

TURKEY: FINANCIAL SECTOR ASSESSMENT  
PROGRAM DETAILED ASSESSMENT OF  
OBSERVANCE—IAIS INSURANCE CORE  
PRINCIPLES



# TURKEY

## FINANCIAL SECTOR ASSESSMENT PROGRAM

### DETAILED ASSESSMENT OF OBSERVANCE— IAIS INSURANCE CORE PRINCIPLES

February 2017

This Detailed Assessment of Observance of the IAIS Insurance Core Principles on Turkey was prepared by the staff of the World Bank in the context of a mission overseen by Fund and Bank staff. It is based on the information as of April 2016.

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FINANCIAL SECTOR ASSESSMENT PROGRAM

# REPUBLIC OF TURKEY

IAIS INSURANCE CORE PRINCIPLES

# DETAILED ASSESSMENT OF OBSERVANCE

NOVEMBER 2016

This report was prepared in the context of a standards assessment mission in Turkey during April 2016, overseen by the Finance & Markets Global Practice, World Bank, and the Monetary and Capital Markets Department, IMF.



THE WORLD BANK  
FINANCE & MARKETS GLOBAL PRACTICE

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## GLOSSARY

ALM	Asset and Liability Management
AML/CFT	Anti-Money Laundering and Countering Financing of Terrorism
BRSA	Bank Regulation and Supervision Authority
CBT	Central Bank of Turkey
CMB	Capital Markets Board
EU	European Union
ERM	Enterprise Risk Management
FSAP	Financial Sector Assessment Program
GDI	General Directorate of Insurance
GDP	Gross Domestic Product
IL	Insurance Law no 5684 of 2007
IAC	Insurance Arbitration Commission
IAIS	International Association of Insurance Supervisors
ICP	Insurance Core Principle
IFRS	International Financial Reporting Standards
ISE	Istanbul Stock Exchange
ISB	Insurance Supervision Board
IMS	Information Monitoring System
IMF	International Monetary Fund
MASAK	Financial Crimes Investigation Board
MOCE	Margin Over Current Estimate
MPTL	Motor Third Party Liability
Mn.	Million
MOU	Memorandum of Understanding
MMOUCIE	IAIS Multilateral MOU on Cooperation and Information Exchange
OECD	Organization for Economic Cooperation and Development
ORSA	Own Risk and Solvency Assessment
RMSIPPS	Regulation Concerning Working Principles and Procedures For The Monitoring and Supervision of the Insurance and Private Pension Sector
SEUS	Company Risk Assessment Methodology and Framework
TL	Turkish Lira
TMIB	Turkish Motor Insurance Bureau
TSB	Association of Insurance, Reinsurance, and Pension Companies of Turkey
UoT	Undersecretary of the Treasury

# EXECUTIVE SUMMARY

**1. The insurance industry in Turkey is a small but growing part of the economy.** In 2015, the sector comprised less than 3 percent of all financial services sector assets. From 2006 until 2015, however, gross premiums written grew at an average annual rate of approximately 22 percent (7.4 percent at constant prices), substantially above nominal GDP growth during the same period. Nevertheless insurance penetration remains below that seen in many countries in the region and very low compared to countries with similar per capita incomes in other parts of the world.

**2. During the last five years, the Government of Turkey has made a significant effort to improve regulation and supervision of insurance and to improve adherence to international standards.** The efficiency of information reporting, insurer monitoring and supervision has greatly increased. Solvency tests have been strengthened. Reserving and investment practices have been improved. Improvements have been made in international cooperation and information exchange, Anti-money Laundering and Countering Financing of Terrorism (AML/CFT) requirements have improved, management of fraud and market conduct requirements have improved as have licensing requirements for insurance brokers and agents.

**3. Major regulatory and supervisory challenges remain, however, if Turkey is to increase confidence in the sector and benefit from its continued growth.** Many challenges relate to the need to keep pace with an industry that is intensely competitive and has many participants engaged in a struggle to maintain or acquire market share. Some challenges are within the authority of the Undersecretariate of Turkey (UoT) to address while others will require changes in laws and regulations. They include the following.

**4. The primary objectives of the supervisory authority should be clarified.** At present, there are two major objectives in the primary insurance law. The role of policyholder protection for the supervisory authority needs to be clarified as the principal objective of insurance supervision.

**5. In addition, the supervisory authority does not meet international standards for operational independence.** Although some progress has been made over the last few years to improve the efficiency of insurance supervision, further work is required to meet international standards regarding independence, governance, and accountability. Under the existing supervisory model, these challenges will likely be difficult to achieve and therefore alternative program delivery models with increased independence should be considered (such as an independent supervisory authority covering both securities and insurance).

**6. In spite of licensing, changes in control, portfolio transfers and suitability requirements that are generally in line with international standards, controlling beneficiaries of insurance companies need to be better mapped.** It is not clear that the UoT is aware of the ultimate controlling beneficiaries for all insurers. They should be identified and required to meet ongoing suitability requirements.

**7. The supervisory authority should develop and enforce higher and more specific requirements for insurer corporate governance and internal controls.** At a minimum, more specific standards should be developed and implemented regarding the composition of insurer Boards and the duty of individual Board Directors. In addition, the role and requirements for risk management and internal control functions should be expanded. These are necessary to help ensure that inappropriate risk taking does not take place and to help build the foundation needed to support more risk based supervisory systems.

**8. In conjunction with strengthening governance and internal control requirements, more specific Enterprise Risk Management (ERM) requirements should be developed and implemented (e.g. Own Risk Solvency Assessment (ORSA) requirements, and ERM process) on an individual entity and group basis.** Institutional governance would also benefit from requiring actuaries to opine on the adequacy of premium pricing policies and external auditors to opine on the adequacy of the insurer's risk management and internal control systems.

**9. In regard to supervisory review and reporting, the Insurance Monitoring System (IMS) and the Company Risk Assessment Methodology and Framework (SEUS) are significant achievements, however, the efficiency and timeliness of conducting monitoring and supervision through two disparate UoT departments is an ongoing concern.** Consideration should be given to integrating offsite, onsite, and enforcement activities within a single supervisory organization. In addition, development of a more fulsome and risk based approach to Conduct of Business supervision including a broader range of supervisory practices (e.g. market analysis, offsite and onsite monitoring and thematic review) should be considered.

**10. In regard to supervisory preemptive action and enforcement, consideration should be given vesting decision making authority with the insurance supervisor rather than the Minister.** In addition, consideration should be given to development of a formal "ladder of intervention" commensurate with this change.

**11. As part of its plans to move towards Solvency II, The Authorities should introduce a risk based capital measure which includes a greater range of risks.** It should also strengthen reserving practices in line with international standards, particularly the inclusion of a MOCE and cash flow discounting. In addition, the authorities should establish a clear solvency control level as part of the capital regime below which an insurer will not be allowed to operate.

**12. While consumer protection has improved in many respects, ongoing oversight of insurance intermediaries should be improved.** Consideration should be given to be given to expanding representation on the Insurance Agents Executive Committee to include insurer, intermediary and lay member representation, broadening its mandate to cover all intermediaries, and increasing its enforcement powers and resources to discipline intermediaries. In addition, fair treatment of consumers could be enhanced by establishing strong, clear rules for intermediaries regarding compensation disclosure and conflict of interest vis a vis insurance consumers. Moreover, insurer Boards should specifically be required to approve policies relating to fair treatment of

consumers and to receive regular reports on their implementation (particularly with respect to complaint handling).

**13. The authorities should continue to develop their framework for group-wide supervision.** In addition, work to develop a macroprudential framework and crisis management and contingency plans (within the supervisory organization and in larger institutions) should also be initiated.

**14. Sequencing and implementation of these recommendations should be considered within the context of a multi-year regulatory and supervisory transition plan for the sector (e.g. three to five years).** Such a plan should include regular and appropriate consultation with the industry and should be focused at increasing the efficiency of supervision without inordinately increasing administrative burden and cost. Delivery of such a plan should help to increase consumer confidence and trust in the sector and help lay a strong foundation for its future.



# ASSESSMENT OF INSURANCE CORE PRINCIPLES

## A. Introduction and Scope

**15. This assessment provides an update on significant regulatory and supervisory developments in the insurance sector of Turkey since 2011.** The assessment was conducted by Charles Michael Grist, Senior Financial Sector Specialist, Finance and Markets Global Practice, the World Bank Group, from April 5 - April 24, 2016. The last formal assessment of the Turkish insurance sector was conducted in June 2011 against the Insurance Core Principles (ICPs) issued by the International Association of Insurance Supervisors (IAIS) in 2003.

**16. The current assessment is benchmarked against the ICPs issued by the IAIS in October, 2011, including revisions authorized up until December, 2015.** The assessment was undertaken as part of the Financial Sector Assessment Program (FSAP) conducted by the IMF and World Bank. The ICPs apply to all insurers, whether private or government controlled. Specific principles apply to the supervision of intermediaries. The institutional arrangements for financial sector regulation and supervision are outlined in Section C.

## B. Information and Methodology Used for Assessment

**17. The level of observance for each ICP reflects the assessment against its standards.** Each ICP is rated in terms of the level of observance as follows:

- a) **Observed:** where all the standards are observed except for those that are considered not applicable. For a standard to be considered observed, the supervisor must have the legal authority to perform its tasks and exercise this authority to a satisfactory level.
- b) **Largely observed:** where only minor shortcomings exist, which do not raise any concerns about the authorities' ability to achieve full observance.
- c) **Partly observed:** where, despite progress, the shortcomings are sufficient to raise doubts about the authorities' ability to achieve observance.
- d) **Not observed:** where no substantive progress toward observance has been achieved.

**18. The assessment is based solely on the laws, regulations, and other supervisory practices in place at the time of the assessment in April, 2016.** While the assessment does not reflect on-going regulatory initiatives, some key proposals are discussed by way of additional comments in this report. The authorities have provided a self-assessment, supported by examples of actual supervisory practices and assessments, related to entities the identities of which have not been disclosed, which enhanced the robustness of the assessment. Technical discussions with, and briefings by, officials from the Turkish authorities have also enriched discussions of this report as did discussions with some industry participants. The assessor did not meet with any consumer groups. Discussions with industry participants were conducted in the presence of UoT officials.

**19. The assessor is grateful to the authorities for the cooperation and thoughtful logistical arrangements, particularly the helpful coordination of various meetings with industry participants.**

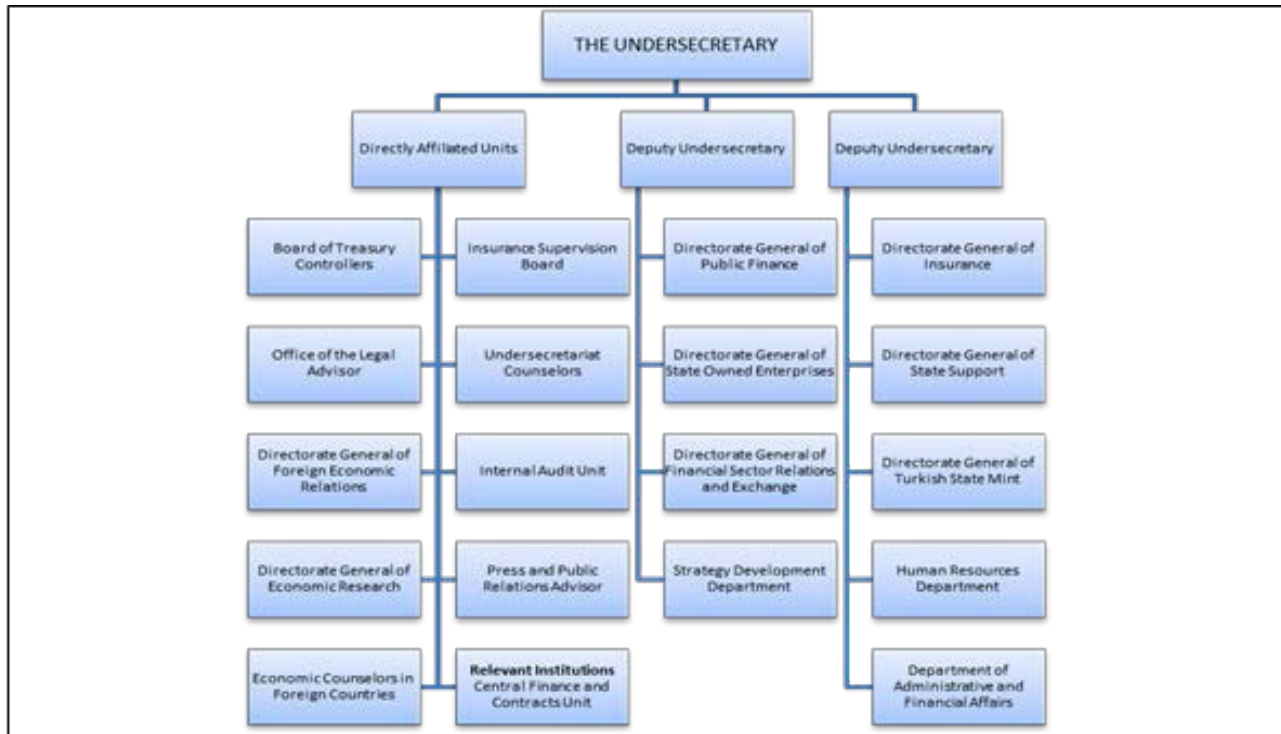
The assessor is also grateful for the valuable inputs and insightful views received from insurers, professional associations, and other industry participants received during the course of this assessment.

## **C. Overview—Institutional and Macprudential Setting**

### **Institutional framework and arrangements:**

**20. Financial sector regulation in Turkey is dependent on several authorities.** Each major component of the financial sector, with the exception of private pensions, is overseen by a separate agency or department of government with its own sector specific legislation. These authorities operate with considerable autonomy but powers and responsibilities overlap in some areas, particularly regarding regulation of financial groups and financial/industrial conglomerates that dominate Turkey's financial markets. Excluding insurance and pensions, the major regulatory authorities are the Central Bank of Turkey (CBT), the Bank Regulation and Supervision Agency (BRSA), the Capital Markets Board (CMB).

**21. Regulation and supervision of insurance and pensions is vested in the Undersecretary of the Treasury and is divided between two departments.** The General Directorate of Insurance (GDI) is responsible for development and drafting of legislation and regulations, for off-site supervision, and certain intervention and enforcement activities. Supervision, particularly on-site supervision, is the responsibility of the Insurance Supervision Board (ISB). Both organizations use offsite information received from a common information systems platform to support their work.



**22. Taken together, the GDI and the ISB have 172 employees. 66 of these are employed by the ISB while 106 are employed with the GDI.** The majority of ISB staff are located in Istanbul but the head office is in Ankara. GDI staff are all located in Ankara. In general, when ISB identifies a serious problematic situation in a particular institution through off-site monitoring, onsite supervision or related activities, it will report its findings to GDI, which will then assume responsibility for dealing with the troubled institution.

**23. In addition to the GDI and the ISB, under the Insurance Law 5684, Turkey has established an Insurance Agencies Executive Committee.** The committee's responsibilities include establishing professional rules for insurance agents, training activities and disciplinary activities over agent misconduct. It has a small staff of less than ten people.

**24. The major pieces of legislation regulating the insurance sector, in addition to the requirements of the Commercial Code and the Code of Obligations, include the following:**

- The Insurance Law No. 5684 of 2007 and related regulations
- The Road Traffic Act No. 2918 and regulations which regulate motor third party liability insurance
- The Catastrophe Insurance Law No. 6305
- Law No. 5363, the Agriculture Insurance Law
- Civil Aviation Act No. 2920

**25. All authorized insurance, reinsurance and pensions companies are required to become members of the Association of Insurance, Reinsurance, and Pension Companies of Turkey (TSB).** While the TSB has no direct power over insurance companies, it engages in a number of advocacy and intermediation functions on behalf of its members. The TSB is actively involved in the development of new legislation as an industry intermediary. It also engages in research, education, and literacy improvement activities, compiles statistics on the industry and manages the Assurance Account which is described below.

**26. Turkey has no general policyholder compensation scheme in the event of insurer insolvency but the Assurance Account has been established to pay certain compulsory insurance claims (e.g. those related to motor insurance and other compulsory third party liability insurances) including those related to the failure of a compulsory insurance provider.** The account is funded from fees on the regulated industry. The claims on the fund must be related to:

- personal injuries to a person where the insured cannot be identified,
- personal injuries caused by parties who do not have the required insurance coverage at the date the risk has occurred,
- personal injuries and damages to property for which the insurer is obliged to pay but is unable due to withdrawal of license or bankruptcy,
- personal injuries where the vehicle involved is stolen or involved in violent crime, and
- payments within Turkey made by the Turkish Motor Insurers' Bureau relating to foreign insureds under the Green Card Insurance Program (see below).

#### **Industry structure and recent trends:**

**27. The Turkish insurance sector is a small but growing part of the country's financial services industry.** In 2015, the insurance sector comprised less than 3 percent of all financial services sector assets. Nevertheless, between 2006 and 2015, gross premiums written grew at an average annual rate of approximately 22 percent (7.4 percent at constant prices), substantially above nominal GDP growth of 11.7 percent during the same period. As a result, the insurance penetration ratio (the ratio of premiums written to GDP) has gradually increased from 1.26 percent in 2006 to 1.49 percent in 2014. The sector employs more than 58,000 people.

**28. Insurance penetration remains low by international standards, however, and in combination with growing per capita income, is fueling industry expectations of long term sector growth.** Insurance penetration is below that seen in countries like Lebanon (2.46 percent) or Mexico (2.12 percent) that have similar per capita incomes. It is also below that seen in several countries in the region.

**Table 1**  
**Insurance Penetration in Selected Countries in the Region during 2014**

	Life		Non-Life		Personal Accident and Health		Total	
	Percent	Per Capita	Percent	Per Capita	Percent	Per Capita	Percent	Per Capita
Turkey	0.19	19.76	1.02	107.21	0.21	23.04	1.49	153.00
Bulgaria	0.36	28.82	1.64	127.50	0.16	12.53	2.16	167.97
Greece	0.97	207.04	1.07	228.01	0.09	19.26	2.12	454.30
Iran	0.20	10.56	1.32	68.95	0.41	21.35	1.93	100.86
Romania*	0.25	21.82	1.00	86.88	0.04	3.81	1.29	112.51

Source: Axco Global Statistics/GDI/SwissRe  
\*2013 figure

**29. The Turkish market is dominated by the non-life sector which accounts for more than 73 percent of premiums written.** Approximately 57 percent of non-life premiums written are for motor insurance. Property insurance accounts for approximately 26 percent of non-life premiums written and construction and engineering insurance accounts for approximately 6 percent of non-life premiums written. All other types of non-life insurance account for less than 11 percent of non-life premiums written<sup>1</sup>.

**30. Personal Accident and Healthcare Insurance account for close to 15 percent of premiums written.** This type of insurance may be written by both life and non-life insurers but life insurers can only participate in the market if they do not engage in pensions business. Most life insurers choose to engage in pensions business rather than personal accident and healthcare insurance business and as a result, non-life insurers write approximately 80 percent of personal accident and healthcare premiums.

**31. The life sector makes up less than 13 percent of premiums written.** Approximately 73 percent of life business is group term life products. Individual permanent life/whole life accounts for almost ten percent of premiums written and individual term life accounts for approximately 9 percent of premiums written. All other products account for less than 10 percent of premiums written.

**Table 2**  
**Premiums Written in 2015\***

	Life	Non-Life	Personal Accident and Healthcare	Total
Premium in TL mn	3,761.41	22,697.98	4,541.26	31,000.65
Premium in USD mn	1,382.87	8,344.85	1,669.58	11,397.30
% of total market	12.13	73.22	14.65	100.00

Source: Axco Global Statistics  
\*Preliminary Estimates

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

**32. There were a total of 60 authorized insurance companies operating in Turkey during the third quarter of 2015<sup>2</sup>.** They include 36 non-life insurers, 19 life and pension companies, 4 pure life insurers and one locally established reinsurance company. Most of these insurers are joint stock companies but there are two cooperative insurers. Less than 2 percent of gross premiums written is written outside the country. Separate entities are required for life and non-life business. The number of insurers has decreased from 63 in 2014 but is one greater than the 59 insurers that operated in the market in 2011. The reinsurance company writes both non-life and life business but life reinsurance accounts for only a small fraction of its gross premiums written. In 2014, approximately 25 percent of its business was written outside of Turkey. There are also 2 foreign branches operating in the country.

**33. International participation in the industry is very strong.** At least 24 non-life insurers and 15 life insurers have foreign capital participation including participation of major European and American insurance groups. Several insurers also have ownership linkages with banks. Four Islamic banks have ownership linkages with insurers and interest in the market for Takaful products is expected to grow. Three insurance and banking groups out of 14 are currently subject to consolidated supervision by the UoT, BRSA, and the CMB.

**34. Insurance market concentration is low.** The Herfindahl-Hirschman Index of market concentration is less than 900 for the non-life industry and less than 1200 for the life industry, indicating well diversified markets. The largest market share of any industry participant is approximately 15 percent of gross premiums written. The largest five non-life insurers account for less than 58 percent of premiums written while the largest five life insurers account for less than 70 percent of life industry assets (including pension industry assets). Both the life and non-life markets are said to be intensely competitive.

