

INTERNATIONAL MONETARY FUND



# Staff Country Reports



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OFFSHORE FINANCIAL CENTER ASSESSMENT PROGRAM

# GIBRALTAR

## DETAILED ASSESSMENT REPORT OF OBSERVANCE OF THE INSURANCE CORE PRINCIPLES

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INTERNATIONAL MONETARY FUND  
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Glossary .....3

I. IAIS Insurance Core Principles .....4

Tables

1. Detailed Assessment of Observance of the IAIS Insurance Core Principles.....5

2. Summary Observance of IAIS Insurance Core Principles.....18

3. Recommended Action Plan to Improve Observance of IAIS Insurance Core.....18

**GLOSSARY**

AML	Anti-money laundering
BCP	Basel Core Principles
CFT	Combating the financing of terrorism
CJO	Criminal Justice Ordinance
COO	Criminal Offences Ordinance
EC	Essential criteria
EU	European Union
FSC	Financial Services Commission
FSCO	Financial Services Commission Ordinance
FSO	The Financial Services Ordinance
IAIS	International Association of Insurance Supervisors
ICO	Insurance Companies Ordinance
ICP	IAIS Insurance Core Principles
IMF	International Monetary Fund
MOU	Memorandum of understanding
PCC	Protected cell companies

## I. IAIS INSURANCE CORE PRINCIPLES

### General

1. This is an assessment of the observance of the core principles of the International Association of Insurance Supervisors (IAIS) in Gibraltar. The assessment was done as part of a Module 2 assessment in the context of the International Monetary Fund's (IMF) offshore financial center assessment program. The assessment was conducted during a mission to Gibraltar during March 6–17, 2006, and thus reflects the practices and circumstances at that time. The assessment was conducted by William McCullough (consultant to the IMF).
2. Considerable assistance was provided by the Financial Services Commission (FSC) which is the insurance supervisory authority, and all persons in the industry with whom contact was made.

### Information and methodology used for assessment

3. The assessment has been based on the IAIS insurance core principles and methodology as adopted by the IAIS in 2003. A principle is considered “**observed**” when all essential criteria are met without any significant deficiencies. A principle is considered “**largely observed**” whenever only minor shortcomings are found which do not raise any concerns about the authority's ability or intent to achieve full observance with the principle within a prescribed period of time. A principle is considered “**partly observed**” whenever, despite progress, the shortcomings are sufficient to raise doubts about the authority's ability to achieve observance. At the same time, reference was made to the IMF assessment 2002 and a recent review of Gibraltar that was based on a comparison with the standards applied by the FSA in the United Kingdom.
4. The principle relevant to insurance legislation for insurance companies is the Insurance Companies Ordinance and Regulations 1987; for insurance intermediaries and insurance managers it is the Financial Services Ordinance and Regulations 1989; European Union Directives are enacted through legislation. In addition, Insurance Guidance notes and newsletters are issued, all of which are available on the FSC web site.
5. During the assessment, discussions were held with an insurance manager, the manager of a domestic insurance company, an international insurance company, a domestic insurance agent, and an insurance company auditor. It was apparent that all service providers welcomed all initiatives taken by the FSC, which is held in high regard. The current assessment was considered to be beneficial because positive findings would further enhance the reputation of Gibraltar as a financial center.

### Institutional and macro prudential setting overview

6. The insurance industry has been growing in recent years. There were 50 licensed companies as of end-March 2006, up from 39 in 2004. Captive insurance companies are licensed but these represent a diminishing proportion of the market and represent 11 single-parent and include two protected cell companies (PCC), the latter a potential growth area of

the market. The majority of the companies are managed by resident and licensed insurance managers and provide services in the United Kingdom. Foreign establishments operating in Gibraltar are all European Union (EU)-based and therefore covered by EU directives including the directive on freedom of establishment. A key reason for the growth in this sector is the ability of firms licensed in Gibraltar to passport their services to EU member states. Other reasons for the attractiveness of locating businesses in Gibraltar is less expensive head office costs, acceptable levels of required capital, speed of licensing, and the accessibility of the supervisory authority. The domestic insurance market is however quite small with a population in the region of 30,000. The legal and institutional framework follows the United Kingdom. The assessment has considered all areas of regulation and supervision in relation to integrity of operations, accountability, policyholder protection, the independency of the supervisory function and compliance with the principles set out by the IAIS.

7. Statistics are published on the FSC web site although those for the domestic market are not inclusive of domestic business carried out by all agents and brokers who place business outside of Gibraltar.

### Principle-by-principle assessment

Table 1. Detailed Assessment of Observance of the IAIS Insurance Core Principles

<b>Conditions for Effective Insurance Supervision</b>	
<b>Principle 1.</b>	<p><b>Conditions for effective insurance supervision</b></p> <p>Insurance supervision relies upon</p> <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>The FSC through the Commissioner for Insurance is responsible for the effective supervision of all companies or persons carrying on insurance in or from within Gibraltar and to ensure that the relevant legislation, regulation, and supervision complies with European Union directives, U.K. obligations and accepted international standards.</p> <p>The permitting legislation includes:</p> <p>The Financial Services Commission Ordinance (FSCO);  The Financial Services Ordinance (FSO);  Insurance Companies Ordinance (ICO);  Criminal Justice Ordinance (CJO);  Criminal Offences Ordinance (COO).</p> <p>The FSC has issued a statement detailing a risk based framework for the supervision of the Financial services industry.</p> <p>There is an effective judicial system based upon U.K. legislation, with judges appointed by the Governor. Barristers and solicitors also within the U.K. system. The court provides ultimate appeal to the U.K. Privy council, access to the U.K. appeals system and alternative dispute mechanisms are available within the existing legal framework.</p> <p>International Accounting and Audit Standards are applied and followed. As there are no resident Actuaries in Gibraltar, these must be sourced from the United Kingdom or other EU States. Auditors must be registered in Gibraltar by the Auditors Registration Board, which applies audit standards issued by the Auditing Practices Board of the United Kingdom. Whilst there is no stock exchange at present in Gibraltar, one is proposed. Investment instruments are available</p>



