provide the relevant Financial Information Leaflet to clients free of charge. (<i>s60 to s62, s65 to s67, s72 to s80 of Bgfo</i>).</p> <p>Advertisements on complex products shall include information about the principal financial risks, highlighted by means of a risk indicator. Information about a historical or future investment returns shall be accompanied by information about the principal costs and principal financial risks. Conditions applicable to guaranteed investment return must also be disclosed before a contract is concluded. (<i>s52 of Bgfo</i>).</p> <p>A consumer may cancel a distance life insurance contract, without owing a fine and without giving reasons, within 30 days of the conclusion of the contract or of receipt of the information that insurer must supply, whichever is later. The cancellation period is 7</p>

<sup>35</sup> Article 15 of FSA Implementing Regulation.

	<p>days for general insurance contracts. (s4:28, s4:63 of Wft).</p> <p>Insurers and intermediaries shall ensure that complaints from clients and consumers are handled properly. They must establish internal complaints procedures and be associated with a relevant disputes resolution body. Complaints handling procedures must be clearly communicated internally and all complaints are properly recorded. (s4:17 of Wft and s29, s40, s41 of Bgfo).</p> <p>Safeguarding the confidentiality of consumer information is regulated by the Netherlands Data Protection Act (Wet bescherming persoonsgegevens).</p> <p>The AFM posts warning notices to consumers on its website. The AFM’s website also has a section dedicated to consumers, providing information on customers’ rights and guidance on risks, products and how to deal with financial needs sensibly.</p> <p>The Scheltema Committee that investigated the supervision of DSB Bank by the AFM had raised some significant consumer protection issues. The AFM has endorsed the Committee’s main findings and stated that it “has already argued for a stronger legal basis for the duty of care” to allow supervision of insurers’ product development process.<sup>36</sup> The AFM also agreed with the Committee’s suggestion to move towards supervision of governance and a client-oriented culture and has already taken steps in this direction.<sup>37</sup></p> <p>VvV monitors consumer complaints on an industry-wide basis.<sup>38</sup> In 2009, a total of 2,175 new complaints on life insurance and 1,803 complaints on non-life insurance were registered. As at end-2009, 545 life and 301 non-life complaints remained outstanding. All the 1,599 complaints on healthcare were dealt with in 2009.</p> <p>The AFM conducted reviews of investment-linked insurance policies in 2006 and 2008. The objective was to establish the quality of advice provided to consumers and to calculate the exact costs of a representative number of products. During and after the review, most insurers announced they would be offering compensation arrangements to reimburse the financial losses suffered by policyholders due to excessive costs.</p> <p>The rules regarding transparency of commissions formally took effect on January 1, 2009. As from January 1, 2010, the rule also applies to payment protection insurance policies. Consumers consulting an intermediary must be informed of the commission payments made by banks and insurers. The commissions to independent intermediaries for complex insurance products such as pensions, mortgages and life insurance will be prohibited in the Netherlands as from 2013.</p>
Assessment	Largely observed.
Comments	<p>The Wft requires insurer and intermediaries to ensure fair treatment of consumers including the provision of adequate information for informed decision. However, the reputation of the life insurance industry has been tarnished by the sale of policies with excessive costs to policyholders. While the authorities have since strengthened supervision of intermediaries, there is scope for improving insurers’ product development process. It will take time to strengthen consumer protection, which requires</p>

<sup>36</sup> “The AFM does not expect self-regulation to be sufficiently effective and has suggested to the Minister that the regulation relating to the duty of care should be adjusted in this respect. Embedding this in regulation will allow the AFM to oversee the processes of product development, marketing and distribution in a risk-driven way at an earlier stage” Source: The AFM Annual Report 2009.

<sup>37</sup> AFM endorses main findings by Scheltema Committee, June 29, 2010.