**35. Insurance policies are distributed mainly through licensed agents and brokers, banks, and direct sales.** Agents are the most important distribution channel and their activities account for approximately 67 percent of premiums written in 2014. Insurance brokers are especially important to commercial business and account for approximately 14 percent of premiums written. Bankassurance, which is primarily focused at lending related life products, accounts for 12 percent of premiums written while direct sales account for five percent of premiums written. All other distribution methods account for less than 2 percent of premiums written. In 2015, there were more than 16,100 licensed insurance agents and 123 insurance brokers. Since 2011, the number of insurance agents has declined by approximately 3 percent while the number of brokers has increased by almost 34 percent.

**36. The market is characterized by several insurance products that are compulsory for consumers.** Compliance with requirements for some compulsory products (e.g. earthquake insurance, and motor third party liability) is said to be a significant issue.

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<sup>2</sup> Source GDI

<b>Motor third party liability for bodily injury and property damage.</b>	<b>Professional liability cover for tour operators.</b>
<b>Earthquake insurance on private dwellings.</b>	<b>Medical malpractice insurance for doctors and dentists.</b>
<b>Third party liability for bodily injury and medical expenses for passengers on intercity and international transport.</b>	<b>Professional indemnity insurance for independent auditors</b>
<b>Third party liability for passengers on vessels registered to carry 12 or more passengers.</b>	<b>Sea pollution liability for companies situated near the shoreline</b>
<b>Personal accident cover for intercity coach passengers.</b>	<b>Public liability insurance for private security guards.</b>
<b>Personal accident cover for miners.</b>	<b>Third party legal liability and passenger liability for aircraft.</b>
<b>Professional indemnity insurance for companies providing professional services to banks.</b>	<b>Insurance of goods that are subject to finance leasing.</b>
<b>Liability of companies engaged in the production, storage, and handling of LPG cylinders.</b>	<b>Professional indemnity insurance for electronic signature certificate providers.</b>
<b>Liability insurance for companies engaged in the production, storage, transport, and sale of combustible, explosive or flammable materials.</b>	

**37. The market includes four significant insurance pools.** The Turkish Catastrophe Insurance Pool was created after the 1999 earthquake. The program is designed to provide compulsory insurance for all urban residential properties for property damages caused directly by earthquakes and other perils of fire, explosion, tsunami, or landslide following earthquake. Responsibility for administration of the pool rests with a seven person board of directors which is largely composed of officials from several government ministries. The Technical Operator of the pool at present is Eureko Sigorta A. S. Insurance companies act as agents for the pool but bear none of the underwriting risk. If the pool is not able to transfer some of the risks to international reinsurance markets on favorable terms, then Government can provide partial reinsurance coverage to the pool.

**38. The Green Card Pool was established to cover motor third part liability claims of Turkish residents travelling abroad in Europe and to handle claims of accidents in Turkey caused by foreign plated vehicles which have a valid green card.** All insurers licensed to write motor third party liability insurance in Turkey are required to be members of the pool which is run by an independent board of managers in conjunction with the Turkish Motor Insurance Bureau (TMIB). Green cards are issued by local insurers and all premiums are ceded to the pool. Claims are handled by the TMIB and settlement is made in accordance with the laws of the country where the accident occurred. Members share in the profits or losses of the pool in proportion to the volume of business ceded.

**39. The Federation of Afro-Asian Insurers and Reinsurers (FAIR) Pool accepts reinsurance and retrocession business from African and Asian markets for fire, engineering, marine hull and cargo, and certain types of accident insurance.** The program is run by Milli Reinsurance S.A. All cessions are voluntary and business is retroceded back to members in proportion to the amount of business they cede.

**40. The Agriculture Insurance Pool (TARSIM) provides standardized agricultural insurance cover to farmers in Turkey.** The Pool is run by a special purpose company set up by the companies writing agricultural insurance business. It is overseen by a Board comprising government and industry members and a member from the Union of Turkish Chambers of Agriculture. It receives a government subsidy of a minimum 50 percent of the premiums written. Insurance companies issue insurance policies with their own name, however all of the risk and the premium must be transferred to the Agriculture Insurance Pool. These insurance companies can optionally take a share from the Pool through retrocession.

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

**41. The life insurance and pension industry has enjoyed high profitability in recent years but this largely appears to be the result of life business investment income rather than pension business.** Premiums written have grown at an average annual rate of approximately 12 percent over the last five years but underwriting results have been negative during that period and the industry expense ratio has been increasing. Nevertheless, the after tax return on equity ranged from 17.6 to 28.7 percent between 2011 and 2015 (see Table 3) because of investment returns.

**42. Profitability in the non-life sector has varied over the last five years and is largely impacted by the direction of motor insurance.** Premiums written have grown at an average annual rate of more than 18 percent over the last five years and industry expenses have been in the 25 to 27 percent range. After several years of poor results, the non-life sector made underwriting profits in 2013 and 2014. Industry sources suggest that the improved profitability was largely due to hardening rates in the motor sector, a reduction in reserve strengthening and improved investment returns. In 2015, preliminary results suggest that the non-life sector will again incur an underwriting loss reflecting intense competition and reserves strengthening.

**43. Profitability of reinsurance business has also varied considerably over the last five years.** Premiums written appear to have declined from levels set in 2011 and 2012 and the expense ratio for the country's only reinsurer ratio has increased. While the reinsurer has had a positive return on equity since 2012, it suffered underwriting losses in 2013 and 2014, relying on investment earnings and income from subsidiaries to remain profitable. It appears that it will return to underwriting profitability in 2015.

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015Q3</b>
<b>Life</b>	<b>17.56</b>	<b>19.38</b>	<b>20.36</b>	<b>28.05</b>	<b>28.67</b>
<b>Non-Life</b>	<b>(0.37)</b>	<b>(15.10)</b>	<b>14.34</b>	<b>12.49</b>	<b>(1.23)</b>
<b>Reinsurance</b>	<b>(23.53)</b>	<b>15.99</b>	<b>3.68</b>	<b>1.67</b>	<b>18.62</b>

*Source: ISB and GDI*



***Assets and liabilities:***

**44. Asset growth in the insurance sector has been very strong.** From 2011 to 2015, total sector assets grew by approximately 117 percent from 42,473 TL mn. to 92,080 TL mn.. The growth is most significant in the life industry where assets increased by close to 136 percent. Most of this expansion is due to expansion of pensions business, which has been stimulated by tax concessions, and more recently, state contributions towards private pension plans. The non-life sector has also grown significantly. Between 2011 and 2015, total non-life assets grew by almost 94 percent. This growth reflects general premium growth and increased holdings of technical reserves by insurers.

**45. The investment profile for both life and non-life insurers appears to be conservative and strongly weighted towards government securities.** Government securities (mainly Treasury Bills and Government Bonds) account for approximately 75 percent of life insurer assets and 77 percent of non-life insurer assets. The composition of investments between major classes also appears to have been relatively constant over the last five years. In regard to liabilities, technical provisions appear to have grown faster than total liabilities for both life and non-life business but not for reinsurance business.

**Table 5: Industry Assets and Liabilities**  
(In TL millions)

	2011	2012	2013	2014	2015/Q3
<b>Life and Pensions:</b>					
<b>Total Assets</b>	<b>24,581</b>	<b>31,886</b>	<b>38,115</b>	<b>50,798</b>	<b>57,922</b>
Intangible assets	390	804	857	868	872
Investments	5,713	6,334	6,030	6,026	5,683
<i>of which:</i>					
Government securities	4,440	4,629	4,363	4,198	4,195
Corporate securities	398	423	775	594	400
Equities	88	174	121	158	168
Real estate and real-estate related	112	37	33	35	128
Other	676	1,071	738	1,041	792
Receivables	417	495	747	757	873
Intra-group/related company receivables	7	10	4	11	8
Reinsurance recoverables	8	12	22	30	12
Other assets	18,470	24,736	31,207	43,874	51,356
<b>Total Liabilities and Share Capital</b>	<b>24,581</b>	<b>31,886</b>	<b>38,115</b>	<b>50,798</b>	<b>57,922</b>
Share capital	1,962	2,252	2,269	2,350	2,495
Technical provisions	6,507	7,026	6,891	7,041	7,086
Other reserves	73	97	128	177	203
Intra-group/related company payables	20	21	25	37	74
Other liabilities	16,112	22,608	28,861	41,283	48,149
<b>Non-Life:</b>					
<b>Total Assets</b>	<b>16,298</b>	<b>18,950</b>	<b>24,301</b>	<b>28,217</b>	<b>31,564</b>
Intangible assets	495	518	611	616	607
Investments	3,284	3,429	5,819	6,964	7,183
<i>of which:</i>					
Government securities	2,969	2,823	4,687	5,599	5,498
Corporate securities	120	304	694	672	862
Equities	113	172	109	143	110
Real estate and real-estate related	82	130	329	550	713
Other					
Receivables	4,229	4,506	5,167	5,494	5,939
Intra-group/related company receivables	4	6	13	21	16
Reinsurance recoverables	124	69	85	146	113
Other assets	8,804	11,014	13,314	15,759	18,442
<b>Total Liabilities and Share Capital</b>	<b>16,298</b>	<b>18,950</b>	<b>24,301</b>	<b>28,217</b>	<b>31,564</b>
Share capital	4,205	4,357	5,351	5,838	5,901
Technical provisions	8,768	11,114	13,944	16,359	19,762
Other reserves	138	183	230	318	374
Intra-group/related company payables	36	32	34	34	49
Other liabilities	3,151	3,264	4,742	5,668	5,478
<b>Reinsurance:</b>					
<b>Total assets</b>	<b>1,594</b>	<b>1,764</b>	<b>1,847</b>	<b>2,004</b>	<b>2,594</b>
Intangible assets	1	1	1	1	6
Investments	307	361	497	490	490
<i>of which:</i>					
Government securities	147	185	268	180	173
Corporate securities	63	44	64	74	80
Equities	68	107	80	98	85
Other	29	25	85	138	152
Receivables	244	185	185	178	214
Intra-group/related company receivables		0	0	0	0
Reinsurance recoverables		0	0	0	0
Other assets	1044	804	1,164	1,335	1,884
<b>Total Liabilities and Share Capital</b>	<b>1,594</b>	<b>1,764</b>	<b>1,847</b>	<b>2,004</b>	<b>2,594</b>
Share capital	615	615	615	660	660
Subordinated loans	0	0	0	0	0
Technical provisions	1079	1,027	1,057	1,164	1,329
Other Reserves	30	36	42	34	36
Intra-group/related company payables	0	0	0	0	0
Other liabilities	0	86	133	146	569

Source: ISB

### **Solvency Position:**

**46. Table 5 illustrates that for the life and reinsurance industries in Turkey, the solvency position of the industry has remained relatively constant over the last three years while the solvency position of the non-life industry has declined.** In Turkey the solvency capital requirement is the higher of two methods of calculation. The first method is a Solvency I style of calculation that is based on the higher of a premium income based calculation or a claims experience based calculation. The second method is a risk based method that considers a range of risks valued against predetermined factors set out in regulation.

	<b>2013</b>	<b>2014</b>	<b>2015*</b>
<b>Life</b> Available Capital Less Solvency Capital Requirement/Available Capital	73.76%	74.15%	73.22%
<b>Non-Life</b> Available Capital Less Solvency Capital Requirement/Available Capital	20.01%	26.69%	11.57%
<b>Reinsurance</b> Available capital Less Solvency Capital Requirement/Available Capital	41.71%	41.40%	41.68%

Source: ISB and GDI

\* First six months

**47. The number of insurers subject to intervention has also increased from nine in 2013 to 13 in 2014 due to requirements to increase capital.** 2015 figures on intervention are not currently available. Three insurers have failed in the last five years, two of these were non-life companies and one was a life insurance company.

### **Risks and Vulnerabilities:**

**48. The continued growth and stability of the insurance sector is dependent on continued growth and stability of the Turkish economy and the broader financial sector.** Mounting geopolitical threats in the region and in the southeast of the country could impact on general financial and economic stability and the sector outlook. To some extent, these can be mitigated by effective consolidated supervision and stress testing. The authorities are aware of these issues and are working to minimize their potential impacts.

**49. The Turkish insurance market is intensely competitive and there are a large number of insurers for the size of market.** Fierce competition among insurers on price, rather than on quality of service, is resulting in the erosion of underwriting discipline and could create solvency problems. This is particularly true for smaller insurers. Hard price competition is especially prevalent in liability lines (e.g. MPTL insurance) and has resulted in underwriting losses over recent years. Further industry consolidation may help mitigate these pressures.

**50. A continued low interest rate environment may impact on consumer demand for some new life insurance products though low interest rates stimulate the demand for credit insurance associated with lending.** Moreover, limited availability of long term financial instruments makes it difficult for insurance and pensions companies to overcome asset liability matching problems. The UoT is working on issuing long term bonds to help mitigate the matching problem. Finding other ways to improve the growth and increase the depth of capital markets would also help. Increasing access to insurance in underserved parts of the population through products designed to meet local needs may help increase the demand for life insurance.

**51. The exposure to natural disasters in the region is an important but well recognized challenge for the insurance sector.** The largest industrial and commercial area of Turkey is located in a major earthquake zone. Establishment of the Turkish Catastrophic Insurance Pool was a significant step towards mitigating some catastrophic risks related to urban residential structures.

**52. Turkey has, in the past, been vulnerable to changes in investor sentiment and, together with other emerging markets, has experienced significant currency and financial market volatility since mid-2013.** Renewed financial market volatility and investment or claims cost impacts due to unexpected declines in the value of the currency are factors that could impact on the insurance industry.

## **D. Preconditions for Effective Insurance Supervision**

### **Sound and Sustainable Macroeconomic and Financial Sector Policies:**

**53. Turkey was ranked 45th in global competitiveness by the World Economic Forum (WEF)<sup>3</sup>.** Some of the positive factors discussed in the assessment included quality of overall infrastructure, health and primary education, goods market efficiency, and market size. The top three problematic factors indicated by the forum were inefficient government bureaucracy, policy instability, and a lack of workforce education.

**54. With a Gross Domestic Product (GDP) of \$719.97 billion (US), Turkey was the world's 17th largest economy in 2015.** From 2001 until 2008, it experienced strong economic growth, averaging real GDP growth of close to 6% per annum. Global economic conditions and tighter fiscal policy caused GDP to contract in 2009, but the economy rebounded strongly and real growth rates of 9.2 percent and 8.8 percent were experienced in 2011 and 2012, respectively. Since 2012 growth has moderated. After growing 4.2 percent in 2013, the economy slowed to 2.9 percent in 2014. Real growth in 2015 is expected to have been in the 4 percent range which is high relative to most EU countries and other countries in the region.

**55. Turkey's economy is increasingly driven by its industry and service sectors, although its traditional agriculture sector still accounts for about 25% of employment.** The country has

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<sup>3</sup> Source: Source: The Global Competitiveness Report 2014–2015.

a relatively young population and per capita income has grown markedly during the last 10 years, currently exceeding \$10,600 (US) per person. Despite mounting geopolitical threats in both the region and the country's southeastern corner, Turkey's economy is expected to benefit from strong government support, low oil prices, and a weaker lira in the immediate future.

**56. Although it is not a member of the European Union (EU), Turkey is moving towards harmonization of laws with EU laws.** In insurance, the regulatory and supervisory authorities are looking at harmonizing major prudential requirements with the EU's Solvency II requirements.

#### **Turkish Legal System:**

**57. Turkey's system of laws is well developed but the court system is not easily accessible to individual insurance consumers.** Court costs and legal fees are high relative to the incomes of many consumers and a judgement from the courts can take several years to obtain. In the past, there was a low level of claims consciousness and a reluctance to take legal action by many consumers in Turkey. However, insurers indicate that, more recently, there has been an increase in litigiousness of consumers. Nevertheless, relatively few insurance claims cases make it to the courts.

**58. Although there is no financial sector ombudsman in Turkey, an Insurance Arbitration Commission (IAC) was established by Article 30 of the Insurance Law No 5684 in 2007.** The IAC settles contract disputes arising between policyholders or people benefiting from the insurance contract one hand and the insurer on the other. It is voluntary for insurance companies to join the scheme but for the compulsory insurance products all insurance companies can be engaged in the arbitration process even if they are not a member. The IAC deals with disputes associated with all types of insurance products without value limitation. The cases are entrusted to an expert, duly registered with and approved by the IAC, who examines the circumstances of the case and reaches a decision that is binding on both parties for cases up to TL 5,000. Disputes of TL 5,000 and above may be appealed (once) within the IAC system within ten days of decision notification. Awards of TL 40,000 may also be appealed to the courts system.

**59. More generally, arbitration is provided for under Articles 516 to 536 of the Code of Civil Procedure.** Standard policy conditions often contain an arbitration provision which, in the event of a dispute between the insurance company and the insured, may be used to determine quantum. The parties to the dispute try to agree on an arbitrator but, if they cannot agree, each appoints its own arbitrator and they in turn nominate a third. The decision of the arbitrator(s) is binding on both parties.

**60. In 2012, Law No 6325, the Law on Mediation in Civil Disputes, came into force.** The law is intended to provide for mediation services for resolution of private law disputes, including those involving insurance contracts. The law is intended to help harmonize Turkish laws with EU legislation (EU Directive 2008/52/EC) but the concept of mediation is new in Turkey and relatively unproven in the area of insurance.

## Accounting, Auditing and Actuarial Standards:

### 61. Turkish Financial Reporting Standards are essentially International Financial Reporting Standards (IFRS) for insurance, reinsurance and pensions companies.

Independent auditors for insurance companies must be licensed with the Public Oversight, Accounting and Auditing Standards Authority. Licensing requirements appear to be rigorous and require auditors to have training in insurance business, IFRS, international auditing standards, corporate governance, risk management and internal controls. Independent Auditors must use actuaries to review the technical accounts and reserves of companies. Insurers can contract with the same audit firm for up to seven years but audit staff may only work on the audits of a single company for a maximum of five years.

62. **Turkey has a growing actuarial community.** There are approximately 127 actuaries currently licensed with the UoT and there is also a well-established actuarial professional association.

63. **Table 6 summarizes the observance of the ICPs arising from this assessment.**

**Table 6. Turkey: Summary of Observance with the ICPs**

Insurance Core Principle	Level	Overall Comments
<b>1 - Objectives, Powers and Responsibilities of the Supervisor</b>	<b>LO</b>	While the authority responsible for insurance supervision (UoT) is clearly defined in primary legislation, the objectives of insurance supervision are not fully consistent with two standards. ICP 1.2 requires that the objectives be clearly set out in primary legislation (rather than regulations) and ICP 1.3 requires that the principal objectives promote the maintenance of a fair, safe and stable insurance sector for the benefit and protection of consumers”.
<b>2 - Supervisor</b>	<b>LO</b>	There is no clear separation of insurance supervision activities from the many other roles carried out by the UoT.  In addition, major decisions relating to intervention rest with the Minister rather than the supervisory authority. The human resource and budget functions are also ultimately under the control of the Government rather than the insurance supervisors.  Moreover, the appointment and dismissal of the head of the supervisor does not meet the requirements of ICP 2. These factors have serious implications for the independence, governance and accountability of the insurance supervisory function.
<b>3 - Information Exchange and Confidentiality Requirements</b>	<b>O</b>	The supervisor has the necessary legislative authority and demonstrates the ICP standards in its supervisory practice.

