

# FINANCIAL SERVICES COMMISSION

## POST CONSULTATION PAPER

**To: All Registered Insurance Entities**

**Subject: Post Consultation Paper on Guidelines to Enhance the Prudential Regulation of the Insurance Industry in Barbados**

The Financial Services Commission of Barbados (the “Commission”) as the regulator of non-banking financial services in Barbados will introduce a series of guidelines that applies to entities licensed and/or registered pursuant to the Financial Services Commission Act 2010-21, the Insurance Act CAP 310 and the Exempt Insurance Act CAP 308 A. The rationale of these guidelines, as well as a consultation paper on repurchase agreements was outlined in a consultation document which was circulated to the industry for comments in October 2012.

The period for submission of comments has ended and the Commission has summarized and reviewed the comments received. Accordingly, the Commission has amended the guidelines and has provided feedback with respect to comments. However, the Commission welcomes the dialogue with the industry and will consider proposals and comments from the industry outside of consultation periods.

A summary of the substantive comments received with regards to recommended amendments to the guidelines and the Commission’s response to those comments are included in the attached document. The guidelines will be finalized and issued to the sector thereafter. Both the guidelines and the post-consultation document will be posted on the Commission’s website.

Questions related to the guidelines should be addressed to the following:

**Chief Executive Officer**  
**Financial Services Commission**  
**#34 Warrens Industrial Park**  
**St. Michael**  
**Email: [info@fsc.gov.bb](mailto:info@fsc.gov.bb)**  
**Attention: Insurance Division**

**FINANCIAL SERVICES COMMISSION**

**MEASURES TO ENHANCE THE PRUDENTIAL REGULATION OF THE  
INSURANCE INDUSTRY IN BARBADOS:**

**POST CONSULTATION PAPER**

The guidelines circulated to the industry during the October 2012 consultation period are listed below:

- 1.0 Anti-Money Laundering Guideline**
- 2.0 Asset Valuation Guideline**
- 3.0 Corporate Governance Guideline**
- 4.0 Internal Control & Risk Management Guideline**
- 5.0 Market Conduct Guideline**
- 6.0 Related Party Guideline**
- 7.0 Statutory Reporting Guideline**

The structure of the post consultation paper lists each guideline, gives an introduction, gives a status of the post consultation guideline, and gives a summary of the comments received and the Commission's response to those comments.

## **1.0 Anti-Money Laundering Guideline**

### 1.1 Introduction

The guideline mirrors the Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011 MLFTA and provides a broader backdrop to, and procedures for, anti-money laundering frameworks among the Financial Services Commission's (FSC) regulated financial institutions. The FSC requires reporting entities to develop a risk assessment and compliance programme that describes policies, procedures and controls aimed at meeting prescribed minimum requirements, and that adequately manages and mitigates the risks of money laundering and financing of terrorism. A risk-based approach offers flexibility to reporting entities to respond proportionately to risks.

This guideline is used to provide the industry with benchmarks for the proper functioning of their operations, and will be referenced by the FSC in the conduct of its supervisory role. The FSC has sought to issue one guideline that provides content for specific guidance which will be broadly consistent across sectors, and where appropriate, sector-specific guidance has been issued.

### 1.2 Post-Consultation Guideline Document

Following a review of the comments from the industry, the Central Bank of Barbados, Financial Intelligence Unit (FIU), and further internal review, some changes were made to the circulated document. The changes can be viewed in the "tracked changes" document, but for ease of review some of the key changes are highlighted below. While the FSC received a range of comments, the more substantive comments were submitted by the Barbados International Business Association (BIBA) - more specifically the Insurance Group.