	through Gibraltar financial institutions. The FSC has processes to approve all Accounting Audit and Actuarial firms prior to appointment to Gibraltar licensed Insurers. Statistical information from the FSC and the insurance industry is published and available to interested parties annually.
Assessment	Observed
Comments	The government has established an effective insurance supervisory system, which can operate with relevant legislation in an effective financial market structure in Gibraltar. The Financial Services Commission has published a self -assessment of its compliance with U.K. Combined Code of Corporate Governance.
<b>The Supervisory System</b>	
<b>Principle 2.</b>	<b>Supervisory objectives</b> The principal objectives of insurance supervision are clearly defined.
Description	<p>The FSCO establishes the principle duties of the Commission and has set out what it refers to as “guiding principles” on its web site, and statutory duties are clear. In order to fulfill its stated objectives the Commission the FSC has produced a series of guidance notes, which have specifically addressed areas of legislation to assist the insurer when reporting to the Commission as required under the legislation.</p> <p>When additional regulations are imposed, as a requirement of the EU, it is usual for consultation with the industry to take place.</p> <p>The objectives of supervision as published cover the areas of fairness and efficiency and are clearly intended to maintain a safe and stable insurance industry in Gibraltar.</p>
Assessment	Observed
Comments	<p>The FSC is in the process of establishing a strategic plan, which is based upon the principles and practice of prudential supervision which are clearly outlined.</p> <p>The Commissioner has proposed amendments to the FSCO that would set out in law its objectives functions and responsibilities and it is expected that these proposals will be implemented in due course. However current legislation and objectives are clearly defined and guidance notes issued provide license holders with sufficient information to enable them to comply. The FSC has complied with all essential criteria.</p>
<b>Principle 3.</b>	<b>Supervisory authority</b> The supervisory authority: <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>The authority responsible for the administration and supervision of insurance companies is identified in the Insurance company Ordinance, and the legislation provides sufficient powers to enable the Commissioner to effectively discharge his duties. The FSC is able to issue and enforce regulations.</p> <p>The FSC corporate governance structure is established in legislation and Insurance internal procedure guidelines have been set out. The FSC consists of the Commissioner, who is both Chairman and chief executive of the FSC’s staff, and seven independent and part-time members. All members of the FSC are appointed by the Governor of Gibraltar with the approval of the U.K. Secretary of State for Foreign and Commonwealth Affairs, in the case of the independent members after consultation with the Commissioner. (FSCO Section 3) The Commissioner is responsible for the supervision of institutions licensed to provide any financial services and ensure that that such supervision complies with any obligation imposed by European Union law, and, where such obligations apply, meets standards matching those required by legislation and supervisory practices within the United Kingdom. (FSCO Section 8).</p>

	<p>A Commissioners' committee, comprising senior officers of the commission, has been set up to assist the commissioner and advise on license applications. The FSC is operationally independent of the Government of Gibraltar. This is achieved in part by virtue of the fact that the Government has no formal role in the appointment of the members of the FSC. Although the U.K. government must approve the appointment of Commissioners, the FSC is also independent of the U.K. government as the relative legislation has been passed by the Gibraltar House of Assembly and the U.K. authorities have no supervisory authority over Gibraltar.</p> <p>The FSC's activities are financed in part by Government subvention, but reliance on this source is now quite minor. However, the FSC cannot influence its revenue as fees payable by supervised institutions are determined by Government. The FSC has been able to build up reserves which would enable it to continue its activities in the event of a crisis without external support.</p> <p>The government has continually indicated that it supports the FSC's functions and there appears to be no indication of any attempt by the Government to interfere with the authority's supervisory activities. Nor is there evidence of insurers attempting to influence the authority's activities improperly. The FSC has attempted to offset any potential threat to its autonomy by being rigorous in its accounting for its activities. It publishes a large volume of material relating to the Commissioner's supervisory activities and the FSC has published a self-assessment of its compliance with the U.K. Combined Code of Corporate Governance.</p> <p>Over the years the FSC and its staff have built up credibility based on a history of integrity and experience with all the professional staff having a background in the finance sector and relevant professional qualification</p> <p>The FSC is therefore free from any political, governmental or industry interference and is able to perform its supervisory duties without interference. Policy objectives and performance are published on the FSC web site and contained in the Annual report.</p> <p>The FSC prepares its own budget and is financed by the collection of fees. Any deficit arising from operational expenditure would be provided by the Government.</p> <p>The ICO details the requirements and procedures for supervisory decisions. Additional procedures are contained in the Commissioner's committee rules of procedure. The Ordinance also provides the necessary powers to enable immediate action to be taken for the protection of existing policyholders and to inform the public when an insurer is prevented from accepting new business.</p> <p>Supervisory staff are protected from legal action for actions taken in good faith and are suitably protected by Law. A staff handbook contains rules relating to conflict of interest, and members of the commission must disclose their interests under the FSCO. The FSC has authority to obtain assistance in outsourcing arrangements, although at present this would be limited to government actuaries. Whilst staff numbers have increased as licensed insurers have grown over the past few years, the FSC intends to further increase staff numbers to improve the rate of on site inspections.</p> <p>Sections of the ICO contain safeguards relating to confidentiality and also describe when information may be disclosed to other regulators. External consultants are subject to the same controls as staff. The FSC and its staff have built up their credibility based on integrity and experience with all professional staff having a background in the insurance financial private sectors and appropriate professional qualifications. The FSC has also made available considerable resources for the training of and acquisition of professional qualifications by its staff.</p>
Assessment	Observed
Comments	There is a high degree of experience and skills in the insurance division of the Commission. Training of existing and new staff does take place, and it is expected that additional staff will be recruited in 2006. Attention to succession planning continues to be undertaken. Whilst on-site