<b>4 - Licensing</b>	<b>LO</b>	While the legislative requirements are sufficient to meet the requirements of the ICP, The UoT does not have information on the natural person controlling beneficiary for all licensed insurers (see ICP 6). This weakness impacts on the integrity of the licensing process.
<b>5 - Suitability of Persons</b>	<b>LO</b>	<p>The regulatory requirements should be strengthened to ensure that insurers report when officers or directors no longer meet the suitability criteria established in the legislation to UoT.</p> <p>In addition, consideration should be given to developing more specific competency requirements for people in control functions (e.g risk management) after requirements for these functions are established.</p> <p>Finally, the UoT should ensure that all natural person controlling beneficiaries of insurance companies meet suitability requirements (see ICP 6).</p>
<b>6 - Changes in Control and Portfolio Transfers</b>	<b>LO</b>	<p>The controlling beneficiary of all licensed insurers is not presently identified.</p> <p>Also ICP 6.10 requires that portfolio transfers be subject to approval by the Supervisor not the Minister. The supervisor must satisfy itself that the interests of the policy holders of both the transferee and the transferor will be protected.</p> <p>At present, the power to approve is a permissive power. The Minister may approve or not approve a transfer. There is no obligation that an approval be in the best interests of policy holders.</p>
<b>7 - Corporate Governance</b>	<b>PO</b>	Corporate governance requirements for insurers should be strengthened and made more legally enforceable.
<b>8 - Risk Management and Internal Controls</b>	<b>PO</b>	<p>The ICP requires insurers to have four effective internal control functions: compliance, actuarial, and risk management and internal audit. At present, there is only a requirement for an internal audit and designated internal control staff.</p> <p>Actuaries should be required to opine on the adequacy of premium pricing policies.</p> <p>External auditors should be required to opine on the adequacy of the insurer's risk management and internal control systems.</p>
<b>9 - Supervisory Review and Reporting</b>	<b>LO</b>	<p>The UoT has made significant progress in developing its monitoring and supervisory framework for insurers.</p> <p>While the development of IMS and SEUS are significant achievements, the efficiency and timeliness</p>

		of monitoring and supervision through two disparate departments is an ongoing concern.
<b>10 - Preventative and Corrective Measures</b>	<b>LO</b>	<p>The ICP requires the authority to take timely preventive and corrective actions be vested with the supervisor and not the Minister.</p> <p>In addition, consideration should be given to amending the Regulation On The Measurement And Assessment of Capital Adequacy to empower the supervisor to set the timeframe for insurers to improve their capital position. The existing legislated timeframes for insurers who fall below 100 percent (one year) and 70 percent (1.5 years) to meet required capital levels appear to be excessive. While UoT has power to require insurers to comply within a shorter time frame, the current timeframes set in the regulation set an expectation in industry that deficiencies in capital adequacy do not need to be remedied quickly.</p>
<b>11 - Enforcement</b>	<b>LO</b>	The ICP requires the authority to take enforcement action be vested with the supervisor and not the Minister.
<b>12 - Winding-up and Exit from the Market</b>	<b>PO</b>	The legislation does not specify a point at which it is no longer permissible for an insurer to continue its business. In addition, the authority to act is vested with the Minister rather than the supervisory authority.
<b>13 - Reinsurance and Other Forms of Risk Transfer</b>	<b>LO</b>	<p>There do not appear to be rules for prompt documentation of reinsurance transactions though UoT monitors the practice through on-site examinations.</p> <p>There are no rules or approval requirements for Alternative Risk Transfer arrangements.</p>
<b>14 - Valuation</b>	<b>LO</b>	The current standards do not provide for the inclusion of MOCE or for discounting of cash flows. A more sophisticated approach to earthquake/catastrophic reserving should be considered.
<b>15 - Investment</b>	<b>LO</b>	There should be more specific requirements established to ensure the appropriate use of derivatives (e.g. only for hedging purposes); and the legislation should be amended to establish a stronger duty of care for directors to act prudently and in the interests of policyholders (e.g. a "prudent person" definition for investment purposes).
<b>16 - Enterprise Risk Management for Solvency Purposes</b>	<b>PO</b>	In conjunction with strengthening governance and internal control requirements, more specific ERM requirements should be developed and implemented (e.g. ORSA, and ERM process) on an individual entity



		and group basis.
<b>17 - Capital Adequacy</b>	<b>PO</b>	<p>The current solvency approach is a standardized approach but not a total balance sheet approach. The Solvency I formula does not consider interdependence between assets, liabilities, regulatory capital requirements, and capital resources for determining the solvency requirements. The risk based formula recognizes a greater range of risks but not all the major risks that are likely to affect the value of assets and liabilities (eg. operational risk).</p> <p>The solvency control levels set a limit above which the supervisor does not intervene but do not clearly establish a minimum floor below which an insurer is regarded to be unviable. Should the solvency control level fall below the minimum, the Minister has a range of options he/she may use to “remediate” the insurer rather than liquidate it should he or she choose to do so.</p> <p>As a result, and in combination with the existing solvency control levels, it is not clear that the existing regulatory capital requirements are calibrated so that in adversity an insurer’s obligations to policy holders will be fully met. This weakness is compounded by the observation that the current solvency control levels provide a very generous amount of time for insurers to correct solvency deficiencies. This, in combination with the fact that it is the Minister, rather than the supervisor, who has the power to take stronger actions to strengthen the financial structure of the company, including the decision to liquidate it (see ICP 10), suggests that the intervention process could be too slow to protect the interests of policy holders.</p>
<b>18 - Intermediaries</b>	<b>PO</b>	<p>The level of ongoing supervision related to agents conduct appears to be inadequate.</p> <p>There is no requirement to disclose to customers the basis on which agents are remunerated by insurers or other potential conflicts.</p> <p>The Code of Conduct for intermediaries, while a significant step forward, includes few specific conduct rules or examples of inappropriate conduct.</p>
<b>19 - Conduct of Business</b>	<b>LO</b>	<p>Conflict of interest/disclosure of compensation requirements for agents and intermediaries should be strengthened.</p> <p>Board approval and reporting is not specifically required for insurer’s policies related to fair treatment of consumers.</p>

		There is no specific requirement that the complaint handling function of insurers be separate from the area of the organization that is subject of the complaint.
<b>20 - Public Disclosure</b>	<b>LO</b>	<p>Some items described in the ICP, such as capital adequacy (solvency ratio), investment objectives and policies and ERM/ALM, are not required to be disclosed.</p> <p>More information on governance and internal controls should be considered.</p> <p>Consideration should be given to expanding information requirements to include company information on market conduct policies and risks (e.g. information on management of complaints).</p>
<b>21 - Countering Fraud in Insurance</b>	<b>O</b>	Significant progress has been made since the last assessment in this area particularly with the establishment of the Fraud Bureau and data base.
<b>22 - Anti-Money Laundering and Combating the Financing of Terrorism</b>	<b>O</b>	<p>While the UoT is not the AML /CFT authority, UoT staff are knowledgeable about AML/CFT issues and conduct on-sites on AML/CFT internal control systems.</p> <p>In addition, the AML/CFT authority leverages knowledge of UoT staff in carrying out its AML/CFT responsibilities.</p>
<b>23 - Group-wide Supervision</b>	<b>LO</b>	The ICP contemplates a supervisory framework for insurance groups that sets out the preconditions for group-wide supervision, group-wide regulatory requirements and group-wide supervisory review and reporting. This does not currently exist in Turkey though many of the powers and processes for carrying out group wide work currently exist. The UoT is aware of this and is working to develop its framework.
<b>24 - Macroprudential Surveillance and Insurance Supervision</b>	<b>PO</b>	The UoT identifies, monitors and analyses extensive market, financial, and insurer data but does not yet have a formal macro-prudential framework that feeds into its day to day supervisory programs or supervisory priority setting.
<b>25 - Supervisory Cooperation and Coordination</b>	<b>LO</b>	Establishment of a group wide supervisory framework in the future would strengthen this rating.

<b>26 - Cross-border Cooperation and Coordination on Crisis Management</b>	<b>PO</b>	<p>There is no plan/procedure manual for a crisis management; and</p> <p>There is currently no requirement for insurers to establish contingency plans and procedures for use in a going and gone concern situation.</p>
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64. Table 7 provides a summary of the level of observance.

<b>Table 7. Turkey: Summary of Observance Level</b>	
Observed (O)	3
Largely Observed (LO)	15
Partly Observed (PO)	8
Not Observed (NO)	0
<b>Total</b>	<b>26</b>

65. Table 8 lists the suggested steps for improvement of the level of observance. Some of these actions reflect actions that are already in progress but yet to be fully operational.

**Table 8. Turkey: Recommendations to Improve Observance of ICPs**

<b>Insurance Core Principle</b>	<b>Recommendations</b>
<b>1 - Objectives, Powers and Responsibilities of the Supervisor</b>	<p>It is recommended that the primary insurance legislation be amended at the next opportunity to clarify that the <u>principal</u> objective of supervision is the maintenance of a fair, safe and stable insurance sector for the benefit and protection of policyholders.</p> <p>This recommendation is similar to recommendations made in previous assessments</p>
<b>2 - Supervisor</b>	<p>It is recommended that the authorities explore options to improve the independence, governance and accountability of the insurance supervision authority. These might include:</p> <ul style="list-style-type: none"> <li>• Establishing a standalone regulatory agency for insurance and pensions supervision;</li> <li>• Attaching insurance and pensions supervision (including GDI and ISB) to either the BRSA or the CMB;</li> </ul>

	<ul style="list-style-type: none"> <li>Developing a “twin peaks” model, with cross sector regulatory responsibility divided along prudential and market conduct lines rather than traditional business lines.</li> </ul> <p>This recommendation is similar to recommendations made in previous assessments</p>
<b>3 - Information Exchange and Confidentiality Requirements</b>	No recommendation.
<b>4 - Licensing</b>	No recommendation.
<b>5 - Suitability of Persons</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>The regulatory requirements be strengthened to ensure that insurers report when officers or directors no longer meet the suitability criteria established in the legislation to UoT.</li> <li>Consideration be given to developing more specific competency requirements for people in control functions (e.g risk management) after requirements for these functions are established.</li> <li>The UoT ensure that all natural person controlling beneficiaries of insurance companies meet suitability requirements.</li> </ul>
<b>6 - Changes in Control and Portfolio Transfers</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>UoT develop and maintain a list of natural person controlling beneficiaries of insurance entities operating in Turkey.</li> <li>The legislation be amended so that portfolio transfers are subject to the approval of the insurance supervisor rather than the Minister.</li> </ul>
<b>7 - Corporate Governance</b>	<p>Corporate governance requirements for insurers should be strengthened and made more legally enforceable. UoT may wish to consider development of a new corporate governance and internal controls regulation consisting of of a mix of mandatory and voluntary (apply or explain) requirements as has been done in other jurisdictions recently (e.g. South Africa).</p>
<b>8 - Risk Management and Internal Controls</b>	<p>It is recommended that the authorities require insurers to establish all four internal control functions required by the ICP and ensure that they have appropriate independence and resources.</p> <p>Our understanding is that this already exists for control functions for Banks in Turkey.</p> <p>It is recommended that actuaries be required to opine on the adequacy of premium pricing and external auditors be required to opine on the adequacy of the insurer’s risk management and internal control systems.</p>
<b>9 - Supervisory Review and Reporting</b>	It is recommended that:

	<ul style="list-style-type: none"> <li>• Consideration be given to integrating offsite, onsite and enforcement activities within a single supervisory organization.</li> <li>• Consideration be given to developing a more fulsome and risk based approach to Conduct of Business supervision including a broader range of tools (e.g. market analysis, offsite and onsite monitoring and thematic review).</li> <li>• UoT continue work to develop a group wide supervisory framework.</li> </ul>
<b>10 – Corrective and Preventative Action</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• the authority take timely preventive and corrective actions be vested in the Insurance Supervisor. This would increase independence, transparency and accountability of the Supervisory authority (see ICP2) and avoid the possibility of undue political influence.</li> <li>• Consideration be given to amending the Regulation on the Measurement and Assessment of Capital Adequacy to empower the Supervisor to set the timeframe for insurers to improve their capital position.</li> <li>• While UoT has power to require insurers to comply within a shorter time frame, the current timeframes set in the regulation set an expectation that deficiencies in capital adequacy do not need to be remedied quickly.</li> <li>• Development of a formal “ladder of intervention” commensurate with this change would also be of benefit.</li> </ul>
<b>11 - Enforcement</b>	<p>It is recommended that the law be amended to establish the supervisory authority as the decision maker for major enforcement decisions. This would help increase independence, transparency and accountability of the supervisory authority (see ICP2).</p>
<b>12 - Winding-up and Exit from the Market</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The insurance legislation be amended to ensure the supervisory authority rather than the Minister has the authority to wind-up an insurer.</li> <li>• The legislation clearly establish a point at which it is no longer permissible for an insurer to continue its business. This could perhaps be tied to a risk based solvency requirement for insurers.</li> </ul>
<b>13 - Reinsurance and Other Forms of Risk Transfer</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The legislation be amended at the next opportunity to require explicitly that insurers promptly document all reinsurance transactions.</li> <li>• While alternative risk transfer is not prevalent in the market,</li> </ul>

	UoT consider developing specific requirements to ensure appropriate use of such arrangements as the market develops (e.g. requirement for prior UoT approval).
<b>14 - Valuation</b>	It is recommended that: <ul style="list-style-type: none"> <li>As part of its plans to move towards Solvency II, the reserving requirements be revised to provide explicit MOCE, discounting of cash flows and more sophisticated approaches to earthquake reserving be considered.</li> </ul>
<b>15 - Investment</b>	It is recommended that: <ul style="list-style-type: none"> <li>Consideration be given to developing more specific requirements regarding the use of derivatives (e.g. only for hedging purposes); and</li> <li>The legislation be amended to establish a stronger duty of care for directors to act prudently and in the interests of policyholders (e.g. a “prudent person” definition for investment purposes) with respect to investment decisions.</li> </ul>
<b>16 - Enterprise Risk Management for Solvency Purposes</b>	It is recommended that: <ul style="list-style-type: none"> <li>In conjunction with strengthening governance and internal control requirements, the authorities begin to engage the industry in dialogue about the need for an ERM framework; and</li> <li>Gradually expand the internal control and risk management system requirements to include ORSA, risk tolerance statements, interconnected risk management, AML and capital plans and feedback loops for individual entity and insurance groups.</li> </ul>
<b>17 - Capital Adequacy</b>	It is recommended that: <ul style="list-style-type: none"> <li>The authorities continue their intended transition towards Solvency II Pillar One capital requirements as part of a broader strategy for Solvency II implementation.</li> <li>The authorities establish a clear solvency control level as part of the capital requirements below which an insurer will not be allowed to operate.</li> </ul>
<b>18 - Intermediaries</b>	It is recommended that: <ul style="list-style-type: none"> <li>Consideration be given to expanding representation on the Insurance Agents Executive Committee to include insurer, intermediary and lay member representation, broadening the mandate to cover all intermediaries and increasing its enforcement powers and resources to discipline intermediaries.</li> <li>Consideration be given to developing a more fulsome and rule based Code of Conduct for intermediaries.</li> </ul>
<b>19 - Conduct of Business</b>	It is recommended that the authorities:

	<ul style="list-style-type: none"> <li>• Establish strong clear rules for intermediaries regarding compensation disclosure and conflict of interest vis a vis insurance consumers.</li> <li>• specifically mandate that specific Board approval be required for policies relating to fair treatment of consumers and that the board receive regular reporting on adherence to these policies especially regarding complaint handling.</li> <li>• A requirement be established to ensure insurer complaint handling functions are operationally separate from program that is subject to the complaint.</li> </ul>
<b>20 - Public Disclosure</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• Disclosure requirements be expanded to provide more information on governance, capital adequacy, investment objectives and policies and ERM/ALM.</li> <li>• Consideration be given to expanding information requirements to include company information on market conduct policies and risks (e.g. information on handling and disposition of complaints).</li> </ul>
<b>21 - Countering Fraud in Insurance</b>	No recommendation
<b>22 - Anti-Money Laundering and Combating the Financing of Terrorism</b>	No recommendation
<b>23 - Group-wide Supervision</b>	<p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> <li>• Enhance their efforts to supervise insurance groups by developing a more detailed monitoring and supervision framework; and</li> <li>• Allow the group wide supervisor (in most cases the BRSA) rather than the committee of supervisory authorities determine the scope and entities subject to supervision in Turkey.</li> </ul>
<b>24 - Macroprudential Surveillance and Insurance Supervision</b>	It is recommended that the UoT develop a systematic macroprudential framework for integration into its general supervisory program for insurance.
<b>25 - Supervisory Cooperation and Coordination</b>	No recommendation.
<b>26 - Cross-border Cooperation and Coordination on Crisis Management</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The UoT develop internal procedure manual or contingency plan for a financial crisis.</li> <li>• The UoT require insurers (particularly large insurers with cross-border or cross sectoral linkages) to establish contingency plans and procedures based on their specific risk profile for use in a going and gone-concern situations.</li> </ul>

# DETAILED PRINCIPLE-BY-PRINCIPLE ASSESSMENT

**Table 9. Turkey: Detailed Assessment of Observance of the ICPs**

ICP 1	<b>Objectives, Powers and Responsibilities of the Supervisor</b> The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.
Description	<p>The regulation and supervision of the insurance sector is the responsibility of the UoT. It is largely carried out through two departments under the UoT: the General Directorate of Insurance (GDI) and the Insurance Supervision Board (ISB).</p> <p>Authority to regulate and supervise insurance is established and defined under the Treasury Law 4059, Insurance Law 5684 and the Regulation Concerning Working Principles and Procedures For The Monitoring and Supervision of Insurance and Private Pension Sector (RMSIPPS). The GDI’s role is established under article 2(e) in the Treasury Law 4059 and article 28 of the Insurance Law 5684. The role of the ISB is largely defined in article 5(c) in the Treasury Law 4059 and Article 28 of the Insurance Law 5684.</p> <p>The objectives of regulation and supervision appear in Article 1 of Insurance Law 5684: “...to provide for the development of the national insurance sector, to protect the rights and benefits of policy holders, and to promote that the insurance sector operates effectively in a safe and stable manner.”</p> <p>In addition, the objectives of insurance supervision and monitoring are defined under RMSIPPS and set out under Article 5:</p> <p>“the objective of insurance supervision and monitoring performed by the Undersecretary is to improve the insurance and pension system and to create an effective fair, safe, and stable insurance and private pension market”.</p> <p>The GDI has a specific responsibility to draft, implement and monitor legislation and to propose changes when necessary. In practice GDI has proposed and government has accepted amendments to primary legislation 4 times during the last five years. In addition 50 amendments to regulations have been proposed and accepted during the same time period.</p>
Assessment	Largely Observed
Comments	<p>While the authority responsible for insurance supervision (UoT) is clearly defined in primary legislation, the objectives of insurance supervision are not fully consistent with two standards. ICP 1.2 requires that the objectives be clearly set out in primary legislation (rather than regulations) and ICP 1.3 requires that the <u>principal</u> objectives promote the maintenance of a fair, safe and stable insurance sector for the benefit and protection of consumers”.</p> <p>As currently written, the primary legislation includes two objectives: one is consistent with promoting the maintenance of a fair, safe and stable insurance sector for the benefit and protection of consumers, the other relates to development of the national</p>



	<p>insurance sector. As the legislation does not establish the first objective as the <u>principal</u> objective there is a potential for conflict.</p> <p>Supervisory staff indicate, that in practice the UoT views the maintenance of a fair, safe and stable insurance sector for the benefit and protection of consumers as their principal objective in their day to day work.</p> <p>It is recommended that the authorities amend the primary legislation at their next opportunity to clarify the principal objectives of insurance supervision. This recommendation is consistent with a similar recommendation made in the 2011 assessment.</p> <p>In addition, as much of the Insurance Law 5684 deals with prudential supervision but the mandate of UoT, includes both prudential and market conduct (conduct of business), the authorities may wish to affirm in the objectives section that the supervisory mandate extends to both prudential and market conduct (or conduct of business) supervision of insurers, insurance groups and insurance intermediaries.</p>
<b>ICP 2</b>	<p><b>Supervisor</b></p> <p>The supervisor, in the exercise of its functions and powers:</p> <ul style="list-style-type: none"> <li>• is operationally independent, accountable and transparent;</li> <li>• protects confidential information;</li> <li>• has appropriate legal protection;</li> <li>• has adequate resources; and</li> <li>• meets high professional standards.</li> </ul>
Description	<p>The UoT is part of the Executive arm of the Government of Turkey, similar to a government ministry. The UoT is attached to the Office of the Prime Minister, which exercises its powers through a designated Minister of State. It is headed by an Undersecretary who is a senior government official. Major service units within the UoT include seven General Directorates:</p> <ul style="list-style-type: none"> <li>• Public Finance,</li> <li>• Foreign Economic Relations,</li> <li>• Economic Research,</li> <li>• Financial Sector Relations and Exchange,</li> <li>• State Support,</li> <li>• State-Owned Enterprises, and</li> <li>• Insurance (GDI)</li> </ul> <p>The duties of the GDI are described in Article 2(e) of Law 4059 pertaining to the organization and duties of the UoT:</p> <p>“ The duties of the General Directorate of Insurance are: to carry out the insurance-related provisions of the Turkish Commercial Code 6102 of 13, January 2011, the Land Traffic Law 2918 of 18 October 1983, the Civilian Aviation Law 2920 of 19 October 1983 and other laws and by the supplements and amendments thereto; to draft, implement, and monitor and guide the implementation by those concerned of, legislation related to insurance; to conduct the work of harmonizing such legislation with the</p>

European Union; to take, implement, or monitor the implementation by concerned organizations of, measures for the development of the national insurance sector and for the protection of the insured; and to carry out other, similar duties as may be assigned by the Undersecretariat”.

In practice GDI is principally concerned with monitoring the insurance sector, licensing of insurance, reinsurance and pension companies, insurance intermediaries, services auxiliary to insurance and all other entities wishing to operate in the market, assessing capital adequacy through offsite reports, reviewing insurer technical reserves and financial performance, assessing of financial controls, and initiating of enforcement measures, including those associated with strengthening the financial structure of insurers, which are approved by the minister. It also coordinates legislation development, implementation and support and acts as the initial receiver of insurance inquiries and complaints. GDI reports to the Undersecretary through a Deputy Undersecretary.