### 1.3 Comments Received and FSC Responses

#### *i. Exemption for Low/No Risk Firms*

BIBA's key concerns centred on the fact that there was no or little differentiation within the guideline, especially when the range of entities that the FSC regulates, is considered. The point was made that in many jurisdictions (especially among our key competitors) that there are exemptions for some categories of financial institutions. This however remains a policy decision. The FSC recognises that there are instances after taking into consideration that nature of the business there are financial institutions where the risk of money laundering and/or the financing of terrorist activity are low or non-existent. Such firms include those in the captive insurance, property and casualty insurance, and reinsurance sectors, or where the firm's only client is its parent or another regulated entity. The MLFTA capture all financial institutions and therefore the guideline cannot exempt any company. While in Section 6.8 of the guideline, the FSC sought to (as permitted by Section 17 of the MLFTA) allow a reduced level of due diligence there can be no exemptions, while section 15 of the MLFTA provides a "floor" for the types of requirements. The FSC also sought to further enhance the requirements for reduced due diligence as outlined in Section 6.8 of the guideline.

ii. *Definition of Politically Exposed Person (PEP)*

In response to comment with respect to the broad treatment required for all PEPs in Section 6.4.6 of the guideline there was a revamp of the specific guidance. In accordance with the new Financial Action Task Force's (FATF) Recommendations 40+9, there was a further decomposition of the PEP. The PEP is now categorised as either domestic or foreign, where the more stringent requirement is suggested for the foreign PEP.

iii. *Removal of High Risk Category – Wire/Funds Transfer (Section 6.4.8)*

The section was included specifically to deal with the FSC's deposit-taking regulated entities. While there have been queries with respect to the provision of such services by a number of credit unions, they have are restricted from engaging in services dealing with foreign currency, and as such that section was removed.

Many of the other changes sought to standardise the formatting of the document and remove areas of redundancy.

## **2.0 Asset Valuation Guideline**

### 2.1 Introduction

Generally accepted accounting principles are acceptable methodologies for the preparation of general purpose financial reports of insurance companies. However, in instances of regulatory reporting requirements, there may be situations where the technical application of assets and liabilities for purpose of solvency and statutory requirements present a need for a variance in the presentation of the assets or the liabilities to appropriately monitor the risk of an insurance company. Any differences between the presentation of technical provisions for general purpose financial reports and published statutory filing reports should be explained and reconciled in terms of differences in data, discount rate, methodology and assumptions used together with the rationale for why any different approach is appropriate for solvency or statutory purposes. This note sets out the guidance for valuation of assets and liabilities where the statutory reporting requirements may differ from generally accepted accounting principles.

### 2.2 Post-Consultation Guideline Document

Following a review of the comments from the industry, some changes were made to the circulated document. The more substantive comments received are outlined in the following section with the FSC responses included.

### 2.3 Comments Received and FSC Responses

*i. Value of Bonds at face value or market value.*

Comments were received suggesting that companies may value bonds at either face value or market value where the fair market value is available. In response to this comment, the guideline was amended to allow for the use of a fair market value with a note on the fair market value methodology used included in the financial statements.

*ii. Risk Based Methodology*

Comments were received which supported the Commission's use of a risk based methodology to the guidelines. A recommendation was made to consider adjusting the wording in the introduction of the guideline to include a statement on the use of the risk based methodology to ensure that the concept of risk based approach is used consistently in the application of the guideline going forward. The Commission is amenable to this suggestion as the organisation is

moving towards a risk based supervisory framework. The guideline has been amended to include wording to this effect.

*iii. Exempt Insurance Act Actuarial Wording*

Comments were received which recommended a consolidation of the wording in the guideline on the actuarial review with section 18 (3) of the EIA. The Commission reviewed the relevant section of the legislation and agree that it would be prudent to have a wording in the guideline which is equivalent to that found in the legislation.