	visits have commenced, there is a need to increase the visits to insurance companies and managers it is possible that outsourcing this function could be considered.
<b>Principle 4.</b>	<b>Supervisory process</b> The supervisory authority conducts its functions in a transparent and accountable manner.
Description	<p>The Insurance Companies Ordinance and Regulations and the Financial Services Ordinance specify the supervisory processes. The FSC web site provides access to the legislation and guidance notes. Newsletters are published and those relating to insurance are e-mailed to insurance licensees. Guidance notes detailing rules and procedures are also on the web site.</p> <p>Guidelines and newsletters are published to explain new legislation in respect of the introduction of EU Directives.</p> <p>The FSC's risk based framework for supervision available on the web site, and based on the detailed Regulations and guidance notes, sets down the consistency methodology. Whilst the regulatory and administrative processes are applied consistently to all insurers, Section 113 of the ICO provides limited power to modify certain provisions. Reporting procedures to the Board of Commissioners and the internal review committee provide additional mechanisms to ensure consistency. Decisions are subject to judicial review but urgent situations for suspension or withdrawal of authorization are not affected. Powers to take remedial action are contained in Section 105B of the ICO and Internal guidelines detail procedures in the event of the Commissioner not being in place at the relevant time. Those powers are then delegated to the Insurance supervisor and the insurance manager. Rights of appeal are set out in Section 111 of the Insurance Ordinance, and in Section 112 the powers of the Court ensure balance and effectiveness. Similar provisions exist under FSO legislation in respect of insurance intermediaries.</p> <p>The FSC publishes an annual report on its operations which includes conduct and performance of policy objectives. Insurance industry statistics are published and market developments are published on the FSC web site.</p>
Assessment	Observed
Comments	There has been a complication in the publishing of statistical information on the insurance industry. The insurance supervisory division does not have any information on the business carried out by insurance agents or brokers. That supervisory function is carried out by the Financial Investment Division. The situation has been rectified by the FSC.
<b>Principle 5.</b>	<b>Supervisory cooperation and information sharing</b> The supervisory authority cooperates and shares information with other relevant supervisors subject to confidentiality requirements.
Description	<p>The Insurance Companies Ordinance, Section 16, permits the sharing of information with other supervisors in the absence of a Memorandum of understanding (MOU). In addition, there is an EU protocol, which refers to the application of EU Directives on life and non-life insurance. There is no restriction to the signing of MOUs. This includes supervisory information, financial data and information relating to persons holding positions of responsibility. Section 16 does not require strict reciprocity, although two-way communication is envisaged. The Commissioner is required under Section 16 to be satisfied that the other supervisor is subject to restrictions on further disclosure at least equivalent to those contained in Section 16. Foreign establishments operating in Gibraltar are all EU-based and therefore covered by EU Directives on the freedom of establishment. Section 16 of the ICO, the Insurers (Reorganization and Winding up) Ordinance 2004 and the EU Protocol apply to information exchange between States. The FSC is able to share information with other foreign supervisory authorities.</p>
Assessment	Observed
Comments	The insurance supervisory authority participates fully with co-members of the International Association of Insurance Supervisors and the Offshore Group of Insurance Supervisors. The FSC has proposed a new Financial Services (Information and Co-operation: Powers and Confidentiality) Ordinance which would consolidate and clarify existing powers in various

	ordinances.
<b>The Supervised Entity</b>	
<b>Principle 6.</b>	<b>Licensing</b> An insurer must be licensed before it can operate within a jurisdiction. The requirements for licensing are clear, objective, and public.
Description	<p>Section 2 of the ICO contains the definition of insurers and insurance business, Sections 16A and 17 require the licensing of all insurers carrying on insurance business in or from Gibraltar. Permissible legal forms of insurers in each EU jurisdiction are defined in the EU Life and Non Life Directives. Section 16A of the ICO allocates the responsibility for authorizing the issue of licenses to the Commissioner of Insurance. The criteria for licensing are clearly set out in Part IV of the ICO, and the Insurance Companies (Prescribed Particulars) Regulations apply. The Insurance Internal guideline and the Insurance Guidance Note on the FSC web site also apply, as do Parts IV and V Schedule 11 and section 76.</p> <p>Where there is relevance to ICP8 EC and ICP7, these are covered in the ICO in parts IV and V, Schedule 11. Risk Management IT and internal control systems are in Sections 26 and 28. This is also specified in Schedule 15 of the ICO. Also relevant are the Insurance Companies (Prescribed Particulars) regulations and forms to be completed. EU passporting regulations apply to EU companies. For Non-EU companies sections 24B to 28 apply also. In respect of foreign insurers from the EU, States EU Directives apply. The FSC will obtain approval from the home supervisor that the company is permitted to transact business in Gibraltar. Applicants from other countries can operate after obtaining a license, and in these cases Section 25 of the ICO and the Insurance Companies (Prescribed Particulars) Regulations will apply. Inwards services business i.e., reinsurance, by non-EU insurers is not required to be licensed under the ICO. This parallels the United Kingdom.</p> <p>An insurer is not permitted to underwrite both life and general insurance, and this is set out in Section 20 of the ICO and in Guideline No.1. EU Life and non-Life Directives also apply. A Notification of Requirements imposing conditions and restrictions on a licensee can be served on initial licensing or at any future time when considered necessary. There is a time period of six months after receiving all required information for a decision on an application to be made. Reasons for the refusal to grant a license must be given in writing, in accordance with Section 26(3) of the ICO.</p> <p>There are wide powers of discretion for refusing to grant a license under Sections 26 and 28 and in the Insurance Guidance notes. After licensing, detailed monitoring takes place and the basis for this monitoring is set out in the Notification of Requirements and in Sections 50 and 52 of the Insurance Companies (Accounts and Statements) Regulations.</p>
Assessment	Observed
Comments	The insurance supervisory division controls the licensing procedures effectively for locally incorporated insurance companies, branch offices of overseas licensed companies and managers of captive insurance companies but does not control the licensing of insurance brokers and agents. The FSC Investment Services Division supervises the latter. There are a number of overseas companies carrying on insurance business in Gibraltar through main agents or branches with limited underwriting and claims authority.
<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 fulfill their roles. This requires that they possess the appropriate integrity, competency, experience and qualifications.
Description	Key functionaries are identified in the ICO Part V and Schedule 11. Definitions are in Section 2 of the ICO. Powers to take action are also contained in Schedule 11. Auditors can be disqualified under circumstances set out in Sections 47 and 48A of the ICO. Appointment and disqualification of Actuaries is dealt with under Sections 76 and 77 of the ICO. The supervisory authority may exchange information to assist the range of checks carried out. This is an additional tool as described in ICP 5. Detailed checks and assessments are made by the authority