The UoT also contains a number of “directly affiliated units”, one of which is the Insurance Supervision Board (ISB). The ISB’s responsibilities are described in both Article 5-c of the Law 4059 and Article 28 of the Insurance Law 5684 and pertain to supervision of all insurance operations of insurance and reinsurance companies operating in Turkey. Supervision is a defined term in the Regulation Concerning Working Principles and Procedures for The Monitoring and Supervision of the Insurance and Private Pension Sector (RMSIPPS):

“Supervision: All Kinds of supervision, examination, research and investigation activities to carry out the duties and authorities given by relevant regulations to the Undersecretariat, the Minister, the Board (ISB) and the supervisory staff of the Board, and all other activities performed within the framework and as part of the supervisory process”.

In practice, ISB is principally focused on on-site supervision of insurers and intermediaries as well as other legal entities and individuals operating in the sector. ISB manages the “supervision loop” which includes off-site reviews, assessment of risks under the SEUS (Company Risk Assessment Methodology and Framework), formation of risk profiles of insurers, preparation, planning, and conducting of on-site inspections, and the delivery, discussion and reporting of findings to insurers as well as follow-up on supervisory recommendations. ISB uses off-site monitoring to help assess risk and set on-site priorities and produces quarterly risk assessment reports. It also assists in the licensing process by conducting on-site assessments of new insurers to assess and confirm that necessary policies, procedures, and controls are in place. ISB reports directly to the Undersecretary through the ISB Chairman.

Major licensing and some intervention decisions are vested in the UoT. Others, particularly those related with the most serious types of intervention (i.e. those relating to strengthening the financial structure of insurers under Article 20 of Insurance Law 5684) rest with the Minister. Within the UoT, delegation protocols exist to ensure decisions can be taken in a timely and effective manner.

**Governance, Accountability, and Independence:**

The UoT is part of direct government and is ultimately accountable to the Prime Minister through a designated Minister. UoT’s mandate includes a great range of fiscal, economic, and developmental objectives in addition to those related to the regulation

and supervision of insurance.

UoT prepares and publishes a strategic plan for its supervisory program and prepares annual report on program operations in addition to an annual report on the insurance market.

UoT's component parts are subject to internal audit by a special audit unit within the Treasury. The focus of these audits is largely financial. In addition, the Turkish Court of Accounts, which reports to the legislature (similar to an auditor General), has the authority to conduct program review of all government programs including those of the UoT.

**Appointment and Dismissal Procedures and Program funding:**

The Undersecretary is appointed at the pleasure of the government and all insurance supervision employees are regular public service employees subject to government human resource practices under the Civil Servants Act. Appointment of senior officials requires the approval of President, the Prime Minister and the Minister. There are no special requirements to publish reasons for dismissal. In addition to senior officials, all supervisors of ISB are appointed with the approval of President, the Prime Minister and the Minister (joint decree).

UoT is subject to regular government budgeting and financial accountability processes and is ultimately accountable to the President and National Assembly. GDI and ISB receive funding through allocations within the UoT budget. UoT officials indicate that within UoT's budget, GDI and ISB have discretionary authority to allocate resources in accordance with their mandate and objectives.

**Transparency of Regulatory Requirements, Review and Consultation:**

Major regulatory requirements are established in law and regulations. The UoT uses published circulars and sector notices to ensure that regulated entities are aware of changes and supervisory expectations in the application of supervisory requirements. The UoT consults with stakeholders on major regulatory changes during their development and shares draft regulations and supervisory manuals with stakeholders and the public through its website. Regulatory requirements are mainly reviewed on an ad hoc periodic basis when issues arise.

The use of insurance supervision manuals helps ensure consistency in supervisory practices. ISB Supervisory reports are also reviewed by a special internal report assessment committee to help ensure consistency.

**Appeals of Supervisory Decisions:**

Appeals of Supervisory decisions are made to the court system under the Procedure of Administrative Justice Act No. 2577. Appeals of decisions do not stay the execution of the decision. During the last five years, there has been 1 appeal against revocation of a license and several appeals against administrative penalties.

	<p><b>Confidentiality of Information:</b></p> <p>The Insurance law (Articles 31/A and 35) provides strong protection for confidential information gained by UoT employees and contractors in the execution of their duties. The law prohibits the disclosure of confidential information, except for certain permitted circumstances. It is an offence to contravene the secrecy obligations and conviction can result in imprisonment from two to four years and a fine.</p> <p>There is also protection provided in Article 28/c of the RMSIPPS which establishes duties and professional ethics requirements for professional staff.</p> <p><b>Code of Conduct and Conflict of Interest:</b></p> <p>UoT staff are required to adhere to a general code of conduct that applies to all government employees. The code is said to include provisions relating to conflict of interest and improper use of authority as well as other requirements. Staff are also required to disclose major changes in financial position every five years.</p> <p>In addition Article 28/c referred to above sets out specific obligations for staff engaged in insurance supervision and monitoring work. These include obligations respecting neutrality and objectivity, impartiality, honesty, confidentiality and avoidance of conflict of interest.</p> <p><b>Legal Protection:</b></p> <p>All Civil Servants in Turkey are protected by general provisions in the Civil Servants Act No. 657 against personal lawsuits related to the good faith exercise of their duties.</p> <p><b>Outsourcing:</b></p> <p>Under Article 33 of the Insurance law 5684 the Undersecretariat may procure consultancy services when needed to carry out its monitoring and supervision activities. The law does not, however permit the outsourcing of supervisory program activities.</p> <p>Consultants are subject to the same obligations relating to confidential information and conflict of interest as UoT staff.</p>
Assessment	Largely Observed
Comments	<p>There is no clear separation of insurance supervision activities from the many other roles carried out by the UoT. In addition, major decisions relating to intervention rest with the Minister rather than the supervisory authority. The human resource and budget functions are also ultimately under the control of the government rather than the insurance supervisors. Moreover, the appointment and dismissal of the head of the supervisor does not meet the requirements of ICP 2. These factors have serious implications for the independence, governance and accountability of the insurance supervisory function.</p> <p>It is recommended that the authorities explore options to improve the independence, governance and accountability of the insurance supervision function. These might include:</p> <ul style="list-style-type: none"> <li>• Establishing a standalone regulatory agency for insurance and pensions supervision;</li> <li>• Attaching insurance and pensions supervision (including GDI and ISB) to either the</li> </ul>

	<p>BRSA or the CMB;</p> <ul style="list-style-type: none"> <li>Developing a “twin peaks” model, with regulatory responsibility divided along prudential and market conduct lines rather than traditional business lines.</li> </ul> <p>This recommendation is similar to recommendations made in previous assessments.</p>
<b>ICP 3</b>	<p><b>Information Exchange and Confidentiality Requirements</b></p> <p>The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose and use requirements.</p>
Description	<p><b>Legislation:</b></p> <p>Articles 28, 29, 31, and 35 of Insurance Law 5684 set out the main provisions relating to requesting and exchanging information:</p> <ul style="list-style-type: none"> <li>Article 28 sets out broad based powers for the supervisor to request information. It also imposes an obligation to comply with supervisory information requests on other public institutions, the industry association, and other non-governmental and professional bodies.</li> <li>Article 29 sets out the obligation of those that are subject to regulation to comply with information requests. It also establishes the supervisor’s authority to exchange information with foreign supervisors.</li> <li>Article 31/A establishes confidentiality requirements for those administering the law and those subject to the law including those engaged in outsourced activities; and</li> <li>Article 35 establishes penalties for violations.</li> </ul> <p>Article 32 of the RMSIPPS, which was revised in July 2013, deals more specifically with information sharing and cooperation:</p> <ul style="list-style-type: none"> <li>It authorizes the UoT to collaborate and exchange information with domestic and foreign supervisory authorities including collaboration and information exchange on member companies of financial groups.</li> <li>It requires the UoT to make sure that the information requested serves a legitimate supervisory purpose and to take measures to safeguard its confidentiality.</li> <li>It requires the UoT to use information obtained from other authorities only for the purpose for which it was requested and to request permission from the originating authority if requests to share the information are received.</li> <li>It requires the UoT to take measures to safeguard the information if permission to share is not received; and</li> <li>It requires the UoT to inform other authorities of events or decisions that may have an impact on insurance groups and financial holding companies at home and abroad.</li> </ul> <p>There is also a protocol agreement between the major Turkish financial services regulators on information sharing and in 2013 the UoT signed the IAIS Multilateral MOU on Cooperation and Information Exchange.</p> <p><b>Supervisory Practice:</b></p> <p>In practice, the UoT has recently dealt with information requests from Netherlands, Malaysia, Germany, and Singapore, all of which are signatories to the IAIS MOU. Our understanding is that these requests were generally processed within 2 weeks of</p>

	receipt. The ISB has also conducted a joint inspection of an insurer in Turkey with the insurance regulator for the Netherlands.
Assessment	Observed
Comments	<p>The above noted legislation meets the standards of the ICP. The Supervisor has strong and broad based authority to request and exchange information including information on non-regulated related entities and groups. There are also strong confidentiality requirements that apply to supervisory and the industry staff, during and after their periods of employment. The legislation meets exchange requirements related to dealing with requests quickly, providing information only for a legitimate purpose, ongoing protection of confidentiality, and that information be used only for the purposes specified in the request.</p> <p>Article 29 of the Insurance Law 5684 which is the primary legislation with respect to the UoT's authority to exchange information, appears to contemplate reciprocity from the authorities requesting information from the UoT. UoT officials indicate that strict reciprocity is not required, however, and that the existence of an agreement before the exchange of information is not required.</p>
<b>ICP 4</b>	<p><b>Licensing</b></p> <p>A legal entity which intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. The requirements and procedures for licensing must be clear, objective and public, and be consistently applied.</p>
Description	<p>The requirements relating to insurer licensing are primarily established under Articles 3, 5-7 and 35 of the Insurance Law 5684 and in several Articles of the Regulation on Establishment and Working Principles of Insurance Companies and Reinsurance Companies.</p> <p>The insurance legislation:</p> <ul style="list-style-type: none"> <li>• defines insurance activities which are subject to licensing (a definition of insurance business is contained in the Turkish Commercial Code);</li> <li>• prohibits unlicensed insurance activities;</li> <li>• defines the permissible legal forms of domestic insurance legal entities;</li> <li>• allocates the responsibility for issuing licenses; and</li> <li>• sets out the procedure and form of establishment by which foreign insurers are allowed to conduct insurance activities within the jurisdiction.</li> </ul> <p>There are no exclusions from licensing in the legislation. In addition, Article 35 of the Insurance law 5684 includes prohibition and strong penalties for engaging in insurance activities without a license.</p> <p>The licensing requirements and procedures are clear, objective, and publicly available. They also appear to be consistently applied. Insurers must be either joint stock or mutual companies. Branch operations of foreign insurers are also permitted. Companies may be either life or non-life and the classes (branches and sub-branches) of insurance business they may write are specified in the license.</p> <p>After insurance companies are established, companies make a license application</p>

	<p>detailing the type of business they wish to write. For each insurance branch (class) in which they would like to operate, companies have to provide a detailed feasibility report including information on financial means and estimates regarding required capital, a reinsurance plan and program, information regarding technical provisions and detailed calculations on the tariffs to be applied and sample policy documents.</p> <p>The application includes a great deal of additional information including a detailed business plan including information on required capital, shareholding information, suitability information on the founders and persons in control of the organization, Suitability information on directors and officers, a copy of the companies articles, information on the minimum guaranteed reserves (See ICP 17)) and financial statements from the founders, are also required.</p> <p>ISB also assists in the initial licensing process by conducting on-site assessments of new insurers to assess and confirm that necessary policies, procedures, and controls are in place.</p> <p>Companies wishing to expand their licenses once they have been established submit another application providing a detailed feasibility report including information on financial means and estimates of required capital, a reinsurance plan and program, information regarding technical provisions and the assets in which they are to be invested, and information on the products to be offered in each branch for which the license is sought as well as detailed calculations on the tariffs to be applied and sample policy documents.</p> <p>If the organizational or group structure of an applicant hinders effective supervision of the licensed entity, staff indicate that authorities would deal with the issue through their review and acceptance of the business plan. If the organizational structure changes after review of the business plan, Article 7 of the Insurance Law 5684 provides UoT with authority to address the any changes that are problematic.</p> <p>Provided that the documents and information are not deficient, the UoT processes the application within three months for the initial license and within two months for the additional licenses. If the application is approved, the company files the license with the Trade Registry and the license is announced in the Trade Gazette and two daily newspapers. The company must also join the industry association (TSB) and provide evidence of the above to the UoT and it must have an extensive and active website upon establishment.</p> <p>A similar process exists for branches of foreign insurers wishing to do business in Turkey.</p> <p>If an application is denied, the supervisor is required to provide the applicant with an explanation of the decision. The supervisor publishes a list of licensed insurers on its website.</p> <p>The authorities have the power to consult and exchange information with foreign supervisors on licensing issues and do so on an as needed basis.</p> <p>The authorities can restrict insurance business to particular classes or sub-classes and can require other limitations or changes through acceptance of the insurer's business plan or other operational documents.</p>
Assessment	Largely Observed

Comments	While the legislative requirements are sufficient to meet the requirements of the ICP. The UoT does not have information on the natural person controlling beneficiary for all licensed insurers (see ICP 6). This weakness impacts on the integrity of the licensing process.
<b>ICP 5</b>	<p><b>Suitability of Persons</b></p> <p>The supervisor requires Board Members, Senior Management, Key Persons in Control Functions and Significant Owners of an insurer to be and remain suitable to fulfil their respective roles.</p>
Description	<p>ICP 5.1 requires that the legislation identify which persons are required to meet suitability requirements. At a minimum, the legislation should include Board members, senior management, key persons in control functions and significant owners.</p> <p>Articles 3, 4, of Insurance Law 5684 and Articles 5-8 of the Regulation on Establishment and Working Principles of Insurance and Reinsurance Companies establish suitability requirements for:</p> <ul style="list-style-type: none"> <li>• founders,</li> <li>• board members,</li> <li>• general managers and deputy general managers,</li> <li>• managing directors,</li> <li>• other managers who perform duties and have powers equivalent or superior to the post of deputy general manager even if they have another title,</li> <li>• auditors,</li> <li>• persons who enjoy management and control of legal entities which hold a majority interest in an insurance or reinsurance company,</li> <li>• employees with signatory authority,</li> <li>• directors and employees assigned in the companies' accounting branch,</li> <li>• employees who are performing and monitoring investments and derivative instrument operations, and</li> <li>• the central branch managers, assistant branch managers and branch employees with first degree signatory authority of foreign insurance companies and reinsurance companies operating in Turkey by opening a branch.</li> </ul> <p>While the legislation does not specifically identify “key persons in control functions”, these individuals would appear to be captured under Article 4(5) of the Insurance Law 5684 which deals with “other managers who perform duties and have powers equivalent or superior to the post of deputy general manager”. In addition, special requirements exist for internal audit staff in the Regulation on Internal Control Systems and Risk Management.</p> <p>The ICP requires that Board Members, senior management, key persons in control functions possess competence and integrity. Some of the integrity requirements established in the insurance law include:</p> <ul style="list-style-type: none"> <li>• that individuals in these positions are not bankrupt or have not declared bankruptcy in the past;</li> <li>• that they are of good repute; and</li> <li>• that they have not been sentenced to imprisonment, fined more than once, and</li> </ul>



	<p>have not been convicted of criminal offences related to financial crime (e.g. money laundering, embezzlement, bribery, fraud, theft, etc.)</p> <p>Competency requirements for these positions generally include a combination of education and experience in insurance, economics, business, accounting, law, finance, mathematics, statistics, actuarial or engineering fields. A concern with respect to persons in control functions is whether the competency requirements are specific enough for all four required control functions (see ICP 8). For example, the person in charge of the risk management function should have experience and training in risk management.</p> <p>The ICP requires that significant owners be subject to integrity and financial suitability requirements. The Insurance law 5684 requires that founders of insurance companies have integrity and financial power and standing. Integrity requirements are the same as those outlined above. Article 5 of the Regulation on Establishment and Working Principles of Insurance and Reinsurance Companies clarifies how financial power and standing are to be determined.</p> <p>The ICP requires that the Suitability of Board Members, Senior Management, Key Persons in Control functions, and Significant shareholders demonstrate their suitability on an ongoing basis and that the Supervisor be notified by insurers of any changes of any circumstances that may materially adversely affect the suitability of these parties.</p> <p>Articles 6(4), 7(3), 8(2) of Regulation on Establishment and Working Principles of Insurance and Reinsurance Companies establish filing requirements regarding the appointment of founders of a company, significant owners, Board members, general manager, assistant general managers, auditors, other directors and the employees with signatory authority. Article 9(5) of Insurance Law 5684 requires that insurers notify the UoT if the significant shareholders no longer meet the suitability criteria, however, it does not appear that a similar requirement exists for officers or directors.</p> <p>Articles 6(5), and 7(3) of the Regulation on Establishment and Working Principles of Insurance and Reinsurance Companies provide the UoT with the power to remove people from the above noted positions if they are found to be unsuitable.</p> <p>The supervisory authority has the power to exchange information with other authorities outside its jurisdiction where necessary to check the Suitability of Board Members, Senior Management, Key Persons in Control functions but has not frequently done so in the past.</p>
Assessment	Largely Observed
Comments	<p>The regulatory requirements should be strengthened to ensure that insurers report when officers or directors no longer meet the suitability criteria established in the legislation to UoT.</p> <p>In addition, consideration should be given to developing more specific competency requirements for people in control functions (e.g risk management) after requirements for these functions are established.</p> <p>Finally, the UoT should ensure that all real person controlling beneficiaries of insurance companies meet suitability requirements (see ICP 6).</p>

<p><b>ICP 6</b></p>	<p><b>Changes in Control and Portfolio Transfers</b></p> <p>Supervisory approval is required for proposals to acquire significant ownership or an interest in an insurer that results in that person (legal or natural), directly or indirectly, alone or with an associate, exercising control over the insurer. The same applies to portfolio transfers or mergers of insurers.</p>
<p>Description</p>	<p><b>Legislative Authority Regarding Changes in Control:</b></p> <p>The requirements to approve significant ownership or control proposals for an insurer are found in Article 9 of the Insurance Law 5684.</p> <p>The Article requires that shareholders who directly or indirectly hold ten percent or more of the capital or voting rights and beneficial interest in an insurer, or an interest which is lower than 10 percent but which gives the privilege of nominating members to the executive boards of the insurer, meet the suitability requirements.</p> <p>The Article also requires share acquisitions which directly or indirectly reach or exceed ten percent, twenty percent, thirty three percent or fifty percent of the capital of an insurance company or reinsurance company as well as share transfers which will cause the shares of a shareholder to achieve or to fall below such ratios be subject to authorization by the UoT.</p> <p>Similar authorization requirements also apply to the acquisition of beneficial interests and voting rights.</p> <p>Moreover, share transfers that grant the privilege of nominating members to the executive board in a manner that influences the company’s supervision and management, must also be authorized by the UoT.</p> <p>Finally, the Article establishes an obligation on insurers to notify the UoT of shareholders who fail to meet the suitability criteria.</p> <p><b>Definition of Control:</b></p> <p>ICP 6.1 requires the term “control” to address at a minimum:</p> <ul style="list-style-type: none"> <li>• Holding a defined number or percentage of issued shares or financial instruments (such as compulsory convertible debentures);</li> <li>• Voting rights attached to the aforementioned shares or financial instruments;</li> <li>• Power to appoint directors to the board and other executive committees or remove them.</li> </ul> <p>The legislation described above appears to cover the aspects of the definition of control required by the ICP. A definition of “control” is also established in Communique on Regulating Consolidated Financial Statements of Insurance, Reinsurance and Pension Companies.</p> <p>The UoT does have information on major shareholders of all insurers and many insurers are affiliated with banks or foreign insurers where the controlling beneficiary is known. UoT does not, however, have a complete list of natural person controlling beneficiaries of all insurance companies.</p> <p><b>Notification and Approval of Changes in Control:</b></p> <p>The legislation described above requires prior notification for share purchases and</p>

	<p>changes in control and requires the supervisor to approve any significant increase or decrease from predetermined control levels. The legislative powers apply irrespective of whether the parties involved are located in Turkey or outside it.</p> <p><b>Review of Changes in Ownership:</b></p> <p>The criteria for approval of applications is the same as those that apply to the founders of an insurance company in a licensing application (see ICP 5). These include integrity requirements and financial suitability requirements</p> <p><b>Demutualization and Conversion of Companies:</b></p> <p>Conversion of a cooperative to a stock company or vice versa would require the approval of the UoT under Article 8 of the Insurance Law 5684.</p> <p><b>Portfolio Transfers:</b></p> <p>Under Article 10 of the Insurance Law 5684, portfolio transfers must be approved by the Minister. The Minister’s criteria for approval are set out in the Regulation on Establishment and Working Principles of Insurance and Reinsurance Companies. Applicants must make application to the UoT. The application must include:</p> <ul style="list-style-type: none"> <li>• A certified copy of the resolutions by the companies' relevant bodies, on the merger or acquisition.</li> <li>• Certified copies of the articles of association of the ongoing company.</li> <li>• A certified copy of the agreement regarding the transfer; and</li> <li>• A detailed report analyzing the reasons for the transfer, the financial and legal implications of such, and a business plan for the ongoing company after the transfer.</li> </ul> <p>In addition, Article 22 of the Regulation On Establishment and Working Principles of Insurance Companies and Reinsurance Companies requires that the proposed portfolio transfer agreement “be prepared in a way that does not include provisions detrimental to the rights and interests of the insured”. It must specifically cover;</p> <ul style="list-style-type: none"> <li>• Insurance or reinsurance contracts to be transferred, and all issues concerning such,</li> <li>• Reserves regarding the transferred portfolio,</li> <li>• Investment returns,</li> <li>• Provisions to which the guarantees or minimum guarantee fund will be subject (see ICP 17)</li> </ul> <p><b>Supervisory Practice:</b></p> <p>ISB verifies portfolio transfers by conducting on-site visits to evaluate and assess: policyholder information in the portfolio which will be transferred, the companies’ calculation of the true and complete value of the portfolio, whether the transferor and transferee companies have protected policyholders rights, whether preparations for the portfolio transfer have been properly completed, and if the transferee company has the financial power and capital adequacy to meet liabilities for portfolio transfer.</p>
Assessment	Partly Observed