<sup>38</sup> Table 12.8, 12.10, and 12.11 of The Netherlands Insurance Industry in Figures 2010

	<p>changes in culture, mindset and competency level of intermediaries.</p> <p>The authorities are advised to carefully consider the trade-offs between self-regulation and robust supervision to protect the interests of policyholders.</p>
<b>Principle 26.</b>	<p><b>Information, Disclosure &amp; Transparency Towards the Market</b></p> <p>The supervisory authority requires insurers to disclose relevant information on a timely basis in order to give stakeholders a clear view of their business activities and financial position and to facilitate the understanding of the risks to which they are exposed.</p>
Description	<p>The Netherlands insurers are required to publish their financial information publicly. Under the BW, with the exception of small mutual companies, insurers must file their annual accounts and annual reports with the Chamber of Commerce, which are publicly available. Listed insurers are required to comply with disclosure requirements of the Stock Exchange.</p> <p>DNB also publishes selected information submitted by insurers in their prudential returns on its website. As of 2007, insurers are required to disclose in the prudential returns both quantitative and qualitative information on their risks and risk profile and how these are being managed. Prudential reporting also include information on management and corporate. A subset of these prudential returns should be published by the insurer, accompanied by a statement of the auditor with regard to the level of assurance applied to the prudential returns (<i>s3:72 of Wft</i>).</p>
Assessment	Observed.
Comments	DNB and The AFM publish extensive market data and analysis, including key performance data of individual insurers. Selected regulatory information is easily accessible by the public through their websites or public inspection of regulatory returns.
<b>Principle 27.</b>	<p><b>Fraud</b></p> <p>The supervisory authority requires that insurers and intermediaries take the necessary measures to prevent, detect and remedy insurance fraud.</p>
Description	<p>The Wft and related regulations authorizes DNB to supervise the administrative organization and internal control of insurers and gives DNB adequate powers of enforcement and co-operation. The FIRM Framework incorporates supervisory assessment of fraud risk.<sup>39</sup> (refer to ICP 10, ICP 15, and ICP 5).</p> <p>Fraud is covered explicitly under civil and criminal laws; e.g., swindle or racketeering, fraud committed in the course of the conclusion of the contract, or claims fraud. Fraud committed by an insurer, employees of an insurer and customers of insurers are addressed in Wft and Bpr. (<i>s3:17 Wft</i> and Chapters 3 (partially) and 4 of Bpr).</p> <p>Insurers must report serious cases of fraud to DNB. Submitted reports could result in a report to law enforcement agencies. (<i>s3:10 of Wft</i>).</p> <p>DNB has been working closely with VvV on dealing with insurance fraud and has participated in industry meetings to discuss insurers' approach to fraud. DNB officers also attend meetings of national law enforcement authorities and the VvV, concerning fraud at health/medical insurance companies.</p>

<sup>39</sup> FIRM criterion on "Improper conduct": the risk that the reputation and possibly even the financial position of the financial institution is influenced due to the conscious or unconscious facilitation by or involvement of the financial institution with offences.

	<p>DNB is a member of the Financial Expertise Centre (Financieel Expertise Centrum), with 7 other national supervisory authorities (e.g., the public prosecutor's office, the AFM, tax authorities). The Centre aims to strengthen the integrity of the financial sector, including addressing fraud, through cooperation and information sharing.</p> <p>DNB was one of the authors of the IAIS “Guidance Paper on preventing, detecting and remedying fraud in insurance” (October 2006). Additionally, DNB has worked on the IAIS “Report on the survey on preventing, detecting and remedying fraud in insurance”(May 2007).</p> <p>In 2007/2008 DNB has conducted a self-Assessment on Integrity with small and medium sized insurers. The findings on fraud concluded that 79 percent of insurers covered fraud in their risk assessments. DNB discussed the findings with individual insurers. Two practical manuals have been developed for insurers.<sup>40</sup></p> <p>With consultation and support of DNB, VvV has taken the initiative to establish a Centre Countering Insurance Fraud (Centrum Bestrijding Verzekeringsfraude) in 2007. The Centre is in close contact with DNB and relevant national authorities and serves also as an information desk for individual insurers and stakeholders. VvV provides statistics on insurance fraud by lines of business.<sup>41</sup> In 2009, a total of 3,244 reports were filed, of which 1,650 came from motor insurance. The majority (2,080) related to insurance claims.</p> <p>In 2010, the Register of Coordinator for Fraud Control and an elementary course for the insurance employees were introduced. Those who completed the course are entered in the register. Insurers are exchanging information on fraud through these fraud officers.</p> <p>In 2011, a new fraud protocol for the entire insurance sector will be adopted by VvV. With this protocol, cooperation between insurers and with national authorities will be enhanced.</p>
Assessment	Observed.
Comments	The DNB as well as industry participants have taken a proactive approach to combating insurance fraud. There is also close cooperation and information exchange with enforcement agencies and other supervisors, both locally and internationally, to address fraud to preserve the integrity of the insurance sector.
<b>Anti-Money Laundering, Combating the Financing of Terrorism</b>	
<b>Principle 28.</b>	<b>Anti-Money Laundering, Combating the Financing of Terrorism (AML/CFT)</b> The supervisory authority requires insurers and intermediaries, at a minimum those insurers and intermediaries offering life insurance products or other investment related insurance, to take effective measures to deter, detect and report money laundering and the financing of terrorism consistent with the Recommendations of the Financial Action Task Force on Money Laundering (FATF).
Description	The AML/CFT legal framework includes the Wft, Bpr, the Money Laundering and Terrorist Financing Prevention Act (WWFT) which came into force on August 1, 2008; and the Regulation implementing the WWFT (URWWFT). These laws and regulations