	at the time of license application and when notified of changes and at the time of on site inspections. Whilst guidance notes specify notification of changes this is not required by law.
Assessment	Largely Observed
Comments	In that area where the existing legislation is limited i.e., notification as required by ECg, the FSC has taken the initiative to introduce a “Approved Person’s Regime.” This has been drafted and is expected to be presented to the Gibraltar Assembly in 2006.
<b>Principle 8.</b>	<b>Changes in control and portfolio transfers</b> 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. The supervisory authority approves the portfolio transfer or merger of insurance business.
Description	The supervisory authority has the power to approve or reject proposals for change of ownership. Definitions are contained in ICO Section 2, notifiable holdings and voting rights. The power to appoint and remove directors and controllers is stated in Sections 40 to 46 and in Schedule 11. Prior approval of the Commissioner is required where a notifiable holding increases or changes. Close relationships are defined in Section 2(32) to 2(40) and Schedule 17. The requirements of ICP 8 are applied equally to both new license applicants and to changes in notifiable holdings.  Closely linked groups, companies with shareholding or voting rights, as defined in schedule 17 of the ICO, and the Insurance Companies(Prudential Supervision) Regulations, should not be authorized if such links would prevent the Commissioner from performing all statutory powers under Section 27. Close links also require to be notified on an ongoing basis in accordance with the Insurance Companies (Prudential Supervision) Regulations. To assess applications for proposed acquisitions, the FSC will apply Section 26 of the Insurance Companies Ordinance.  The requirements for portfolio transfers are contained in the ICO Part IX and in schedule 10. The Commissioner must be satisfied that the margin of Solvency required will be satisfied after taking the transfer into account and that the circumstances of the transfer are justified and in the interests of policyholders.
Assessment	Observed
Comments	The Head of Insurance and his Deputy are suitably qualified and experienced in the business of insurance to make the correct recommendation to the Commissioner.
<b>Principle 9.</b>	<b>Corporate governance</b> The corporate governance framework recognizes and protects rights of all interested parties. The supervisory authority requires compliance with all applicable corporate governance standards.
Description	Regulations on corporate governance and adherence to corporate governance principles falls under ICO Schedule 15 “Sound and Prudent Management” but these principles are not set out separately in company law, or in the ICO. They are, however, set out in Insurance Internal Guideline No 3 on the criteria of Sound and Prudent Management which includes change of officers or directors. In addition responsibilities and requirements are set out in Newsletters published by the FSC in 1998. Required information is obtained at time of application and annually when business plan is updated. Details are checked, verified and assessed by the authority before approval. The proposed “Approved Persons Regime will attend to the omission in relation to EC g referred to in ICP 7.
Assessment	Largely Observed
Comments	Currently draft legislation is being considered by the Government covering “Approved Persons Regime,” which incorporates Corporate Governance Principles. The proposed legislation when introduced will confirm compliance with this principle. Until then specific reference will continue to apply to this principle in on-site inspections. In practice however it is expected that the majority of companies in Gibraltar would not require lengthy statements on Corporate Governance because of their size and nature.