Comments	<p>Partly Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• UoT cannot presently identify the controlling beneficiary of all licensed insurers; and</li> <li>• ICP 6.10 requires that portfolio transfers be subject to approval by the supervisor not the Minister. The supervisor must satisfy itself that the interests of the policy holders of both the transferee and the transferor will be protected.</li> </ul> <p>At present, the power to approve is a permissive power. The Minister may approve or not approve a transfer. There is no obligation that an approval be in the best interests of policy holders.</p> <p>It is recommended that the UoT develop and maintain a list of natural person controlling beneficiaries of insurance entities operating in Turkey.</p> <p>It is also recommended that portfolio transfers be subject to the approval of the insurance supervisor rather than the Minister.</p>
ICP 7	<p><b>Corporate Governance</b></p> <p>The supervisor requires insurers to establish and implement a corporate governance framework which provides for sound and prudent management and oversight of the insurer’s business and adequately recognizes and protects the interests of policyholders.</p>
Description	<p><b>Legal Framework:</b></p> <p>Currently, there are few corporate governance requirements that apply specifically to insurance companies in the Insurance law other than the requirement that the Board of an insurance company have not less than five members including the General Manager and that the General manager not be the Chair of the Board.</p> <p>Corporate governance for all commercial companies is regulated by the Turkish Commercial Code numbered 6102 which was revised in July 2012. The Commercial Code contains some basic provisions relating to:</p> <ul style="list-style-type: none"> <li>• Board composition.</li> <li>• Appointment of board of directors.</li> <li>• Duties and authority of the board.</li> <li>• Limitation and duration of the board.</li> <li>• Dismissal of the board.</li> <li>• Representation and management.</li> <li>• Delegation of authority.</li> <li>• General Assembly.</li> <li>• Resolutions.</li> <li>• Call procedure for meetings.</li> <li>• Committees.</li> <li>• Remuneration.</li> <li>• Audit.</li> <li>• Risk.</li> </ul> <p>Publicly traded insurance companies must also comply with Corporate Governance Principles established by the CMB, or explain themselves to the CMB. These companies, however, comprise a small number of Turkey’s authorized insurers.</p>

The UoT has published a Circular on Corporate Governance Principles of Insurance Companies, Reinsurance Companies and Pension Companies. This document is very general and contains few specific rules relating to Board composition, duties and responsibilities of directors, committee structure or reporting of control functions. Nor does it include an obligation for Board directors to ensure the fair treatment of policyholders. It is used by UoT as a guide to assess the effectiveness of corporate governance in its supervision of insurers.

The document requires insurers to establish a Corporate Governance Committee which prepares a report each year on corporate governance and on how the insurer adheres to six corporate governance principles:

- Principle 1 – companies determine their corporate governance practices according to the principles of equity, transparency, accountability, and responsibility.
- Principle 2 – The company takes measures that will ensure protection of rights arising from legislation, articles of association, and other corporate regulations relating to shareholder rights
- Principle 3 – Companies perform their work and operations in a transparent manner.
- Principle 4 – The rights of stakeholders are protected independently from each other.
- Principle 5 – Board of directors and managers perform their tasks in a fair, transparent, accountable and responsible manner.
- Principle 6 – In determining wage policy of the company, ethical values, internal balance and strategic goals of the company are taken into consideration.

**Standard Adherence:**

There appear to be several areas of weaknesses:

The Circular described above establishes expectations for corporate governance. The requirements are, however, broad in scope and do not provide the level of specificity required by several of the standards (e.g. ICP 7.2, 7.6, 7.9, 7.10). In addition, given the general nature of the requirements of the circular, their enforceability is a significant concern.

ICP 7.1 requires that an insurer's Board ensure that the roles and responsibilities allocated to the Board, senior management and Key Persons in Control functions are clearly defined so as to promote an appropriate separation of the oversight function from the management responsibilities and provide oversight of the Senior Management.

In some insurers, the use of combined Board/ Management committees appears to compromise the oversight function. In addition, with the exception of the internal audit function, there do not appear to be specific reporting requirements to the Board for control functions (see ICP 8).

ICP 7.3 requires that the insurer's Board have an appropriate mix of individuals to ensure that there is an overall level of competence at the Board level. In Turkey, however, there do not appear to be a specific requirements with respect to board composition (other than the general suitability requirements for directors). Insurance knowledge on some company boards is said to be lacking.

	<p>ICP 7.4 requires that an individual Board member act in good faith, exercise due care and diligence, act in the best interest of the insurer, exercise independent judgement and objectivity in decision making, <u>take due account of the interests of the insurer and policy holders and not use his/her position to gain undue personal advantage.</u></p> <p>Article 369 of the Turkish Commercial Code requires that “Members of the Board of Directors and third parties who have responsibilities in the management are obliged to perform their duties with diligence of a cautious manager, and protect the interests of the company in good faith”. This requirement does not cover the full range of expectations established under the ICP.</p> <p>Requirements in the Regulation on Internal Systems of Insurance, Reinsurance and Pension Companies and the Regulation on Financial Reporting of Insurance, Reinsurance and Pensions companies appear to require adherence to some of the standards in the ICP (e.g. ICP 7.5, ICP7.7 and ICP 7.8).</p>
Assessment	Partly Observed
Comments	It is recommended that the corporate governance requirements for insurers be strengthened and made more legally enforceable. UoT may wish to consider development of a new corporate governance and internal controls regulation comprising of a mix of mandatory and voluntary (apply or explain) requirements as has been done in other jurisdictions recently (e.g. South Africa).
<b>ICP 8</b>	<p><b>Risk Management and Internal Controls</b></p> <p>The supervisor requires an insurer to have, as part of its overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial matters, and internal audit.</p>
Description	<p><b>Requirements:</b></p> <p>Article 4(8) of the Insurance Law 5684 requires insurance and reinsurance companies to establish an effective internal control system, including internal audit and risk management.</p> <p>The Regulation on the Internal Systems of Insurance, Reinsurance and Pension Companies establishes requirements regarding internal control systems, internal audit and risk management systems.</p> <ul style="list-style-type: none"> <li>• Article 4 of the Regulation requires insurers to have in place internal systems (internal control, internal audit and risk management requirements) that are adequate for the nature and scale of the business.</li> <li>• Article 5 requires the Board of Directors to be ultimately responsible for establishing and maintaining an effective internal control system.</li> </ul> <p>In regard to insurance groups, Regulation on Financial Structure article 21/A allows the UoT in conjunction with other appropriate financial services regulators to audit the adequacy of group internal control systems, including internal audit and risk management. There are, however no specific requirements with respect to groups.</p>

**Risk Management Function:**

According to Article 20 of the Regulation on the Internal Systems of Insurance, Reinsurance and Pension Companies, the objective of the risk management system is “to define, measure, monitor and control the exposure to risks, through the policies, implementing procedures and limits established to monitor, manage and alter, if necessary, the risk and return structure inherent in the future cash flows of the company, and the characteristics and level of related activities”. Under Article 21, 22 and 23 of the same regulation, risk management policies, risk limits, and risk management activities are required.

Article 4(4) of the Regulation on the Internal Systems of Insurance, Reinsurance and Pension Companies requires insurers to have a separate internal audit unit, however, a similar unit for risk management is not required unless requested by the UoT. Insurers are not required to have such a unit at present.

**Compliance (Internal Control) Function**

Similarly, the Regulation on the Internal Systems of Insurance, Reinsurance and Pension Companies requires insurers to have an internal control system, to define required internal control activities and requires designated control staff. It does not, however require independence of the compliance function and the full requirements of ICP 8.3 and 8.5.

ICP 8.3.9, requires, for example, that insurers organize each control function and its associated reporting lines into the insurer’s organizational structure in a manner that enables the function to operate and carry out their roles effectively. This includes direct access to the Board or the relevant Board committee.

Article 10(8) of the Regulation on Internal Control requires that internal control activities and the manner they will be executed shall be designed by the General Manager of the company together with senior management and implies that designated control staff report to management rather than the Board.

**Actuarial Function**

According to Article 21(1) of the Insurance Law 5684, insurance companies and reinsurance companies have to work with a sufficient number of actuaries. Actuaries are required to be licensed and meet experience, competency and integrity requirements.

In addition, the Regulation on Actuaries Article 11 (2) requires the company actuary, assistant actuary (and intern actuary) to explain to the Board of Directors of the company or other institution and establishments on whose behalf s/he operates, through a report, the calculation projections that s/he utilizes for the transactions carried out.

There does not, however, appear to be specific requirements that insurers have a separate actuarial control function which periodically reports to the Board through a Board member and advise on matters such as:

- adequacy of product pricing;
- the adequacy of the technical provisions and other liabilities;
- distribution of profits to participating policyholders;
- stress testing and capital adequacy assessment with regard to the prospective solvency position of the insurer; and

	<ul style="list-style-type: none"> <li>any circumstance that may have a material effect on the insurer from an actuarial perspective.</li> </ul> <p>This point was verified through discussions with the Actuarial Association and two external audit firms operating in Turkey.</p> <p><b>Internal Audit Function</b></p> <p>Article 4 (4) of Regulation on Internal Systems of Insurance, Reinsurance and Pension Companies requires insurers and reinsurers to establish a separate internal audit unit. Article 4(5) requires the internal audit unit to report directly to the Board and have administrative independence.</p> <p>Article 13 of the Regulation establishes the purpose of the unit, the required qualifications of its director and the director’s responsibilities. Article 14 sets out the qualifications and powers of internal auditors and Article 16 establishes the requirements for an annual audit plan which is approved by the Board.</p> <p>Article 11 of Regulation On Financial Structures Of Insurance, Reinsurance and Pension Companies requires that the internal audit systems of groups to be compatible with the group’s activities and structure.</p> <p><b>Outsourcing</b></p> <p>The UoT requires an insurer to retain at least the same degree of oversight over, and accountability for, outsourced internal audit function.</p> <p><b>Supervisory Practice:</b></p> <p>Adherence to the Regulation by insurers is assessed through on-site inspections carried out by ISB.</p> <p>The inspections are focused specifically on internal control and risk management systems and include reviews of (i) internal auditing procedures; (ii) risk management systems and internal controls.</p> <p>The onsite verifies that the Board takes the ultimate responsibility for the function and that internal auditors report through a designated member of the Board. Risk management inspections include a review of companies’ underwriting risk limits; ALM practices, asset allocation; and reinsurance programs.</p> <p>Article 34 of the Insurance Law provides administrative penalties if an effective internal control system is not established in accordance with Article 4(8), or if there is an inadequate number of internal control personnel to carry out internal control responsibilities.</p>
Assessment	Partly Observed
Comments	<p>The ICP requires insurers to have four effective internal control functions: compliance, actuarial and risk management and internal audit. At present, there is only a requirement for an internal audit and designated internal control staff.</p> <p>It is recommended that the authorities require the establishment of all four internal control functions with the independence required by the ICP. Our understanding is that this requirement is similar to current requirements for control functions in banking in Turkey.</p>



	It is also recommended that Actuaries be required to opine on the adequacy of premium pricing and external auditors be required to opine on the adequacy of the insurer’s risk management and internal control systems.
<b>ICP 9</b>	<p><b>Supervisory Review and Reporting</b></p> <p>The supervisor has an integrated, risk-based system of supervision that uses both offsite monitoring and onsite inspections to examine the business of each insurer, evaluate its condition, the quality and effectiveness of its Board and Senior Management and compliance with legislation and requirements. The supervisor obtains the necessary supervisory information to conduct effective supervision of insurers and evaluate the insurance market.</p>
Description	<p><b>Regulatory Authority:</b></p> <p>Regulatory authority for insurance monitoring and supervision are largely vested in Insurance Law 5684 and the Regulation on Monitoring and Supervision.</p> <p>Article 28 of the Law provides the ISB with broad based powers to supervise all insurance operations of insurance and reinsurance companies operating in Turkey, as well as insurance and reinsurance intermediaries, loss adjusting activities, actuaries and other persons operating in the insurance sector.</p> <p>Specific responsibilities include “examination and inspection of the operations, assets, affiliates, receivables, equities and liabilities of insurance companies and reinsurance companies, the relation and balances between their profit and loss statements, all other elements that affect their financial structure and administrative structures, use and protection of premiums collected and actuarial and financial accounts and balances of insurance companies are carried out by insurance supervisors, insurance supervisory actuaries and their assistants”.</p> <p>The Article also empowers the UoT to carry out monitoring activities for such entities. The purpose of this work is “to monitor and analyze the information and documents belonging to the establishments subject to the Law; to verify the compliance of the administrative and financial, on both a consolidated and non-consolidated basis, structure of these establishments with the legislation; to evaluate the reports, financial statements and internal control reports of these establishments by comparing them with the supervision and monitoring results of the Undersecretariat; to ensure that all precautionary measures related to these establishments are implemented and concluded taking into account the type and size of their risk exposure, the reliability of their risk management systems and the audit risk according to the results obtained by the Undersecretariat; to follow the implementation of measures which affect or may affect the operations of subsidiaries, financial affiliates and branches of these establishments, and if necessary, take further measures with the relevant parties”.</p> <p>Article 28(9) and Article 29 also establish broad based powers for persons subject to the law to provide information to enable the work of the supervisory authorities.</p> <p>The Regulation on Monitoring and Supervision provides further details regarding both offsite and on-site inspection work. The UoT is required to prepare an annual monitoring plan. The regulation defines two types of monitoring: risk centric and standard monitoring. The regulation also requires that the UoT establish and provide to the sector the standard information, document reports and formats that they will be</p>

required to provide.

The Regulation also defines the “Supervision Loop” which is the ongoing process through which on-site supervision is carried out. It involves the analysis of offsite information provided by insurers, the development of risk profiles of institutions, the preparation of a work schedule and supervisory plan, the conduct of onsite supervision, and the process of advising and dealing with the regulated entities on the results. The regulation includes several types of supervision that may be carried out (see below) and requires the results of on-sites be sent to a special ISB committee to be assessed for compliance with supervision guidelines and regulations before they are approved by the Chair of the ISB and then forwarded to GDI for potential enforcement action.

**Regulatory Reporting:**

Most of the information needs of both GDI and ISB are met through an electronic filing system called the Insurance Monitoring System (IMS). The system collects and maintains quarterly and audited annual financial statements in formats determined by UoT as well as other reports required by regulator including reports on statutory capital adequacy. The system also includes indicators that allow for identification and correction of inaccurate reporting from insurers.

Off-balance sheet exposures are required to be reported to UoT as well as materially outsourced functions and significant changes in corporate governance.

A component of IMS also includes an online complaint reporting system for consumer complaints to UoT.

The UoT periodically reviews reporting requirements as part of its annual monitoring plan.

**Offsite Analysis:**

The IMS enabled the development and implementation of a sophisticated early warning system called the Company Risk Assessment Methodology and Framework (SEUS). SEUS was established by UoT for use in offsite monitoring and risk analysis of companies. Implementation has been fairly recent. It includes :

- A risk scoring (early warning) model used to assess the financial health of insurers;
- A survey of qualitative factors used to assess operational risk and the adequacy of governance and internal controls; and
- A module that allows earthquake scenario analysis and risk stress testing.

The results of this system are used to feed the development of the onsite supervisory plan, establish priorities and set the level and type of onsite supervision to be carried out in major regulated entities.

**Onsite supervision:**

The scope of onsite inspections is determined as part of the annual planning process. The Regulation on Monitoring and Supervision provides for planned and unplanned supervision activities. Planned activities include a wide range of inspections including:

- Brokerage system,
- Actuarial operations,
- Data processing system,
- Financial tables and accounting operations,

	<ul style="list-style-type: none"> <li>• Intragroup and extra-group operations</li> <li>• Damage and Indemnity operations,</li> <li>• Life group operations,</li> <li>• Service procurements,</li> <li>• Internal systems,</li> <li>• Compliance with regulations,</li> <li>• Off-balance sheets operations,</li> <li>• Reinsurance operations,</li> <li>• Capital requirements and indemnifications,</li> <li>• Technical compensations,</li> <li>• Technical and financial analysis,</li> <li>• Asset quality, investment policy and derivative products,</li> <li>• Underwriting and pricing policy,</li> <li>• Management and organization structure,</li> </ul> <p>The scope of unplanned supervision is determined by UoT on a case specific basis.</p> <p>ISB has supervisory manuals (or modules) for many of the types of onsite inspections it undertakes and is developing others for areas where it does not (e.g. group supervision). The results of inspections are communicated to the Board of regulated institutions and opportunity is provided for insurers to repond to onsite findings.</p> <p>As part of the “Supervisory Loop” the ISB follows up on most onsite recommendations through subsequent Onsite inspections.</p> <p><b>COB Supervision:</b></p> <p>COB supervision is carried out through analysis of complaint reports on insurers, individual complaint investigations and review of the adequacy of insurer systems with respect to conduct of business. In practice, many of the COB requirements (e.g. Insurance Agents Code of Conduct) are new and much of the COB program is complaint driven. Oversight of the activities of insurance agents is a concern, given the large number of corporate agencies and the limited resources available to address agent conduct issues (see ICP 18).</p> <p>The UoT does not currently conduct thematic reviews of COB issues though the scope of COB investigations can vary depending the nature of a complaint.</p> <p><b>Insurance Groups:</b></p> <p>UoT has identified 14 insurance groups operating in its market. The particular groups subject to annual supervision and the scope of supervision for cross-sectoral groups is determined by a Committee made up of Senior officials from UoT, BRSA and the CMB. So far the BRSA is the Group wide supervisor and UoT participates as part of a cross sector team (see ICP 23). There is no group wide supervisory framework at present. The UoT is aware of this issue and has plans to develop a framework.</p>
Assessment	Largely Observed
Comments	<p>The UoT has made significant progress in developing its monitoring and supervisory framework for insurers. The largely observed rating is based on the following adverse observations:</p> <ul style="list-style-type: none"> <li>• While the development of IMS and SEUS are significant achievements, the</li> </ul>

	<p>efficiency and timeliness of monitoring and supervision through two disparate departments is an ongoing concern. The activities of offsite monitoring, onsite supervision and regulatory enforcement are inter-related and would likely be conducted more efficiently in a single, more integrated, supervisory organization. The assessor noted that the process of on-site supervision involving the two departments appeared to be extremely lengthy raising concerns about timeliness of reports. One onsite appeared to be outstanding for more than two years without completion of findings.</p> <ul style="list-style-type: none"> <li>• Conduct of Business supervision appears to be largely complaint driven and reactive rather than proactive and risk based.</li> <li>• The framework for group supervision needs further development.</li> </ul> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• Consideration be given to integrating offsite onsite and enforcement activities within a single supervisory organization.</li> <li>• Consideration be given to developing a more fulsome and risk based approach to Conduct of Business supervision including a broader range of tools (e.g. market analysis, offsite and onsite monitoring and thematic review).</li> <li>• UoT continue work to develop a group wide supervisory framework.</li> </ul>
<b>ICP 10</b>	<p><b>Preventive and Corrective Measures</b></p> <p>The supervisor takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.</p>
Description	<p><b>Unauthorized Insurance Activities:</b></p> <p>The Insurance Law 5684 prohibits conducting insurance activities (e.g acting as an insurer, insurance broker, loss adjuster or insurance agent) without the necessary license. Articles 34 and 35 of the law establish strong penalties for contravention of the requirements.</p> <p><b>Power to Take Corrective and Preventive Measures;</b></p> <p>Article 20 of Insurance Law and Article 12 and 13 of the Regulation on the Financial Structure of Insurance, Reinsurance and Pension Companies, provide the Minister responsible for the UoT, with a range of actions or remedial measures which can be taken if an insurer’s financial structure is weakened so as to endanger the rights and benefits of the insured. It also provides for progressive escalation of actions.</p> <ul style="list-style-type: none"> <li>• Article 11 of the Regulation establishes the circumstances where the Minister may take action. These appear to be sufficiently broad to address most prudential concerns.</li> <li>• Article 12 establishes level-one measures to strengthen the insurer’s financial structure. Some of these include requiring submission of a recovery plan, increasing capital, disposal of assets, convening a general assembly of the shareholders, replacing directors, taking measures to correct deficiencies in the insurer’s operations, etc.</li> <li>• Article 13 establishes stronger measures that may be taken by the Minister should the company: <ul style="list-style-type: none"> <li>○ fail to comply with level-one requirements.</li> <li>○ the weakening of the company’s financial structure is determined to be</li> </ul> </li> </ul>