<sup>40</sup> “To prevent and deal with internal fraud incidents” and ‘Assessment of interest concerning external registrations’.

<sup>41</sup> Table 12.7 of The Netherlands Insurance Industry in Figures 2010

implement the FATF Recommendations.

Bpr requires life insurers to conduct customer due diligence and know-your customer analysis, establish procedures and measures to deal with clients, products or services with different risk classifications, monitoring and detection of unusual transaction and proper documentation and maintenance of the identification and verification of clients. Insurers shall cooperate with DNB on any investigation of suspected terrorist activities or activities that could harm the integrity of the financial sector. (*s14 of Bpr*).

WWFT provides for the supervision and enforcement of AML/CFT obligations. DNB is the designated supervisor with respect to life insurers while The AFM is the supervisor for the intermediaries. WWFT provides for a risk based approach to supervision and enforcement. (*s24 of WWFT*)

Based on the Wft and WWFT, DNB/AFM can take both criminal and administrative sanctions against insurers/intermediaries for breaches by the institutions and their senior management of their AML/CFT obligations. A breach of the WWFT is a criminal offence with a maximum of two years imprisonment (for individuals) and a fine. DNB may also impose administrative penalties for specific breaches of these acts..

Administrative fines can amount to € 4 million or € 8 million for repeat offences. There is also scope for penalize regulated up to twice the financial gains from a violation. Under the Awb, DNB can sanction either the financial institution or the individual responsible for the transgression. It is also possible to sanction junior officer if the violation can be directly attributed to the decisions or acts carried out by this person. (*s5:0.1 of Awb*).

The Wft provides that no person may undertake financial services business without a license and sets licensing criteria including fitness and propriety (refer to ICP 6 and ICP 7).

DNB/AFM also has adequate powers to cooperate with domestic Financial Intelligence Unit (FIU), enforcement authorities and supervisors, both domestic and internationally. The authorities are able to provide information without the need for a formal agreement although it seeks to conclude such agreements where appropriate. WWFT provides for an explicit provision for information exchange between the FIU and DNB/AFM. In addition, there are provisions relating to the disclosure of information between domestic and foreign supervisory authorities and prosecutors in the Wft. A WWFT Coordination meeting between the FIU and DNB/AFM takes place every 3 months. (*s13g, s22, s25 WWFT and s1:51, s1:90 & s1:92 of Wft*).