<b>Principle 10.</b>	<b>Internal control</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	There is limited regulation in the Insurance Companies Ordinance in relation to Internal controls. The supervisory Authority requires that adequate internal controls must be demonstrated on licensing and that specific reference be made in the business plan submitted with the application for a license. The FSC pay particular attention to this section of the business plan and the supervisors have sufficient experience to approve or otherwise. Similarly this information is updated annually in the required business plan. Checks on the effectiveness in practice is verified by annual review of returns and off site monitoring and during an on site inspection. The effectiveness of the Internal Controls program, approved at the time of licensing, is checked during on site inspections. Section 26 of the Insurance Companies applies. In respect of access to internal audit and actuarial reports under Sections 78 and 98 of the ICO apply.
Assessment	Observed
Comments	There is no doubt that the experience of the supervisors in assessing that internal controls is effective at the time of licensing , it is imperative that those controls not only continue at a high standard but increase as the business grows and develops. Verification that the required internal controls are in place is checked during an on-site inspection. Whilst not required by law, the supervisors obtain and review business plans on an annual basis. Consideration should be given to the strengthening of legal requirements for internal controls.
<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	It must be taken into consideration that the population of Gibraltar is estimated to be in the region of 30,000. The domestic market is therefore very small. There are three companies carrying on domestic business. The FSC does not seek to identify market trends in the domestic market in view of the size of the market and therefore does not consider the principle applicable to the domestic industry. The majority of insurers are either captives or are passporting third party business into the United Kingdom The published market statistics are therefore limited.  Analysis is mainly qualitative and relies on external information focused on EU markets. The FSC does pay attention to the published analysis and trends in those markets where Gibraltar insurers operate. The submission of accounts and statements and the preparation of annual accounts are detailed in Sections 50 and 52 of the Insurance Companies Ordinance. Although there are only a few domestic insurers, there are no requirements for the return of statistics from all insurers operating in Gibraltar. Systematic financial reporting is required under Sections 50 and 52 of the Insurance Companies Ordinance.
Assessment	Partly Observed
Comments	The fact that intermediaries and insurers are supervised by two separate divisions within the FSC has meant that Gibraltar has not published aggregated market statistics at present. This deficiency will be corrected in 2006. Although attention is paid to developments and trends in international insurance and reinsurance markets additional statistical information should be obtained from all licensed companies, brokers and agents.
<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	There is a very specific reporting system and reporting is controlled well by the supervisory authority. Action is taken quickly when there is any indication of late reporting Evidence was available to show that potential problems discovered in the review are acted upon immediately by the authority and followed until they have been remedied to the satisfaction of the authority.

	The reporting requirements are set out in the ICO Part V, in the Insurance Companies (Accounts and Statements) Regulations, and in the Notice of requirements. ICO Section 50 and 52 require appropriate accounts and define the scope and frequency of the reports. Audit opinion is required annually (refer to ICP1ECe). More frequent and additional information is provided for by Section 98 and the Notification of requirements The Insurance Companies (Valuations of Assets and Liabilities) Regulations apply to the statutory returns required under the Insurance Companies (Accounts and Statements) Regulations. Form and content are set out in the Insurance Companies (Accounts Directive) Regulations. The FSC has revised the insurance returns on a regular basis for insurance companies and has revised forms to accommodate the requirements for captive insurers, and insurance managers.
Assessment	Observed
Comments	Consideration should be given to reducing the reporting time to four months, instead of six as at present, particularly in view case of the number of open market insurers operating in the United Kingdom.
<b>Principle 13.</b>	<b>On-site inspection</b> The supervisory authority carries out on-site inspections to examine the business of an insurer and its compliance with legislation and supervisory requirements.
Description	Powers exist in the ICO section 98 to require the license holder to produce all documents that may be required to assist the Commissioner to carry out his duties. The FSC may enter the premises to obtain such documents. Similar powers exist in the FSO regarding insurance intermediaries. Powers also exist under section 100A to permit the FSC to carry out a detailed investigation into any areas which give cause for concern On-site visits to insurance brokers have been carried out since 2003 and inspections of insurers commenced in 2005. It is the intention that inspections take place at least every two years unless concerns require monitoring on an on going basis. The FSC Risk Assessment methodology is intended to capture and validate information supplied by the statutory returns, corporate governance, and internal controls. Auditors report and form an opinion on whether the form and statements meet the requirements of the Insurance Companies (Accounts and Statements) Regulations. Auditors are required under Section 48A of the ICO to disclose relevant information to the Commissioner and if they are aware of circumstances that would affect the companies ability to continue as a going concern.
Assessment	Observed
Comments	On-site visits on insurance brokers are carried out by the Investment Services Division and it is expected that they will be largely completed in 2006. There are brokers and agents who operate as managing agents or branches of insurers who have a head office in another EU State but operate in the Gibraltar domestic market. These EU companies are regulated by the home supervisors, but are inspected by the FSC The Head of Insurance and his Deputy have the required experience to conduct in-depth inspections of insurance companies and the FSC has produced a very complete Risk Based Self-Assessment Questionnaire, to assist staff in training and acquiring initial information on which to base the inspection. The FSC is undertaking a risk based framework of on-site inspections. The visits have been prioritized on the basis of potential market risk and the significance of the firm in the Gibraltar market. Five have been completed in 2005 and nine have taken place in 2006. The initial inspection plan was focused on Corporate Governance, and whilst this is important the inspections have been extended to include all operational and internal controls.
<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	The formal powers available to take preventative action are contained in the ICO Sections 67 and 98 to 109. Investigations are authorized under Section 100A and inspections under Section 101. The FSC is empowered to obtain action under Sections 98 and 99 of the ICO. If the information obtained requires further action, investigators can be appointed under Section 100A and/or inspectors under Section 101 following which the FSC can prohibit a company from accepting new business under Section 105. However Section 105B provides powers to suspend the company's authorization. Powers exist under section 106 to withdraw the authorization to