	<p>irredeemable.</p> <ul style="list-style-type: none"> <li>○ the company suspends payments; or</li> <li>○ the equity capital of the company falls below specified levels.</li> </ul> <p>Some of these include, portfolio transfers, removal of part or all of the Board, assigning management to a trustee, and liquidation of the company.</p> <p>In addition to these powers, the Regulation On The Measurement And Assessment Of Capital Adequacy Of Insurance And Reinsurance Companies establishes intervention requirements should the capital adequacy ratios of insurers fall below specified levels. These range from submission of a plan to improve capital adequacy to intervention under Article 20 of the Insurance Law 5684. These are discussed (under ICP 17). If the solvency ratio falls between 70 percent and 100 percent, for example, the insurer must submit a plan to increase capital to 100 percent of the solvency ratio within one year.</p> <p>Article 32 of the Insurance law 5684 addresses a range of Conduct of Business issues:</p> <ul style="list-style-type: none"> <li>• The Article establishes a requirement that brochures, explanatory materials, and notices, advertisements and other documents not be deceptive or misleading. The power to address this violation, however rests with the Advertising Board under the Law on Protection of Consumers rather than the insurance regulator.</li> <li>• It requires insurance companies, reinsurance companies, intermediaries and loss adjusters to refrain from acts that may endanger the rights and benefits of insureds.</li> <li>• It establishes a requirement that insurers not delay payment of claims.</li> </ul> <p>The Article empowers the UoT to take all measures necessary (including suspension of license) to ensure that insurance companies, reinsurance companies, intermediaries and loss adjusters comply with the last two requirements.</p> <p><b>Supervisory Practices:</b></p> <p>Article 20 of the Regulation on the Financial Structure of Insurance, Reinsurance and Pension Companies requires the UoT to warn companies of actions being taken to address their weakened financial structure.</p> <p>In addition, Article 20 of The Regulation on Monitoring and Supervision requires UoT to share the findings of the on-site inspection with company management.</p> <p>UoT advised that preventive, corrective and enforcement powers have been frequently used by the Authority:</p> <ul style="list-style-type: none"> <li>• There are 38 criminal complaints against natural and legal people conducting insurance intermediary activities without the necessary license since 2010.</li> <li>• 4 companies are being monitored closely within in the scope of the Article 20. Of 4 companies, 2 of them have two board members from UoT assigned by the Minister.</li> <li>• At the end of 2014, 13 companies had a capital deficit and had been sent a warning letter requiring a recovery plan. At the end of the 2015 there are 14 companies with a capital deficit.</li> <li>• There are three companies whose right to conclude further insurance contracts have been revoked, 6 companies in liquidation, and two companies have had their liabilities transferred to other companies and their licenses revoked. No policy holder losses have occurred in any of these entities.</li> </ul>
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Assessment	Largely Observed
Comments	<p>The ICP requires the authority to take timely preventive and corrective actions be vested with the supervisor and not the Minister. Consideration should be given to amending the law to establish the supervisory authority as the decision maker. This would increase independence, transparency and accountability of the supervisory authority (see ICP2) and avoid the possibility of undue political influence.</p> <p>In addition, consideration should be given to amending the Regulation On The Measurement And Assessment of Capital Adequacy to empower the supervisor to set the timeframe for insurers to improve their capital position. The existing legislated timeframes for insurers which fall below 100 percent (one year) and 70 percent (1.5 years) to meet required capital levels appear to be excessive. While UoT has power to require insurers to comply within a shorter time frame, the current timeframes set in the regulation set an expectation that deficiencies in capital adequacy do not need to be remedied quickly.</p> <p>Finally, consideration should be given to developing and publishing a more fulsome ladder of intervention which establishes formal stages of intervention for insurers and describes the full range of preventative and corrective measures that insurers may face at each stage of intervention. This may help to ensure greater transparency of the intervention process and ensure consistent treatment of insurers and reinsurers.</p>
<b>ICP 11</b>	<p><b>Enforcement</b></p> <p>The Supervisor enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>
Description	<p><b>Legal Authority;</b></p> <p>As discussed under ICP 10, Article 20 of the Insurance Law No. 5684, and associated Regulations empower the Minister to undertake a broad range of measures in order to strengthen the financial structure of insurance entities and to impose sanctions when the measures are not applied. Some of these include restricting or replacing Board members, and senior managers, the power to take control of the company and to liquidate it for failure to meet some of the serious prudential requirements.</p> <p>Article 20 of the Law also empowers the Minister to check whether the imposed measures have been complied with.</p> <p>The UoT also has the ability to take action to protect an insurer that is part of a group if the regulatory concerns lie in other members of the group that are outside the insurance regulator's jurisdiction. This is found in Article 28 (paragraph 8) of the Insurance Law.</p> <p><b>Fines and penalties</b></p> <p>Insurance Law No. 5684 establishes a system of administrative and judicial penalties that may be applied for contraventions. Administrative penalties range from 1,000 TL to 25,000 TL depending on the contravention. Penalties (fines) are applied for each transaction separately. They include penalties for the failure to provide requested information. Administrative penalties are applied by the UoT.</p> <p>Judicial Penalties are much more severe and include significant fines and lengthy</p>

	<p>prison sentences (e.g. up to 12 years for certain types of fraud). They include severe penalties for providing false information. The initiation of prosecution for these is subject to a written application by the UoT to the Public Prosecutor’s office with the exception of those involving the acts of intermediaries and loss adjusters the acts of which are dealt with by the Law of Criminal Procedure No. 5271.</p> <p><b>Appeal Process</b></p> <p>The appeal of administrative or prosecutorial decisions is to the court system. An appeal of the decision does not generally act as a stay of the decision.</p> <p><b>Supervisory Practices;</b></p> <p>The UoT regularly engages with the affected insurers to assess if necessary actions and measures are implemented. Follow-up on-site visits are scheduled where the authorities have had to take enforcements actions, depending on the severity of the non-compliance.</p> <p>Consistency in application of penalties and increasing severity of penalties for repeated contraventions is provided for in general administrative law statutes (i.e Misdemeanor Law).</p>
Assessment	Largely Observed
Comments	<p>Although the UoT has some authority to deal with contraventions, the Minister appears to be vested with the authority to deal with the most serious contraventions. This could result in criticism and concern that the supervisory process is not independent from political authorities, or that actions are not consistent with supervisory objectives in the daily execution of enforcement decisions.</p> <p>It is recommended that the insurance supervisory authority be vested with the power to take enforcement action rather than the Minister.</p>
<b>ICP 12</b>	<p><b>Winding-up and Exit from the Market</b></p> <p>The legislation defines a range of options for the exit of insurance legal entities from the market. It defines insolvency and establishes the criteria and procedure for dealing with insolvency of insurance legal entities. In the event of winding-up proceedings of insurance legal entities, the legal framework gives priority to the protection of policyholders and aims at minimizing disruption to provision of benefits to policyholders.</p>
Description	<p><b>Legal Authority:</b></p> <p>Article 10 of the Insurance Law No. 5684 requires the voluntary winding up of an insurance company, or its merger or its acquisition, in whole or in part to be approved by the Minister.</p> <p>Article 10 (4) establishes the priority of policy holder claims in the event of bankruptcy as third priority after employee wages and taxes owing. This would occur after the payment of Minimum Guarantee Funds to policyholders (see ICP 17).</p> <p>Article 20 of the Law empowers the Minister to take action if the financial structure of an insurer is “weakened to endanger the rights and benefits of the insured”. The Article</p>

	<p>authorizes the Minister to take a number of actions including (under Article 13 of the Regulation on the Financial Structure of Insurance, Reinsurance and Pension Companies) to demand the liquidation of the company.</p> <p>Article 20(3) provides that if actions taken by the Minister under Article 20 are not applied or it is found that they are not going to be applied, or the insurance company or reinsurance company postpones its payments, fails to comply with its liabilities to the insured, or the company's equity falls below the Minimum Guarantee Fund, the Minister is authorized to revoke the insurance or reinsurance company's right to conclude further insurance contracts in all branches or the relevant branches and its authority to renew policies, to withdraw its license and to block its assets.</p> <p><b>Legal Priority of Policyholders:</b></p> <p>The legislation establishes a clear priority for the rights and entitlements of policyholders in the winding up of an insurer under 10(4).</p> <p><b>Specification of a Winding-Up Point:</b></p> <p>While the Insurance law allows the Minister to demand the liquidation of an insurer and authorizes him or her to suspend the insurer's business and revoke its license under certain circumstances (see article 20(3), it does not specify a point where it is no longer permissible for the insurer to continue its business (e.g. a defined point where the license <u>must</u> be suspended or revoked). The legislation authorizes the Minister to revoke the license but does to require him, or her, to revoke the license.</p>
Assessment	Partly Observed
Comments	<p>The legislation does not specify a point at which it is no longer permissible for an insurer to continue its business. In addition, the authority to act is vested with the Minister rather than the supervisory authority.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The insurance legislation be amended to ensure the supervisory authority rather than the Minister has the authority to wind-up an insurer.</li> <li>• In addition, the legislation should clearly establish a point at which it is no longer permissible for an insurer to continue its business. This could perhaps be tied to a risk based solvency requirement for insurers.</li> </ul>
<b>ICP 13</b>	<p><b>Reinsurance and Other Forms of Risk Transfer</b></p> <p>The supervisor sets standards for the use of reinsurance and other forms of risk transfer, ensuring that insurers adequately control and transparently report their risk transfer programs. The supervisor takes into account the nature of reinsurance business when supervising reinsurers based in its jurisdiction.</p>
Description	<p><b>Legal Framework;</b></p> <p>Under Article 12 and Article 13 of the Regulation on Establishment of Working Principles of Insurance and Reinsurance Companies, applicants for licensing must submit a business plan including the fundamental tenants of their reinsurance strategy and the details of their reinsurance plan and program.</p> <p>Once companies are licensed, Article 15 of the Regulation on Financial Structures of</p>



Insurance, Reinsurance, and Pensions Companies, requires insurance companies to prepare, and their Board's to annually approve, a reinsurance strategy for the coming year. The strategy must include:

- the types of reinsurance treaties to be made for each class of insurance;
- estimated net risk retention the company shall assume for each class of insurance;
- methods of selecting reinsurers and to receiving offers;
- maximum coverage to be purchased from each reinsurer;
- the methods of monitoring the financial adequacy of the reinsurers in question; and
- methods to monitor the reinsurance program, and to oversee the maintenance of adequate reinsurance coverage.

Under the regulation UoT establishes a list of acceptable reinsurers for insurers to use based on a review of ratings by major rating agencies. Insurers may use other reinsurers but the value of reinsurance with these reinsurers is not recognized in the calculation of solvency (see ICP 17).

Within a month of executing its reinsurance treaties the insurance company is required to send a report to the UoT outlining:

- the details of its reinsurance plan;
- a copy of the reinsurance contracts or extracts from them;
- information on premiums, commission, and expenses related to reinsurance;
- models used and results relating to maximum probable loss; and
- other information on the reinsurer including information on any direct or indirect affiliation with the insurer.

In addition, insurance companies must report to the UoT on large insurance transactions (i.e. those that exceed 5% of their equity capital) and the reinsurance details that apply to each transaction.

**Reinsurance Strategy:**

The legislation requires cedants to have a clear and detailed insurance strategy which is endorsed by the Board. The primary responsibility for adhering to it rests with the insurance company's Board but UoT closely monitors the strategy through off-site and on-site monitoring. The strategy requirements and the reporting requirements help ensure that reinsurance arrangements are clear and transparent.

**Consideration of Reinsurer's Home Supervisors:**

By establishing reinsurer ratings and reporting on certain types of reinsurance transactions, the supervisory authorities take into account differences in the prudential risk associated with different reinsurers. The supervisor has the ability to exchange information with other jurisdictions where necessary to follow-up on any perceived issues with reinsurers but this is not a regular practice.

**Documentation:**

UoT reviews the documentation practices of insurance companies as part of general on-sites and intervenes if they discover problems with timely documentation.

	<p><b>Monitoring of Cedants' Liquidity Position</b></p> <p>UoT assesses the liquidity position of insurance companies by off-site monitoring and on-site inspection including potential issues related to reinsurance.</p> <p><b>Risk Transfers to Capital Markets:</b></p> <p>There is little interest in, or use made of Alternative Risk Transfer in the Turkish reinsurance market at present. It is permitted, however as long as if the obligations from these types of agreements are properly reflected in the company's financial statements.</p>
Assessment	Largely Observed
Comments	<p>Largely Observed is based on the observation that the UoT does not explicitly require prompt documentation of reinsurance transactions though it monitors the practice through on-site examinations.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• the legislation be amended at the next opportunity to require explicitly that insurers promptly document all reinsurance transactions; and</li> <li>• while alternative risk transfer is not prevalent in the market, UoT should consider developing specific requirements to ensure appropriate use of such arrangements as the market develops (e.g. requirement for prior UoT approval).</li> </ul>
<b>ICP 14</b>	<p><b>Valuation</b></p> <p>The supervisor establishes requirements for the valuation of assets and liabilities for solvency purposes.</p>
Description	<p><b>Current Valuation Regime:</b></p> <p>Since 2011, accounting/financial reporting standards in Turkey have been in the responsibility of the Turkish Public Oversight, Accounting and Auditing Standards Authority. The Authority is independent and has four main functions:</p> <ul style="list-style-type: none"> <li>• setting and issuing accounting/financial reporting standards;</li> <li>• setting and issuing auditing standards;</li> <li>• approving and registering auditors and audit firms (which must also be approved by UoT); and</li> <li>• oversight inspections and enforcement of auditors and audit firms.</li> </ul> <p>Article 4 of the Regulation on Financial Reporting of Insurance, Reinsurance, and Pensions Companies requires that the accounting of company operations be exercised in accordance with the regulations of the Authority.</p> <p>Turkish Financial Reporting Standards (TFRS) are fully compliant with the IFRSs issued by the IASB. Valuation addresses recognition, de-recognition and measurement of assets and liabilities. The valuation of assets and liabilities is undertaken on a consistent basis and in a reliable, decision useful and transparent manner.</p> <p>The assessor was advised that while all insurers are required to have approved external auditors and an annual external audit, the external auditor is not required to opine on the adequacy of internal control and risk management systems as is required in the</p>

banking sector.

**Valuation of Assets and Liabilities:**

The valuation of assets is generally based on fair market value and is therefore consistent with an economic valuation, but the valuation of some liabilities (i.e. technical provisions) is not based on the risk adjusted present value of their cash flows (see below).

**Reserving Requirements:**

Reserving requirements are based on the principles established in Article 16 of Insurance Law No 5684 and specific requirements are set out in the Regulation on Technical Provisions of Insurance, Reinsurance and Pension Companies, and Assets on Which Such Provisions Are To Be Invested (2007).

For non-life insurers and reinsurers the following technical provisions are required:

- Unearned Premium Reserve: which is generally calculated on a daily basis for the unearned portion of premiums on all policies in force as of the balance sheet date.
- Unexpired risk reserve - based on the adequacy of the unearned premium reserve for the preceding year, this reserve is intended to cover situations where the risk exposure level during the insurance contract is incompatible with the timing of unearned premiums or is insufficient.
- Outstanding claims reserve - which is intended to cover claims incurred but not paid.
- Equalization (contingency /catastrophe) reserve - equal to 12 percent of premiums written for credit and earthquake insurance for catastrophic risks. (in addition, insurers are required to reinsure PML in excess of 10 percent of the insurers capital)
- Incurred But Not Reported Reserve – the requirements were recently changed to allow companies to choose their own methodology as long as it is approved by a licensed actuary and the method is reported in the insurer’s financial statements. This has led to an increase in IBNR reserving and is said to have had a significant impact on the profitability of some insurers in recent years.
- Bonus and Rebates reserve which is required in cases where policies provide bonuses or rebates to the policyholder or beneficiaries.

Technical reserve requirements for life insurance and reinsurance companies include the following:

- Unearned premium reserve;
- Unexpired risks reserve;
- Mathematical reserve;
- Outstanding claims reserve; and
- Bonus and rebate reserve.

Mathematical reserves must be based on accepted actuarial methods and are established on a net basis. They are required for life, healthcare and personal accident policies with terms of more than one year. Moreover, for disability, critical illness, healthcare and personal accident policies with terms of more than one year, the mathematical reserves amount must include an amount for any additional guarantees included in the policy.

	<p>Mathematical reserves include the sum of actuarial mathematical provisions and dividend (profit-share) provisions, calculated separately for each policy, in accordance with the appropriate technical principles.</p> <p><b>MOCE and Discount Rates:</b></p> <p>Technical provisions are based on actuarial principles and are made by licensed company actuaries but the value of technical provisions does not include a Margin Over Current Estimate (MOCE). In addition, the valuation of technical provisions does not allow for the time value of money, therefore the supervisor does not establish discount rates. The UoT views the use of undiscounted values as providing a cushion similar to that provided by MOCE. They also suggest that the unexpired risk reserve helps to compensate for the absence of a specific MOCE.</p> <p><b>Actuarial Standards</b></p> <p>The UoT requires all life and non-life insurers to have licensed actuaries. Actuaries opine on the adequacy of reserves but they are not required to opine on the adequacy of insurer premiums.</p> <p>Actuarial standards are well developed on the life and non-life side and the Actuarial Association is in the process of joining the International Actuarial Association. The Association is also working on a code of conduct for actuaries and is contemplating eventual development of a professional disciplinary process.</p> <p><b>Supervisory Review</b></p> <p>The UoT monitors the valuation practices through detailed offsite monitoring and onsite examination. The examination program covers valuations of assets including financial investments, receivables, premiums and reinsurance recoverable under "Credit Risk" section, and valuations of technical provisions using actuarial standards.</p> <p>UoT advises that consideration is being given to developing more sophisticated earthquake/catastrophic reserving requirements.</p>
Assessment	Largely Observed
Comments	<p>The Largely Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The current standards do not provide for the inclusion of MOCE or for discounting of cash flows.</li> </ul> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• as part of its plans to move towards Solvency II, the reserving requirements be revised to provide explicit MOCE, discounting of cash flows and more sophisticated approaches to earthquake reserving</li> </ul>
<b>ICP 15</b>	<p><b>Investment</b></p> <p>The supervisor establishes requirements for solvency purposes on the investment activities of insurers in order to address the risks faced by insurers.</p>
Description	The UoT expects insurance and reinsurance companies to invest in a prudent manner.

Under Article 14/A of the Regulation on Financial Structures of Insurance, Reinsurance and Pension Companies, insurance companies are required to prepare an annual investment policy which is approved by the company Board and maintained at the company. The policy must address a number of factors including:

- Its risk profile;
- Strategies regarding long-term asset-liability management;
- Diversification into major investment categories;
- Methods of determining investment limits per region, market, industry, intermediaries, and currency;
- Determination of assets for which acquisition limitations or prohibitions are in place;
- Rules regarding mortgage/lien or loans against assets;
- Rules and limitations regarding the use of derivatives and similar products; and
- Methods of assuring accountability in transactions concerning assets.

The policy is reviewed by supervisory staff through offsite and on-site supervision.

Other investment requirements depend on whether the investments relate to Minimum Guarantees, technical reserves or free capital in excess of these required amounts.

The regulation on Financial Structures of Insurance Reinsurance and Pension Companies states rules for Guarantees and defines the Minimum Guarantee Fund as an amount equal to one third of the required equity capital of the company.

**Guarantees:**

Guarantees may be invested in:

- Time-deposit or current accounts with the Central Bank of Turkey;
- Debt instruments issued by OECD member states, provided that they are deposited at Istanbul Stock Exchange Settlement and Custody Bank Inc.,
- Stocks and bonds included in ISE 100 Index, provided that they do not exceed 30% of all guarantees, and those of a single company do not exceed 10% of all guarantees, and those of a single group do not exceed 20% of all guarantees,
- Type B mutual fund participation certificates, provided that they do not exceed 70% of all guarantees, and type A mutual fund participation certificates recognized by the Capital Markets Board, provided that such do not exceed 30%, while those of a single founder do not exceed 10% of all guarantees,
- Stocks, bonds and similar securities from companies where at least 51% of the capital is held by the Government of Turkey as guarantee.

**Technical Provisions:**

Permissible assets and restrictions on investments related to technical provisions are contained in the Regulation on Technical Provisions of Insurance, Reinsurance and Pension Companies and Assets in Which Such Provisions Are To Be Invested.

Permissible investments generally include:

- Cash deposits with banks in Turkish Lira as well as foreign currencies sold by the Central Bank and foreign exchange deposit accounts.
- Treasury bonds, government bills, and other financial assets issued by the state.
- Bonds and fixed-income financial assets issued by the private sector.
- Stocks and variable-income financial assets.