DNB adopts the following approach to AML/CFT supervision:

- The Expert Centre for Integrity (13 staff) supports and advises the supervisory teams concerning integrity issues and takes part in examinations on integrity, including AML/CFT compliance.
- 2 insurance prudential supervisory teams deal with AML/CFT supervision in their overall supervisory tasks. AML/CFT issues are discussed in bimonthly meetings.
- An Expert Centre for register and fit and proper testing.
- An Expert Centre for Enforcement (10 staff) deals with illegal financial institutions and AML/CFT related issues.
- Supervisory Policy Department, Accountancy, Organization and Integrity division deals (3 staff) deal with overall policy issues regarding integrity

	<p>(including AML/CFT).</p> <p>DNB receives adequate funding for AML/CFT supervision from the Government. DNB staff has appropriate skills and receive sufficient training.</p> <p>WWFT clearly lays out the requirements relating to customer due diligence (CDD) and verification of customers' identities, including circumstances for enhanced CDD, incidental transaction above € 15,000 and dealing with politically exposed persons. DNB has also issued Q&amp;A providing examples of some products which may be low or high risk. <i>(s3 &amp; s4 of WWFT)</i>.</p> <p>BW and General Tax Law (Algemene Wet Rijksbelastingen) require entities to keep records including identification data, account files and business correspondence for 7 years. WWFT establishes the information to be recorded for customer identity, which shall be kept for 5 years after the business relationship is terminated or 5 years after the transaction was carried out. However, there is no requirement for the retention of data on the identification of beneficial owners (except where one natural person is acting on behalf of another), or of legal arrangements such as trusts. It requires records relating to a transaction that has been the subject of disclosure to be kept for 5 years from the time of disclosure. <i>(s33, s34 of WWFT)</i>.</p> <p>Bpr requires that data relating to the monitoring of transactions be retained but does not require transactions data itself to be maintained and no requirement that the records should permit reconstruction of transactions sufficient for prosecution evidence. Data on customer identity and the monitoring of transactions are to be maintained for "up to" five years. <i>(s14 of Bpr)</i></p> <p>There is also no legal requirement for an insurer, who relies on an intermediary to perform CDD to document how it is satisfied that CDD requirements have been met; and immediately obtain the CDD information from the intermediary.</p> <p>WWFT obliges insurers to conduct ongoing monitoring of the business relationship to detect transactions incompatible with customer's profile, and to check the source of the assets where appropriate. Bpr requires The Dutch insurers to monitor and detect unusual transaction patterns. <i>(s3 of WWFT &amp; s14 of Bpr)</i>.</p> <p>Life insurers shall file suspicious transaction report to FIU within 14 days of establishing the unusual nature of the transactions. The Decree implementing the WWFT (Uitvoeringsbesluit Wet ter voorkoming van witwassen en financieren van terrorisme) provide indicators of unusual transactions. In 2009, insurers filed 9 suspicious transaction report. <i>(s15, s16 of WWFT)</i>.</p> <p>There is no explicit requirement for insurers to appoint AML-CFT Compliance Officers. However, the Bpr requires insurers to establish a compliance function, which implicitly requires persons to be responsible for compliance with laws and regulations, including AML-CFT compliance. The Wft requires life insurers to implement measures to prevent transgressions of the law and Bpr expects insurers to establish compliance functions (whose role would include checking compliance with AML/CFT obligations <i>(s3:10 and s4:11 of Wft)</i>).</p> <p>WWFT requires life insurers to inform employees of the provisions of WWFT. Bpr requires insurers to inform all business units of the policies, and measures designed to mitigate against integrity risk, including the risks of money laundering and terrorist financing. <i>(s35 of WWFT, s10 of Bpr)</i>.</p> <p>Life insurers must ensure that branch offices and subsidiaries in a non-EU State observe the same CDD requirements and record retention requirements as laid down under the</p>
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	<p>WWFT. An insurer shall inform DNB if it is unable to apply the Netherlands' standards in such branches or subsidiaries. (<i>s2 of WWFT</i>).</p> <p>Based on a risk assessment in 2009, DNB audited 10 selected life insurers to ascertain how they comply with this WWFT. Control measures regarding customer files have, in a number of cases, proved inadequate. Also, where relevant, the relationship with intermediaries could do with some better safeguards.</p>
Assessment	Largely observed.
Comments	<p>The AML-CFT requirements applicable to insurers are broadly in line with the FATF recommendations.</p> <p>The authorities are advised to update the legal provisions on record retention, appointment of anti-money laundering compliance officers and the requirements where insurers rely on intermediaries to perform CDD, to bring these in line with FATF Recommendations.</p>