	carry on insurance business It is apparent that the FSC as held in high regard by the insurance industry in Gibraltar, which realizes that prudent business practices and regulatory controls ensure the credibility of the jurisdiction. The industry therefore responds positively to informal requests from the supervisory authority. Corrective plans are triggered under Section 62A and 63 of the Insurance Companies Ordinance.
Assessment	Observed
Comments	The FSC has a good relationship with the industry and is in regular contact to identify potential problems in the market. Corrective measures have been taken under the relevant Sections of the ICO to protect policyholders and remedy two potentially serious situations in the past two years.
<b>Principle 15.</b>	<b>Enforcement or sanctions</b> The supervisory authority enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.
Description	The powers to take corrective action are contained in Sections 60, 62,62A, 63, 100, and 105 to 108 of the ICO. Power to prevent the insurers from issuing new policies is contained in Section 105 and 105B of the same Ordinance. With reference to ICP 8, EC 1 transfer of obligations under policies can be made to another approved insurer. Restrictions on dividends, increases in capital, share transfers, and activities of subsidiaries are referred to in Sections 60, 62A, and 63 of the ICO. The supervisory authority has powers to address management problems set out in Sections 40 to 46 and Schedule 11 of the ICO. Conservation of assets is dealt with under Section 66A and the power to take control of an insurer can be exercised under Sections 66 and 100 of the ICO. For the protection of a Gibraltar insurer who is part of a group powers could be exercised under sections 65, 66, 66A, and 100 ICO Court fines can be imposed under various Sections of the Ordinance. Sanctions against persons withholding information can be imposed under Section 117.
Assessment	Observed
Comments	The FSC has taken action under 65 and 66 of the ICO on two recent occasions to enforce sanctions. The necessary steps were taken to protect policyholders and produced a satisfactory outcome.
<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	Measures relating to the maintenance of solvency margins are contained in Sections 62A and 63 of the ICO. If required the FSC has discretion to determine a reasonable plan for restoration of a sound financial position under the same section. In these circumstances, the Insurance Companies (Valuation of Assets and Liabilities) Regulations will apply. Procedures dealing with insolvency and winding up are set down in the Insurers (Reorganization and Winding up) Ordinance. Part V of this Ordinance sets out the priority for claims of creditors and provides for the limited disruption to the provision of claims of policyholders which have priority after preferential debts.
Assessment	Observed
Comments	There have been instances in which Gibraltar insurance companies have been wound up and action was taken to ensure that policyholders rights were suitably protected.
<b>Principle 17.</b>	<b>Group-wide supervision</b> The supervisory authority supervises its insurers on a solo and a group-wide basis.
Description	It is expected that legislation implementing the Financial Conglomerates Directive will be introduced shortly. At present there are no financial or insurance conglomerates operating in Gibraltar. The supervisory authorities of EU member states operate under the Helsinki Protocol regarding supervision of insurance entities in an insurance group. The Insurance Companies (Parent Undertaking Solvency Margin Calculations) Regulations and the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations set out the solvency and calculations. Intra-group transactions and exposures, including guarantees and possible liabilities are covered in the Notice of Requirements and the Requirements of the Insurance companies (Accounts and Statements) regulations require insurance groups and conglomerates to have adequate reporting



	systems in place. Appropriate action may be taken under relevant sections of the ICO if a group structure hinders effective supervision.
Assessment	Observed
Comments	It would be expected that, if any conglomerates were to enter Gibraltar, full cooperation with the home supervisor would be provided. The extensive legislation in place together with the requirements for licensing cover the criteria for observance of this principle.
<b>Prudential Requirements</b>	
<b>Principle 18.</b>	<b>Risk assessment and management</b> The supervisory authority requires insurers to recognize the range of risks that they face and to assess and manage them effectively.
Description	Evidence of comprehensive risk management policies and systems must be provided with the initial license application. See also ICP10. Whilst the criteria described in guidelines for Sound and Prudent Management are applied, formalized and documented risk management programs are required to be in place for companies where it is appropriate to the size and nature of the business. These must be in place prior to a license being approved. Risk assessment will vary with the size and nature of the business of the company. It is required that larger insurers establish risk management committees. On site inspections include a comprehensive review of risk assessment and management programs.
Assessment	Observed
Comments	Considerable attention is given to risk assessment and management when application for an insurance company license is made. Business plans are required to address both operational and financial risks and the insurance supervisor and insurance manager have many years of insurance and financial experience to enable the satisfactory assessment of the systems to be carried out. Documented risk management programs, approved by the FSC at the time of licensing and updated as required with the annual business plan submission, are required to be in place and appropriate to the size and nature of the business, Whilst the supervision and monitoring processes are of a high standard, on-site inspections will provide confirmation that the approved management systems are in place and continue to be adhered to.
<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	The supervisory authority requires detailed underwriting guidelines, proposed reinsurance program, and premium pricing policies to be provided with the license application. The supervisor will review the methodology used at the application stage and request an annually updated business plan. Reinsurance arrangements are expected to be reviewed and approved by the board and management committee annually before submission to the supervisory authority.  The FSC reviews the reinsurance arrangements to check the adequacy and appropriate levels of cover in relation to the level of capital and risk profile of the company. Checks are effected at inception and with the submission of the annual business plan. Reinsurance accounting is checked through annual financial returns and on site inspection of reinsurance contracts.  Generally “A” rated re-insurers would be acceptable, however in the case of a single parent, captive reinsuring with another captive would be subject to the confirmation of good standing by the relevant home regulator. Recent legislation to permit the licensing of PCCs has extended the levels and scope of supervision required.
Assessment	Observed
Comments	The scrutiny of the insurance operations at time of license approval is considered to be of a high standard and acceptable. In Gibraltar, the management functions are carried out by licensed insurance managers, although underwriting and claims functions may occur in the country of operation. It is therefore necessary that regular on-site inspections are undertaken to ensure that the risk management functions and policies approved are in fact continually in place. PCCs are required to provide the same level of information at application stage for the core company and for each cell to be authorized, business plans must be submitted and approved individually