	<ul style="list-style-type: none"> <li>• Investment fund participation certificates.</li> <li>• Repo transactions (except for life insurance).</li> <li>• Receivables from technical operations and reinsurer shares in technical provisions</li> <li>• Loans offered with or without respect to insurance contracts.</li> <li>• Real estate and other fixed assets (except for mathematical reserves).</li> <li>• Fixed assets other than real estate (except for mathematical reserves).</li> <li>• Taxes and funds paid in advance and deferred tax assets (except for life insurance).</li> <li>• Rental Certificates.</li> <li>• Debt instruments of export development banks (with UoT approval).</li> </ul> <p>Maximum limits for coverage of technical reserves include:</p> <ul style="list-style-type: none"> <li>• Single unit of land, property or building (or plots together considered as a single unit): 10%.</li> <li>• Privately issued financial instruments 40%. Individual instruments 10 percent.</li> <li>• Loans not connected to an insurance contract: 5%; 1% in respect of a single individual.</li> <li>• Cash in Turkish Lira and foreign currencies: 3%.</li> <li>• Deposits, current accounts participation accounts, and receivables from credit cards guaranteed by a single bank: 40%.</li> <li>• Deposits, current accounts participation accounts and receivables from credit cards guaranteed by a bank within the same financial group: 20%.</li> <li>• Investment in foreign currency by companies which do not have currency risk: 30%.</li> </ul> <p>The UoT has the authority to allow temporary breaches of these requirements and to vary their scope by up to 50 percent. They also have the ability to accept or reject any type of asset covering a technical reserve or to require one type of asset to be replaced by another.</p> <p>Apart from the restrictions on investments applicable to Guarantee Funds and technical reserves, the remaining investment instruments are at the discretion of companies under the investment policy.</p>
Assessment	Largely Observed
Comments	<p>The UoT establishes requirements for insurer investment activities. The general approach requires company Boards to approve and management to implement an investment policy.</p> <p>The specific requirements regarding Minimum Guarantee Fund and technical reserves ensure that most of the investment portfolio is invested conservatively and addresses security, liquidity and diversification considerations.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• Consideration be given to developing more specific requirements for the appropriate use of derivatives (e.g. only for hedging purposes); and</li> <li>• The legislation be amended to establish a stronger duty of care for directors to act prudently and in the interests of policyholders (e.g. a “prudent person” definition for investment purposes).</li> </ul>

<b>ICP 16</b>	<p><b>Enterprise Risk Management for Solvency Purposes</b></p> <p>The supervisor establishes enterprise risk management requirements for solvency purposes that require insurers to address all relevant and material risks.</p>
Description	<p>At present, Turkey's insurance legislation does not specifically require insurers to establish an Enterprise Risk Management (ERM) framework or to perform an Own Risk and Solvency Assessment (ORSA).</p> <p>Enterprise Risk Management can be defined as a process, effected by an entity's board of directors, management, and other personnel, applied in strategy setting and across the enterprise, designed to identify potential events that may affect the entity, and manage risks to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives.</p> <p>Own Risk Solvency Assessment (ORSA) has been defined as a tool of the Enterprise Risk Management system that requires insurance undertakings to assess properly their own short and long term risks and the amount of own funds necessary to cover them.</p> <p>Article 4 (8) of the Insurance Law 5684 requires insurers to establish an effective internal control system including internal auditing and risk management. The responsibility for this system rests with the Board. The regulation on Internal Systems of Insurance and Reinsurance establishes further requirements relating to internal audit, risk management policies, risk limits and risk management. However these requirements fall short of the full requirements of the ICP.</p> <p>In addition to ERM and ORSA requirements, there are no explicit requirements in the legislation for an insurer to establish and/or maintain:</p> <ul style="list-style-type: none"> <li>• A Board approved risk tolerance statement.</li> <li>• A risk management policy which describes the relationship between the insurer's risk tolerance limits, regulatory capital requirements, economic capital and the processes and methods for monitoring risk;</li> <li>• Explicit risk definitions; and</li> <li>• An explicit board approved asset-liability management (ALM) policy.</li> </ul>
Assessment	Partly Observed
Comments	It is recommended that in conjunction with strengthening governance and internal control requirements, the authorities begin to engage the industry in dialogue about the need for an ERM framework. In addition, The authorities should also consider expanding the internal control and risk management system requirements to gradually include risk tolerance statements, feedback loops and ORSA requirements on an individual entity and group basis.
<b>ICP 17</b>	<p><b>Capital Adequacy</b></p> <p>The supervisor establishes capital adequacy requirements for solvency purposes so that insurers can absorb significant unforeseen losses and to provide for degrees of supervisory intervention.</p>
Description	Turkey requires insurance and reinsurance companies to meet minimum capital

requirements for licensing purposes. Minimum capital amounts are established in Circular No 2007/4 on Capital Amounts Set Out for Insurance Branches.

The basic capital for a non-life insurer or reinsurer is fixed at TL 5 mn. In addition to that amount, capital is required for each type of business written to a maximum of TL 6.6 mn. or non-life insurance companies writing all non-life insurances and TL 4 mn. for reinsurance companies. The maximum basic capital for a non-life insurer writing all branches is, therefore, TL 11.6 mn and for a non-life reinsurance company TL 9 mn.

Similarly, the basic capital for a life insurer or reinsurer is fixed at TL 5 mn. In addition to that figure, further capital is required for each class of business written to a maximum of TRY 5.7 mn. for insurance companies writing all classes of life insurance and TL 3 mn. for reinsurance companies. The maximum capital for a life insurer is therefore TL 10.7 mn. and that for a life reinsurance company is TL 8 mn.

### **Minimum Guarantee Funds**

The current supervisory framework requires insurance and reinsurance companies to comply with two explicit solvency control systems: the Minimum Guarantee Fund requirements, as required by Article 17 of the Insurance Law 5684 and detailed in the Regulation on Financial Structures of Insurance, Reinsurance, and Pensions Companies; and the solvency margin requirements established by Article 17 of the Insurance law 5684 and set out in detail in the Regulation on Measurement and Assessment of Capital Requirements of Insurance and Reinsurance and Pensions Companies.

According to the Regulation, the Minimum Guarantee Fund is defined as an amount equal to one-third of the equity capital required for the insurer or reinsurer. Article 4 of the regulation requires that the minimum guarantee shall not be lower than one-third of the minimum capital requirement (described above).

In the case of a life insurance class (as well as personal accident, sickness and health insurance contracts), the guarantee is an amount found by deducting loans made in accordance with the Commercial Code and the mathematical reserves corresponding to the amount of premiums not yet collected from the sum of the mathematical reserves and outstanding claims reserves set aside as of the end of capital requirement accounting periods. Further guarantee fund requirements exist for credit insurance.

Guarantee funds may only be invested in the range of assets described in Article 5 of the Regulation on Financial Structures of insurance, Reinsurance and Pension Companies (see ICP 15 for a description).

Equity capital for insurers is defined in Article 4 of the Regulation on the Measurement and Assessment of Capital Adequacy of Insurance and Reinsurance and Pension Companies. A company's equity capital is the sum of:

- its core capital, including its paid-in capital, net profit for the period, and profit and capital reserves;
- supplementary capital, including equalization provisions and quasi-equity loans; and
- other capital items, including a portion of subscribed capital.

Assets offered as guarantees are "blocked" in Turkish Banks, or within Istanbul Stock Exchange Settlement and Custody Bank on behalf of the UoT.

If an insurer does not have the equity capital to meet the minimum guarantee fund requirements, or if the guarantee fund is no longer set up in compliance with the



relevant laws or the implementing measures, it shall be considered as having a weakened capital structure and be subject to preemptive and enforcement measures described under Article 12 and Article 13 of the Regulation (see ICP 10).

**Solvency Margin Requirements:**

The solvency margin requirement is the ratio of available equity capital to required equity capital and is evaluated in June and December of each year. Required capital is the higher of two sums derived from the following two formulas:

- **Solvency I Formula:** set out in Article 7 of the Regulation, the formula closely resembles that used in the EU under Solvency I. It involves the higher of two estimates. One is based on premium income, the other is based on claims experience.
- **Risk Based Capital Formula:** This formula is intended to cover capital required for a number of specific risks. The amount is based on pre-determined factors set out in Article 8 of the Regulation. The risks include asset risk, reinsurance risk, excessive premium increase risk, outstanding claims reserve risk, underwriting risk and exchange rate risk.

**Solvency Control Levels:**

It is intended that the solvency ratio of insurers exceed 115 percent. If the solvency ratio is between 100 and 115 percent, the company must prepare a report explaining the reasons and setting out its expectations for future assessment periods. If the ratio is between 70 percent and 99 percent the company must submit a plan for closing the capital deficit within a year. If the ratio is between 33 percent and 69.99 percent then the company must submit a plan to increase its capital to 70 percent within six months and to 100 percent within the next one year.

If the solvency ratio falls below 33 percent then the Minister may take stronger actions to strengthen the financial structure of the company or liquidate it under Article 20 of the Insurance law 5684 and the Regulation on Financial Structures of Insurance, Reinsurance, and Pensions Companies.

**Capital Adequacy for Insurance Groups:**

Capital requirements are set out on an individual legal entity basis. If, however, the insurer holds an interest in another insurer, reinsurer or pension company, Under Article 4 of the Regulation on Measurement and Assessment of Capital Adequacy of Insurance and Reinsurance and Pension Companies, the amount is discounted from equity capital available. Investments in other related organizations within a group are discounted in the calculation of capital required.

**Use of Internal Models:**

The Use of Internal Models is not currently permitted by UoT.

**Ongoing Initiatives:**

Turkey has initiated work to align its Regulatory and supervisory framework with those of the European Union. A committee has been established to study Solvency II and to harmonize Turkish requirements with Solvency II requirements. While the Solvency II model is fully consistent with the requirements of the ICP, it will be several years before Turkey is ready to implement its version.

Assessment	Partly Observed
Comments	<p>The current solvency approach is a standardized approach but not a total balance sheet approach. The Solvency I formula does not consider interdependence between assets, liabilities, regulatory capital requirements and capital resources for determining the solvency requirements. The risk based formula recognizes a greater range of risks but not all the major risks that are likely to affect the value of assets and liabilities (eg. operational risk).</p> <p>The solvency control levels set a limit above which the Supervisor does not intervene but do not clearly establish a minimum floor below which an insurer is no longer allowed to operate. Should the solvency control level fall below the minimum, the Minister has a range of options he/she may use to “remediate” the insurer rather than liquidate it should he or she choose to do so.</p> <p>As a result, and in combination with the existing solvency control levels, it is not clear that the existing regulatory capital requirements are calibrated so that in adversity an insurer’s obligations to policy holders will be fully met. This weakness is compounded by the observation that the current solvency control levels provide a very generous amount of time for insurers to correct solvency deficiencies. This, in combination with the fact that it is the Minister, rather than the supervisor, who must take stronger actions to strengthen the financial structure of the company including the decision to liquidate it (see ICP 10) suggests that the intervention process could be too slow to protect the interests of policy holders.</p> <p>It is recommended that the authorities continue their intended transition towards Solvency II Pillar One capital requirements as part of a broader strategy of supervisory reforms and establish a clear solvency control level below which an insurer will not be allowed to operate.</p>
<b>ICP 18</b>	<p><b>Intermediaries</b></p> <p>The supervisor sets and enforces requirements for the conduct of insurance intermediaries, to ensure that they conduct business in a professional and transparent manner.</p>
Description	<p>Part V of the Insurance Law 5684 requires the licensing of actuaries, insurance agents, brokers, and loss adjusters with UoT and the Union of Chambers of Commerce. Specific requirements regarding insurance agents are found in the Regulation on Insurance Agents (2014), and requirements on insurance brokers are found in the Regulation on Insurance and Reinsurance Brokers (2015).</p> <p><b>Insurance Agents:</b></p> <p>The Regulation on Insurance Agents sets out requirements for individual agents, corporate agencies and banks engaged in the sale of insurance products.</p> <p>Individual agents must meet suitability requirements including technical competency and integrity requirements. Competency requirements include minimum education requirements, passing a UoT administered technical proficiency examination, and completing a term of professional experience. Integrity requirements include not being convicted of serious crimes (e.g. embezzlement, extortion, bribery, theft, fraud, breach of faith, financing terrorism, money laundering). Agents must also have an adequately</p>

equipped location from which to conduct business and must maintain minimum property and asset requirements (i.e. not less than 50,000 TL). They must also participate in any continuing education requirements required by UoT.

Corporate agencies must be joint stock or limited liability companies, must have minimum paid up capital (i.e. not less than 300,000 TL for headquarters and 25,000 TL for each branch operation), must have an adequately equipped location from which to conduct business and key personnel and owners must meet competency and integrity requirements similar to those of agents who are natural persons.

Senior managers in such agencies are required to have professional experience and educational qualifications similar to senior managers in insurance companies (ie. 5 to 7 years' professional experience and 4 years' higher education) and every branch office of a corporate agency must employ at least one manager and one technically qualified person. Only technically qualified personnel are allowed to conduct marketing, information and sales activities in relation to insurance policies. Agencies must be authorized by the insurance companies they represent and must have entered into an agency agreement. The agreement must cover the following:

- parties to the agreement;
- duration, renewal, and termination clauses;
- the scope of the agency's authority;
- commission amounts and other rights;
- issuance of policies;
- collection of premium amounts;
- warranties; and
- provisions regarding settlement of accounts.

There is no mandatory obligation for agents to have professional indemnity insurance but the UoT may require an agency to obtain it.

Banks and Financing and Leasing companies are also allowed to engage in insurance agency activities subject to appropriate modification of the above noted licensing requirements.

Call centers may be operated by licensed intermediaries. In such cases they must be insurance sales must be carried out by competent technically certified staff, or by staff following a standard approved script.

**Insurance Brokers:**

The term of insurance broker is defined under Insurance Law 5684.

"Broker shall mean a person representing the parties who want to conclude an insurance or reinsurance contract, acting impartially and independently in the selection of companies with which such contracts are made, observing the rights and benefits of the people who want insurance coverage, having adopted it as a profession to carry out the preparatory work before the conclusion of the contract, and to assist if necessary during the implementation of the contract or payment of claims".

Under the Regulation on Insurance and Reinsurance Brokers brokers may be licensed as either natural or legal persons. Similar to insurance agents, they must meet competency and integrity requirements, have an adequately equipped location from which to conduct business. They must meet minimum paid up capital requirements

(e.g. for corporate brokerages the minimum paid up capital is 250,000 TL plus 50,000 TL for each class of insurance business and 25,000 TL for each branch office they operate from), and an equity capital requirement tied to the payables owing to insurance companies.

There is a mandatory requirement for all insurance brokers to have professional indemnity insurance. The UoT advises that the liability limit must be at least 5 million TL.

**Ongoing Supervision:**

Agents and brokers are subject to licensing and supervision by UoT and the Union of Chambers of Commerce and Commodity Exchanges. Agents have to report changes in business status and insurers have to report breaches of regulatory requirements by intermediaries. The UoT maintains a website for receipt of complaints from the public including conduct complaints against intermediaries.

Major contraventions of legislation by agents and all contraventions by brokers are dealt with by UoT. In regard to agents, disciplinary complaints are dealt with by the Insurance Agents Executive Committee which is a council consisting of appointed insurance agent representatives and government officials. The Committee has the authority to suspend insurance agents for six months for a first contravention and may revoke a license for repeated contraventions.

The Committee has three investigative staff and faces more than 1,700 disciplinary files per year. In addition, there are no insurer or non-industry (lay member) representatives on the committee. The committee has limited scope to apply disciplinary measures other than suspension, and the code of conduct for agents is very general and includes few specific rules.

While brokers are subject to regular periodic reporting to UoT and occasional onsite supervision, investigation/supervision of agents is usually complaint driven.

**Corporate Governance:**

UoT supervises intermediaries' corporate governance through:

- checking intermediaries' obligations to ensure the ongoing suitability of personnel; and
- Periodic onsite monitoring.

**Intermediary Disclosure:**

The Regulation on Furnishing Information in Insurance Contracts requires intermediaries to give certain information to customers before they enter into an insurance contract including contact information for the insurer and the agent, policy exemptions and exclusions and how to make a complaint or request information. The Regulation on Insurance Agents requires agents to inform customers about the insurers they deal with. While there is a requirement for intermediaries to act in an honest forthright manner, there are no specific "know your client rules or documentation to ensure that all insurance products meet client needs.

In addition, there is no obligation for agents or brokers to disclose the basis on which they are compensated to the customers. Nor do there appear to be strong conflict of interest rules related to treatment of customers. Brokers present customers with at

	<p>least three options to meet client needs but are generally compensated by commission from the insurer. In some types of credit insurance some compensation information is also included in written documentation.</p> <p>There appears to be intense competition between intermediaries regarding commissions and some industry representatives expressed concern about disclosing commissions to the customer as it might lead to requests from customers to further discount commission levels.</p> <p><b>Client Money Handling:</b></p> <p>Article 17 of the Regulation on Insurance Agents establishes that a payment made by a policy holder to an agent is deemed to have been made to the insurer. Agency agreements between insurers and agencies are required to address the details of premium collection.</p> <p>A provision similar to Article 17 exists in the Regulation on Insurance and Reinsurance Brokers regarding premium payments. In addition, Article 16 of the broker regulation requires brokers to transfer premiums paid by policy holders to insurers through precisely defined accounts. The regulation also gives UoT the power to set additional principles. Similar protections exist for claims payments and premium refunds.</p> <p>Finally, minimum capital requirements for agents and brokers are viewed as providing collateral should agents or brokers default on their obligations.</p> <p><b>Regulatory Enforcement:</b></p> <p>The insurance law provides strong penalties for major breaches of regulatory requirements; however, given the large number of intermediaries and the limited resources presently applied to ongoing supervision and discipline, the effectiveness of the existing system is a concern. In addition, the consistency of enforcement between brokers and agents is a concern given the level of resources currently available to supervise agents.</p>
Assessment	Partly Observed
Comments	<p>Partly Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• The level of ongoing supervision related to agent’s conduct appears to be inadequate.</li> <li>• There is no requirement to disclose to customers the basis on which agents are remunerated by insurers or other potential conflicts.</li> <li>• The Code of Conduct for intermediaries, while a significant step forward, includes few specific conduct rules or examples of inappropriate conduct.</li> </ul> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• Consideration be given to expanding representation on the Insurance Agents Executive Committee to include insurer, intermediary and lay member representation, broadening the mandate to cover all intermediaries and increasing its enforcement powers and resources to discipline intermediaries.</li> <li>• Consideration be given to developing a more fulsome and rule based code of conduct for intermediaries.</li> </ul>

ICP 19	<p><b>Conduct of Business</b></p> <p>The supervisor sets requirements for the conduct of the business of insurance to ensure customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.</p>
Description	<p><b>Requirements to act with due skill, care and diligence and to have policies and procedures for fair treatment of consumers:</b></p> <p>Article 32 of the Insurance Law 5684 requires that Insurance companies, reinsurance companies, intermediaries and loss adjusters refrain from acts which may endanger the rights and benefits of the insured, act in accordance with the legislation and principles of the business plan, and behave in compliance with the requirements of insurance law and the rules of goodwill.</p> <p>Article 27/A of the Regulation on Establishment And Working Principles Of Insurance Companies and Reinsurance Companies requires insurers operating in Turkey to ensure that insureds and beneficiaries under an insurance contract are treated fairly, and that the insurer establishes relevant systems to achieve that end. It is not specifically required that these policies be approved by the insurer’s Board. These systems include oversight of the insurer’s agents. It also establishes a requirement for insurers to provide appropriate training for their employees.</p> <p>Under Article 27 of the Insurance Law 5684, The Insurance Agents Executive Committee has established a Code of Ethics and a Code of Professional Conduct for insurance agents. Its requirements are also intended to ensure fair treatment of consumers.</p> <p><b>Development and Marketing of Insurance Products:</b></p> <p>Most insurance products in the Turkish Market are common retail insurance products (e.g. Motor, compulsory earthquake, term life). Major compulsory products(e.g. Motor third party liability or residential earthquake) and Casco are required to use standard policies developed with the assistance of UoT. The UoT also reviews all policy documents to ensure they do not endanger the rights and benefits of insureds.</p> <p>The review is conducted to ensure compliance with general conditions established in the insurance law, compliance with the Turkish Commercial Code, and to ensure that they do not have adverse implications for policyholder benefits. The policies are not specifically reviewed to ensure they meet “plain language requirements.</p> <p><b>Promotion and Marketing of Insurance products:</b></p> <p>Article 32 of the Insurance Law 5684 requires that Insurance companies and intermediaries not design brochures, explanatory notices, related documents, advertisements and commercials in a misleading, deceptive manner. The power to take action under this authority rests with the Advertising Board under the Consumer protection Act rather than the insurance supervisor.</p> <p>Another requirement exists in Article 25 of the Regulation on Establishment and Working Principles of insurance Companies and Reinsurance Companies. The regulation requires insurers to comply with principles established by UoT for such documents.</p> <p>In practice, the Advertising Board rather than the insurance supervisor takes action</p>

against contraventions.