	before authorization by the supervisory authority. This type of insurer (PCC) is managed by an underwriting manager. On-site inspections of underwriting managers have taken place.
<b>Principle 20.</b>	<b>Liabilities</b> 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.
Description	Legal provisions are set out in Section 58 of the ICO, the Insurance Companies (Accounts Directive) Regulations, the Insurance Companies (Valuation of Assets and Liabilities) Regulations and Insurance Guidance Note No.6. Standards are in compliance with EU Directives. These refer to the determination of liability provisions, technical provisions, and contingent liabilities. Standards are in place for reinsurance recoveries and collectibles. Stress test modeling takes place at application stage and subsequent to any change in business plans as required under Section 60,62a and 63of the ICO. Life reserves are reviewed by the U.K. Government Actuaries Department. General companies are required to use actuaries to value claims provisions and long tail liabilities. The sufficiency of technical provisions is reviewed by quarterly monitoring of management accounts, annual returns and on-going on site inspections. The FSC can issue directions under section 100 of the ICO to increase the technical provisions if they are not sufficient.
Assessment	Largely Observed
Comments	Detailed off-site monitoring includes quarterly monitoring of management accounts and annual accounts and statements. On-site inspections have not included the examination of claims provisioning, reserves and adequacy although this has now been corrected.
<b>Principle 21.</b>	<b>Investments</b> 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.
Description	Requirements regarding the management of investments are contained in the ICO, the Insurance Companies (Valuation of Assets and Liabilities) Regulations, and in the Insurance Guidance Note Nos. 4 and 5. Section 64B of the ICO sets out the requirements concerning the spread of assets covering liabilities and the need for matching. The Notice of requirements and the Application form set out the requirement for an investment policy to be in place and approved by the board. Any alteration to the investment policy would be noted on the annual business plan review and any changes followed up by off site monitoring. The required controls and accountability are set out in detailed Insurance and Financial Services Guidance notes The majority of companies in Gibraltar outsource their asset management functions, but in practice, because of their size, hold cash and bonds in order to provide liquidity and low volatility. Risk management systems of control and accountability are set out in Guidance note No. 5. Stress testing is not applied on a regular basis but would be where considered necessary by the FSC.  The regulations and guidance notes are specific in relation to investments and comply with the required criteria. Any alterations to the investment policy must be notified to and approved by the FSC. The supervisory staff are sufficiently experienced to assess investments and investment policy.
Assessment	Observed
Comments	Although the majority of companies in Gibraltar are relatively small, considerable attention is paid to the financial reporting policies and statutory returns of the insurance companies. Rigorous attention is paid to the requirements of the various regulations and legislation.
<b>Principle 22.</b>	<b>Derivatives and similar commitments</b> The supervisory authority requires insurers to comply with standards on the use of derivatives and similar commitments. These standards address restrictions in their use and disclosure requirements, as well as internal controls and monitoring of the related positions.
Description	Requirements regarding the use of derivatives are set out in the Insurance Companies (Accounts and Statements) Regulations and whilst the use of derivatives is permitted under legislation, the supervisory authority has issued strict guidelines on their use. Disclosure requirements are set

	out in the Insurance Companies (Accounts and Statements) Regulations as well as in Guidelines 4, 5, 9, and 11. As part of the annual return the directors must certify that the insurer has complied with Insurance Guideline No5 (Systems of Control over investments and counterparty exposure including the use of derivatives).
Assessment	Observed
Comments	It is unlikely that the type of insurance companies in Gibraltar would deal in or hold derivatives and the supervisory authority is completely aware of the potential risks involved. The guidance notes and disclosure requirements set out in the regulations are clear and monitored satisfactorily.
<b>Principle 23.</b>	<b>Capital adequacy and solvency</b> 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.
Description	The solvency regime criteria are stated in the sections 58 and 59 of the ICO, the Insurance Companies (Solvency Margin and Guarantee Fund) Regulations, the Insurance Companies (Valuation of Assets and Liabilities) Regulations, and relevant Guidance notes. Regulations also limit the level of risk that may be relieved by reinsurance and only "A" rated re-insurers are permitted to be used. The minimum capital adequacy is defined in the Insurance Companies (Solvency Margin and Guarantee Fund) Regulations which follow the EU Life and Non-Life Directives. The FSC requires a minimum of 125 percent of the EU minimum levels for short-tail business and 300 percent for long-tail business. Solvency control levels are set out in Section 62A and 63 of the ICO. Non EU insurers operating as a branch are dealt with in Sections 59A (2) and (3).
Assessment	Observed
Comments	The FSC has implemented the EU solvency regime set out in the relevant Directives and also compares its solvency regime against that operating in the United Kingdom. It is understood that the EU are progressing towards "Solvency II." The supervisory authority complies with all EU Directives relating to Solvency and Capital Adequacy.
<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	Historically insurance agents and brokers have been involved in the life pensions and financial planning and have been supervised by the financial services division. The requirements for licensing intermediaries are set out in FSO, the Financial Services (Conduct of Business) Regulations, and the Financial Services (Accounting and Financial) Regulations. Part V (A) of the FSO89 sets out the professional requirements with which the intermediary must comply. Section 10 and 11 provide for restrictions on a license and for cancellation or suspension of the license. The rules for safeguarding clients' money are set out in Section 38(C) of Part V (A) of the FSO89 and Part 5 of the Financial Services (Accounting and Financial) Regulations. Under Section 3 of the FSO89, penalties are specified for persons contravening that section of the FSO89. The necessary supervision of the requirements under the relevant legislation is provided by the reporting procedures and on site inspections and monitored by the authority.
Assessment	Observed
Comments	It is historical that all intermediaries are controlled by the investment services division and not the insurance supervisory division. On-site inspections for this sector are advanced and should be completed by the end of 2006.
<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	The essential criteria for this principle are included in the FSO 1989, the Financial Services (Conduct of Business) Regulations in respect of intermediaries. For Insurance Companies

	Sections, 70A and 70B of the ICO provide powers to make regulations and the Insurance Companies (Conduct of Business) Regulations are in place for EU and non-EU insurance companies, and for Gibraltar, the EU Insurance Mediation Directive has been implemented. Requirements for the supervisory authority to seek relevant information in order to assess insurance needs are set out in Regulation 7 (Statement of principles) and Financial services (Conduct of business) Regulations for intermediaries. For insurance companies section 70B and Schedules 12 and 15 of the ICO apply. The FSC requires evidence of “Statement of Disclosures “to customers.
Assessment	Observed
Comments	All the required legislation and guidance is in place in relation to the conduct of business. Consumer protection, in the event of an insolvency, is available to those policyholders in Gibraltar who are insured with U.K. companies and for U.K. policyholders insured with Gibraltar insurers; there is no similar scheme available to policy holders for domestic insurance policies issued by Gibraltar companies. However, the FSC has produced a consumer guide to various personal business lines and to life insurance. It is intended to continue a program of insurance awareness.
<b>Principle 26.</b>	<b>Information, disclosure &amp; transparency towards the market</b> 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.
Description	Disclosure requirements are set out in Sections 50 to 56 of the ICO, the Insurance Companies (Accounts and Statements) Regulations, Insurance Companies (Accounts Directive) Regulations, and in Guidance notes. Annual returns are filed with Companies House and are available to the public. Recent amendments to the Insurance Companies (Accounts Directive) Regulations require additional information to be provided in the directors report to the financial statements covering business reviews. Public disclosure requirements required are relative to the size and nature of the company’s business and satisfy the essential criteria. The insurance supervisory division and investment services division closely review all financial statements, annual returns, and management accounts that are required by the insurance supervisors from all licensed companies.
Assessment	Observed
Comments	Information of risk exposures is required at the time of licensing and included with the company’s annual business plan and is disclosed in annual returns filed under the Insurance Companies (Accounts Directive ) Regulations which are filed at companies House.
<b>Principle 27.</b>	<b>Fraud</b> The supervisory authority requires that insurers and intermediaries take the necessary measures to prevent, detect and remedy insurance fraud.
Description	Powers to establish and enforce regulations are set out in section 22 of the FSCO and Schedule 16 of the ICO to communicate with other supervisors and enforcement authorities. The enforcement division co-operates with the police Financial Crimes Unit and authorities in other jurisdictions as appropriate. The FSC employs an enforcement officer. Fraud and dishonesty offenses are addressed in the Gibraltar Criminal Offences Ordinance. Other requirements to control and detect fraud are set out in the Financial Services (Conduct of Business) regulations for intermediaries and in schedule 15 of the Insurance Companies Ordinance. Anti fraud measures form part of the internal controls section of the annual business plan review which is monitored both off site and reviewed during on site inspections.
Assessment	Observed
Comments	The supervisory authority is aware of the potential problems that could result from insurer fraud and the value of communication with other supervisors and the International Insurance Fraud Association.
<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 to take effective measures to deter, detect and report money laundering and the financing of terrorism.
Description	Section 8 of the Criminal Justice Ordinance defines the activities of life insurance companies



<b>Supervisory cooperation and information sharing</b> i.e., CP 5	None
<b>Licensing</b> i.e., CP 6	None
<b>Suitability of persons</b> i.e., CP 7	Legislation relating to the “Approved Persons Regime” should be introduced without delay.
<b>Changes in control and portfolio transfers</b> i.e., CP 8	None
<b>Corporate governance</b> i.e., CP 9	Legislation relating to the “Approved Persons Regime” should be introduced without delay.
<b>Internal control</b> i.e., CP 10	It is recommended that legal requirements should be strengthened in relation to internal controls and the annual submission of detailed business plans
<b>Market analysis</b> i.e., CP 11	Recommended that complete market statistics and detailed analysis should be compiled by the FSC and attention should be paid in detail to market analysis and trends both in Gibraltar and EU states, particularly the United Kingdom.
<b>Reporting to supervisors and off-site monitoring</b> i.e., CP 12	It is recommended that reporting time for the submission of annual statements should be reduced to four months.
<b>On-site inspection</b> i.e., CP 13	None
<b>Preventive and corrective measures</b> i.e., CP 14	None
<b>Enforcement or sanctions</b> i.e., CP 15	None
<b>Winding-up and exit from the market</b> i.e., CP 16	None
<b>Group-wide supervision</b> i.e., CP 17	None
<b>Risk assessment and management</b> i.e., CP 18	None
<b>Insurance activity</b> i.e., CP 19	It is recommended that the cycle of on site inspections be completed as soon as possible to confirm application of approved underwriting procedures and operational risk control.

<b>Liabilities</b> i.e., CP 20	It is recommended that the cycle of on site inspections be completed as soon as possible to confirm practical application of declared policies on technical provisioning.
<b>Investments</b> i.e., CP 21	None
<b>Derivatives and similar commitments</b> i.e., CP 22	None
<b>Capital adequacy and solvency</b> i.e., CP 23	None
<b>Intermediaries</b> i.e., CP 24	None
<b>Consumer protection</b> i.e., CP 25	None
<b>Information, disclosure &amp; transparency towards the market</b> i.e., CP 26	None
<b>Fraud</b> i.e., CP 27	None
<b>Anti-money laundering</b> i.e., CP 28	It is recommended that the cycle of on site inspections be completed as soon as possible to confirm that approved AML/CFT procedures are applied in practice.

*Authorities' response to the assessment*

8. The FSC welcomes the findings of the IMF assessment of our compliance with IAIS standards. We appreciate the skill and attention given in conducting the review and have already actioned the recommendations made, which we fully accept. Whilst we are naturally delighted that our high level of compliance with the standards has been recognized, we consider that such standards are always subject to further development and we therefore remain committed to applying new standards as and when they evolve.