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

The Regulation on Furnishing Information in Insurance Contracts establishes obligations on insurers and intermediaries to provide appropriate information before during and after entering into an insurance contract including signed information forms in a format approved by the UoT at point of sale.

Similar requirements are established for insurance products sold through distance marketing and sale of credit insurance through banks.

Failure to comply with the requirements or provision of misleading information allows the policy holder to cancel the contract and claim for damages. It may also result in administrative penalty from UoT.

The Turkish Commercial Code establishes reasonable timeframes for delivery of documents and establishes a cooling off period.

**Customers receive appropriate advice taking into account disclosed circumstances:**

In addition to the general requirement in Insurance Law 5684 to refrain from acts that may endanger the rights and benefits of insureds, and the obligations established in the Regulation on Furnishing Information in Insurance Contracts to explain the characteristics of insurance and the policies technical aspects, the Code of Professional Conduct for Agents requires that agents recommend the most appropriate products for the customers' needs and be objective when advising customers about products and services. There is no specific requirement to document the client's needs, however, which would likely make disciplinary actions difficult to enforce.

In the case of insurance Brokers, The regulation requires the broker to present at least three proposals to the customer and to provide the customer with a comparison statement.

**Conflict of Interest:**

As previously mentioned, there is no general requirement for insurance intermediaries to disclose how they are remunerated for the sale of life insurance products.

Neither the Code of Professional Conduct for insurance agents, does not address the area of conflict of interest, nor does the Code of Ethics for insurance agents. Some investment related insurance products disclose commissions as part of the information forms provided to consumers.

**Claims Handling, Complaint Handling and Dispute Resolution:**

Article 32 of the Insurance Law requires insurers not to delay payment of insurance claims. Time frames for claims payments are established in the Turkish Commercial Code.

Insurers are required to maintain a complaint handling unit, to have complaint handling policies, and to report regularly on claims to the UoT. There does not appear to be a requirement that the complaint handling unit be a separate unit from the programs that are subject to the complaint (therefore avoiding potential conflict) or that the policies related to complaint handling be approved by the Board and reported on to the Board.

	<p>Complainants must receive a written response to their complaints within 15 working days. Insurance agents must assist customers in resolving their complaints by helping them convey the complaints to the insurer.</p> <p>Complaints can also be made to the UoT through its website or in written form. These will be investigated by GDI or ISB depending on the nature of the complaint. Complaints about the activities of intermediaries can also be made to UoT. In the case of agents, they may be referred to the Insurance Agents Executive Committee for investigation and disciplinary proceedings.</p> <p><b>Privacy Protection:</b></p> <p>Article 31/A of the Insurance Law 5684 establishes a strong obligation on insurers, intermediaries and other related parties not to disclose secrets related to persons under insurance contracts. The obligation continues to apply to the staff of insurers and intermediaries after they leave the employ of the insurer. It also continues to apply after the termination of the contract. There is an exception to the general requirement related to people engaged in wrongful insurance practices which allows information to be shared with the Insurance Information and Monitoring Center. The center uses the information for industry risk assessment and fraud management activities.</p> <p>While the legislative provisions are strong, in practice, the resources available for ongoing agent supervision are limited and the ability to enforce the requirements are limited. For example, the practice of stealing client lists by agents changing agencies appears to violate the privacy protection requirements, yet appears to be prevalent in the industry.</p> <p><b>Supervision Activities:</b></p> <p>UoT conducts off site and on-site supervision of insurers' and intermediaries' conduct of business activities. UoT examines off- site complaint reports and individual complaints. On-sites examination can result from particular complaints, or patterns of complaints. In regard to intermediaries, on-sight supervision or investigation can result from internal audit reports of insurers over their intermediary activities or from direct complaints about intermediaries. Given the large number of corporate agencies (in excess of 1600) the ability to conduct effectively regular ongoing supervision appears to be a weakness in the existing system.</p>
Assessment	Largely Observed
Comments	<p>Largely Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>• Conflict of interest/disclosure of compensation requirements for agents and intermediaries should be strengthened</li> <li>• Board approval is not presently required for policies related to fair treatment of consumers</li> <li>• There is no requirement that the complaint handling function of insurers be separate from the area of the organization that is subject of the complaint.</li> </ul> <p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> <li>• Establish strong clear rules for intermediaries regarding compensation disclosure and conflict of interest vis a vis insurance consumers.</li> </ul>



	<ul style="list-style-type: none"> <li>• That Board approval be specifically required for policies relating to fair treatment of consumers and that the Board receive regular reporting on adherence to these policies - especially those related to complaint handling.</li> <li>• A requirement be established to ensure insurer complaint handling functions are operationally separate from program that is subject to the complaint.</li> <li>• Require that the power to take action against deceptive and misleading advertising be vested with the insurance supervisor rather than the Advertising Board.</li> </ul>
<b>ICP 20</b>	<p><b>Public Disclosure</b></p> <p>The supervisor requires insurers to disclose relevant, comprehensive and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities, performance and financial position. This is expected to enhance market discipline and understanding of the risks to which an insurer is exposed and the manner in which those risks are managed.</p>
Description	<p><b>Scope of Application</b></p> <p>Disclosure requirements are applied to all insurers licensed to write insurance and reinsurance business in Turkey including insurance pools and authorized foreign branches.</p> <p><b>Legal Framework:</b></p> <p>Article 18 of the Insurance Law 5684 requires insurers and reinsurers to arrange, publish, and send to the UoT their accounts and financial statements in accordance with principles and sample formats determined by the UoT.</p> <p>The Regulation on Financial Structure of Insurance, Reinsurance and Pension Companies establishes detailed requirements regarding insurer’s annual activity reports:</p> <ul style="list-style-type: none"> <li>• Article 16 establishes the requirement for the annual report;</li> <li>• Article 17 sets out the required content which includes financial statements, other information on financial standing, profitability, capability to pay damages, risk management policies employed for each type of risk and other quantitative and qualitative information on the institution, its board and management, internal audit activities, as well as summary financial information for the last five years;</li> <li>• Article 18 establishes additional requirements for insurers drawing up consolidated financial statements;</li> <li>• Article 19 deals with signing and approval requirements by the Board and management;</li> <li>• Article 20 deals with audit of information included in the annual report; and</li> <li>• Article 21 establishes requirements regarding timing publishing and printing of the annual report including a requirement to keep them available on the company website for a period of at least five years.</li> </ul> <p>The Regulation Pertaining to Provision of Disclosure in Insurance Contracts” also requires insurance and reinsurance companies to have corporate web sites presenting a wide range of information including up-to-date data about the insurers’ financial information.</p>

The Communiqué on Presentation of Financial Statements is a secondary legislation which deals with how to prepare and present financial statements disclosed to the public. The communiqué sets out the form and the substance of financial statements and the coverage of their footnotes in order to ensure financial statements are comparable both in relation to prior periods and other companies' statements.

The Regulation on Financial Reporting By Insurance and Reinsurance Companies and Pension Companies requires insurers to have their annual financial statements announced in two daily newspapers distributed throughout the country and to be published on the companies' web sites.

#### **Timely Decision Useful Information**

Annual reports must be made available on the website before the end of May after the end of the annual accounting period and must be available in printed form by the end of June.

#### **Technical Provisions**

The Communiqué requires qualitative and quantitative information on technical provisions to be available in the financial statements and in the notes to the financial statements.

#### **Capital Adequacy**

The Communiqué on Presentation of Financial Statements requires insurance and reinsurance companies to disclose qualitative information in the financial statements to their annual reports including but not limited to:

- Information that enables users to evaluate the insurer's objectives, policies and processes for managing capital.
- What do they manage as a capital
- How they attain the objectives regarding capital management
- Facts and figures related to capital management
- Changes on capital management year over year

Article 17 of "Communiqué on Presentation of Financial Statements" requires companies to disclose information on guarantees in proportion to their commitments arising from the insurance contract. They are not, however, required to disclose the solvency ratio for the insurer.

#### **Investment**

Some information on investment classes is provided in company financial statements and in notes to the financial statements but information on investment objectives, policies and processes does not appear to be specifically required.

#### **ERM/ALM**

There is no disclosure requirement in terms of quantitative and qualitative information about the ERM/ALM.

ERM is not presently required in Turkey.

#### **Corporate Governance**

Some information on corporate governance is provided in annual reports.

Assessment	Largely Observed
Comments	<p>Largely Observed is based on the following observations:</p> <ul style="list-style-type: none"> <li>Some items described in the ICP, such as capital adequacy, investment objectives and policies and ERM/ALM, are not required to be disclosed.</li> </ul> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>Disclosure requirements be expanded to address the above noted deficiencies.</li> <li>In addition, consideration should be given to expanding information requirements to include company information on market conduct policies and risks (e.g. information on management of complaints).</li> </ul>
<b>ICP 21</b>	<p><b>Countering Fraud in Insurance</b></p> <p>The supervisor requires that insurers and intermediaries take effective measures to deter, prevent, detect, report and remedy fraud in insurance.</p>
Description	<p><b>Legal Framework:</b></p> <p>Fraud is defined in Articles 157 and 158 of the Turkish Criminal Code. Article 158 specifically identifies insurance fraud as being subject to a penalty of between two and seven years imprisonment as well as a large fine.</p> <p>The Regulation on Detection, Notification and Recording of Wrongful Insurance Practices, and Principles and Procedures For Fighting Against These Practices establishes the framework for deterring, preventing, detecting, reporting and remedying fraud in insurance.</p> <p>The Regulation is established under Article 32 of the Insurance Law 5486. Interfering in an investigation into fraud being conducted by the authorities is subject to both administrative and Judicial Penalties under the Insurance Law. Contravention of the requirements of the regulation can result in an administrative penalty of between one thousand and twelve thousand TL.</p> <p>The Regulation requires companies and intermediaries to:</p> <ul style="list-style-type: none"> <li>establish methods for the prevention, detection, recording , elimination of wrongful insurance practices and to report them to the appropriate authorities (UoT and the Police);</li> <li>take measures in order to detect potential wrongful practices including fraud and to institute control processes to prevent wrongful insurance practices;</li> <li>train employees, including the Board of Directors, with on wrongful insurance practices training approved by the UoT;</li> <li>record insurance transactions considered to be wrongful insurance practices in an insurance database accessible to other insurers, UoT and the Insurance Information and Monitoring Center (an industry body whose responsibilities include monitoring and detecting fraud).</li> </ul> <p>Wrongful insurance practices include intra company wrongful practices, wrongful practices by policy holders, wrongful practices by intermediaries, and other wrongful practices.</p>

	<p><b>Supervisory Practices:</b></p> <p>In addition to dealing with complaints related to fraud and monitoring wrongful transactions, the UoT assesses the effectiveness of insurer practices and controls through on-site supervision. Requirements are reviewed periodically for adequacy.</p> <p>The Fraud Bureau was established in conjunction with the Insurance Information and Monitoring Center in 2015 to monitor systematically and assess systematic fraud risk. It does this through data analysis of information received from insurers and retained in a special data base. The Bureau also receives complaints from insurers. The Bureau has approximately ten staff. In 2015 it opened more than 1200 files and referred 45 files (involving more than 1 million TL in fraudulent transactions) for prosecution.</p> <p>The insurance supervisor and the Fraud Bureau share information with appropriate legal authorities and the insurance supervisor has the power to share information with other supervisors if required.</p> <p>The Industry association also receives complaints on fraud but is not yet engaged in providing public information on the subject.</p>
Assessment	Observed
Comments	
<b>ICP 22</b>	<p><b>Anti-Money Laundering and Combating the Financing of Terrorism</b></p> <p>The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and the financing of terrorism. In addition, and the supervisor takes effective measures to combat money laundering financing of terrorism.</p>
Description	<p>The Financial Crimes Investigation Board (MASAK) is the authority responsible for AML/CFT in Turkey under “the Law No.5549 on Prevention of Laundering Proceeds of Crime and the Financing of Terrorism” and the Law No.6415 on Prevention of the Financing Of Terrorism”.</p> <p>UoT is not a designated AML/CFT authority, however MASAK uses UoT resources (examiners and actuaries) to conduct AML/CFT supervision and inspections under the above noted laws. ISB examiners have the knowledge and expertise needed to conduct examinations and inspections related to insurance. Moreover, the Chairman of ISB and General Director of GDI are the members of the Coordination Board for Combating Financial Crimes.</p> <p>In addition to the specific AML/CFT inspections planned and assigned by MASAK, UoT conducts periodic on-site supervision to evaluate the adequacy of internal control systems and compliance activities of insurance companies for AML/CFT. Their combined responsibilities require UoT staff to remain knowledgeable and stays current on AML/CFT requirements.</p> <p>UoT does not have a specific mechanism for sharing information with other authorities related to AML/CFT purposes, there is an information sharing mechanism established at MASAK to obtain and exchange information with other domestic authorities.</p> <p>To increase coordination and information sharing, regular coordination meetings are</p>

	held by MASAK for every year in April and September. During the process, the Treasury can ask and obtain information from MASAK and other related authorities on AML/CFT issues.
Assessment	Observed
Comments	
<b>ICP 23</b>	<b>Group-wide Supervision</b> The supervisor supervises insurers on a legal entity and group-wide basis.
Description	<p><b>Background:</b></p> <p>Regulation and supervision of insurers in Turkey has been largely been focused at legal entities. In 2010 a Cooperation and Information Exchange Protocol was established between the Central Bank, the Savings Deposit Insurance Fund, the Banking Regulation and Supervision Agency, the Capital Markets Board, and the UoT. The agreement has many objectives, including economic and market development objectives, in addition to supervision of financial institutions.</p> <p>Within the framework of this agreement, officials from the major supervisory authorities meet at least annually to set out the entities and the scope of supervision which will be conducted as well as the supervision teams, supervision period, timing and mode of supervision. The agreement also allows for international cooperation with international supervisors.</p> <p>The agreement also enables a system of information exchange protocols for the sharing of information in the hands of various agencies with other agencies. Currently the protocols with UoT involving insurance companies only provide for the sharing of financial statement documents.</p> <p>Since the last assessment in 2011, the UoT has amended the Regulation on Financial Structures of Insurance Reinsurance and Pension Companies and the Regulation on Working Principles and Procedures for the Monitoring and Supervision of Insurance and Private Pensions Sectors to better enable group supervision.</p> <p>In groups where an insurer is part of any financial holding, the UoT may enter into joint audit and mutual information sharing protocols with other financial sector supervisors (including foreign supervisors) and may conduct group audits and supervision of companies. The UoT also has broad based powers to request information from members of an insurance group.</p> <p>An insurance group is defined as a group of companies consisting of at least two companies, whereby at least one of them is an insurance, reinsurance or pension company, and the other is a company that has significant influence over said insurance, reinsurance, or pension company.</p>

	<p>UoT is also developing and plans to implement a supervision manual for group supervision?</p> <p>In practice, three cross sectoral financial groups (of approximately 14) have been selected for detailed supervision during each year for the last three years. In addition a joint on-site examination of a major insurer was conducted by UoT and supervisory staff from the Netherlands.</p> <p><b>Group wide supervisory framework, group wide supervisor and scope of Supervision:</b></p> <p>The ICPs contemplate a supervisory framework for insurance groups that sets out the preconditions for group-wide supervision, group-wide regulatory requirements and group-wide supervisory review and reporting. This does not currently exist in Turkey though many of the powers and processes for carrying out group wide work currently exist. The ISB is aware of this issue and is developing a more elaborate group wide framework</p> <p>In addition, under the agreement, a committee rather than the group wide supervisor determines the scope and entities subject to supervision in Turkey. The group wide supervisor is defined as the supervisor responsible for promoting effective and coordinated supervision of an insurance group including coordinating the input of insurance legal entity supervisors in undertaking the supervision of an insurance group on a group-wide basis, as a supplement to insurance legal entity supervision.</p>
Assessment	Largely Observed
Comments	It is recommended that the authorities enhance their efforts to supervise insurance groups by developing a more detailed monitoring and supervision framework and by allowing the group wide supervisor (in most cases the BRSA) rather than the committee to determine the scope and entities subject to supervision in Turkey.
<b>ICP 24</b>	<p><b>Macroprudential Surveillance and Insurance Supervision</b></p> <p>The supervisor identifies, monitors and analyses market and financial developments and other environmental factors that may impact insurers and insurance markets and uses this information in the supervision of individual insurers. Such tasks should, where appropriate, utilize information from, and insights gained by, other national authorities.</p>
Description	<p>The UoT identifies, monitors and analyses extensive market, financial, and insurer data but does not have a formal macro-prudential framework that feeds into its day to day supervisory programs or supervisory priority setting.</p> <p>The UoT regularly conducts detailed reviews and analyses of the insurance market and uses information to produce an annual report on the sector. It also uses early warning indicators and some industry benchmarking information to assess insurers and set supervisory priorities.</p> <p>Monitoring activities of the UoT are extensive. All insurers are obliged to submit the required information including their audited financial statements, data files, actuarial reports, reinsurance reports, audit reports and other required information and data</p>

	<p>through an Information Management System Portal.</p> <p>At the Macroeconomic level, however there does not appear to be the same level of analysis or a systematic process by which information and trends are identified and communicated to supervisory staff for use in their day to day work.</p> <p>Most of the analysis focuses on past trends and does not use forecasting techniques. In addition, the work does not extend to the analysis of financial groups.</p> <p>The UoT is involved in stress testing work in conjunction with other financial services regulators to understand the impact on profitability and growth of insurers, particularly with respect to earthquake, but there is no systematic program of stress testing undertaken by UoT yet.</p> <p>The UoT does not currently have any systemically important insurers.</p>
Assessment	Partly Observed
Comments	It is recommended that the UoT develop a systematic macroprudential framework for integration into its general supervisory program for insurance.
<b>ICP 25</b>	<p><b>Supervisory Cooperation and Coordination</b></p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements.</p>
Description	<p>As noted under ICP 3, the UoT is a signatory to the IAIS MMOU for information sharing and engages in information sharing with foreign and domestic supervisors. The UoT has broad powers to share information and participates in several supervisory colleges but not usually as a home regulator or the group-wide supervisor. The UoT cooperates and coordinates with supervisors in colleges on an as needed basis.</p> <p>UoT has exchanged information with several supervisory colleges to date and has conducted joint on-site examinations.</p> <p>As previously noted, under ICP 23 there is also a protocol agreement between the UoT, BRSA and the CMB that allows information sharing and joint supervision of insurance groups. The UoT also participates in a Systemic Risk Assessment Group headed by BRSA.</p>
Assessment	Largely Observed
Comments	Establishment of a group wide supervisory framework in the future would strengthen this rating.
<b>ICP 26</b>	<p><b>Cross-border Cooperation and Coordination on Crisis Management</b></p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities such that a cross-border crisis involving a specific insurer can be managed effectively.</p>
Description	As noted under ICPs 3, 23 and 25, UoT exchanges information, cooperates, and coordinates with other local supervisors in various contexts, has memoranda of

	<p>understanding in place with some foreign supervisors and is a signatory to the IAIS MMOU. It also participates in international regulatory forums and supervisory colleges.</p> <p>The UoT has also cooperated and exchanged information on a major cross border issues in the past but the Supervisory Authority does not presently have systematic proactive plans for dealing with a cross border crisis.</p> <p>And there are no internal documentation of plans/procedures to deal with a future crisis.</p> <p><b>Contingency Plans</b></p> <p>The UoT does not require insurers to maintain contingency plans and procedures based on their specific risk for use in a going- and gone-concern situation.</p>
Assessment	Partly Observed
Comments	<p>Partly Observed is based on the following adverse observations:</p> <ul style="list-style-type: none"> <li>• There is no plan/procedure manual for crisis management; and</li> <li>• There is currently no requirement for insurers to establish contingency plans and procedures for use in a going and gone concern situation.</li> </ul> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The UoT develop an internal procedure manual or contingency plan for a financial crisis.</li> <li>• The UoT require insurers (particularly large insurers with cross-border or cross sectoral linkages) to establish contingency plans and procedures based on their specific risk profile for use in a going- and gone-concern situations.</li> </ul>



## **THE AUTHORITIES' RESPONSE TO THE ASSESSMENT**

The Undersecretariat would like to thank the FSAP team for their efforts and valuable input throughout the assessment. The comments and recommendations are valuable to us to further improve our regulatory and supervisory competency.

We are committed to continuous improvement and we are pleased to see that our efforts in the areas regarding ICPs 2, 3, 13, 21, 22 and 25 have been reflected in the report. However, we strongly believe that we meet the criteria of observance for ICPs 8, 9, 12, 14, 19, 20 and 24. These ICPs were graded as "Observed" in the 2011 assessment and progress has been made in almost all of these ICPs since then. We would appreciate further discussion on these areas and clarification on the evaluation criteria in the future assessments. We will also continue to refine our regulatory and supervisory framework and to increase our compliance with ICPs in the upcoming period taking into consideration the comments of the assessors.

## REFERENCES

IAIS, 2012, *Insurance Core Principles and Methodology*, available at the IAIS web site [www.iaisweb.org](http://www.iaisweb.org).