*iv. Use of IFRS and IASB Valuation Standards*

Comments were received which recommended that consideration be given to the use of IFRS and IASB valuation standards rather than document a set of specific requirements for valuations. The FSC currently does not mandate the use of IFRS but rather indicates that the auditor must be a member of ICAB and if the auditor is required to use IFRS in their professional standards then IFRS standards will be used in the valuation. After the IASB has completed their revisions to the valuation requirements for insurance companies, the revisions will be reviewed for feasibility and applicability to the Barbados insurance sector. Should there be clear benefits to adopting the revisions within the context of the Barbadian insurance sector, this position can be revisited but the Commission is not minded to mandate the use of IFRS standards for the valuation of insurance liabilities in this version of the guideline.

### **3.0 Corporate Governance Guideline**

#### **3.1 Introduction**

The requirement to promote good corporate governance is receiving increased international attention. Given recent developments in the financial services sector in the region and beyond, the importance of good corporate governance is now unquestioned. The Financial Services Commission wishes to provide guidance to boards of directors and management of insurance companies and intermediaries about the Commission's expectations on corporate governance and related matters. This guidance includes specific recommendations contained with IAIS Core Principles of Supervision.

#### **3.2 Post-Consultation Guideline Document**

The comments received from the industry with respect to this guideline relate to the implementation of the guideline and to the wording of the document. The comments sought clarification on implementation standards to be used by the Commission to allow for the use of a home office corporate governance policy for the branch office and for the setting of a minimum number of Board and Committee members. No comments were received with respect to the wording of the guideline and as such no amendments have been made to the version circulated during the consultation period.

## **4.0 Internal Control & Risk Management Guideline**

### 4.1 Introduction

Insurers must be prudently managed. The prime responsibility for the sound and prudent management of an insurer rests with the Board of Directors of the insurer. Corporate governance refers to the rules and procedures put in place within a corporation for the management and control of its business and affairs and the Board should set the policies for corporate governance in the insurance company. Risk management and internal controls systems are an integral part of a corporate governance framework and although the risk management and internal control systems and practices may differ depending on the size and complexity of the insurer, and the nature of the insurer's risk exposures, the fact remains that those controls are needed. This guidance note sets out factors that the board of directors and the management of an insurer should consider when establishing and implementing risk management and internal control systems and procedures.

### 4.2 Post-Consultation Guideline Document

Following a review of the comments from the industry, some changes were made to the circulated document. The more substantive comments received are outlined in the following section with the FSC responses included.

### 4.3 Comments Received and FSC Responses

#### *1. The need for quarterly reporting from intermediaries on internal controls*

Comments were received with respect to insurance intermediaries and insurance brokers in particular which suggested that quarterly reporting on internal controls would be onerous for SME brokers. The comments also indicated that all the risks listed in the guideline may not apply to brokers and some should be considered optional depending on the size and complexity of the broker. The Commission notes that quarterly reporting for smaller brokers may or may not be required depending on the complexity of broker operations; however, it is prudent to leave the guideline as is at this time. The Commission has the discretion to exempt the intermediary from quarterly internal control reporting if it is deemed that the reporting would be of no added value due to the simplicity of operations. The guideline will also give the Commission the option to require the reporting or request additional statements if it is believed there is a regulatory benefit to monitoring the broker in this manner.

## **5.0 Market Conduct Guideline**

### **5.1 Introduction**

Requirements for the conduct of insurance business help to strengthen consumer confidence in the insurance market. The Financial Services Commission (Commission) expects insurers and intermediaries, who write, advise or are otherwise involved in the placement of domestic insurance business in Barbados to uphold themselves to a certain level of conduct. This guideline sets out the expectations for market conduct for writers of domestic insurance business.

### **5.2 Post-Consultation Guideline Document**

Following a review of the comments from the industry, some changes were made to the circulated document. The more substantive comments received are outlined in the following section with the FSC responses included.

### **5.3 Comments Received and FSC Responses**

1. Comments received from the industry recommended that in section 9.3, the Commission could consider a carve out for delays in payment of claims when receipt of information is delayed from a third party and has no bearing on the insurer or insured. The FSC can see the benefits for the inclusion of this item into the relevant section and has amended the document accordingly.
2. Comments received also recommended that the FSC encourage insurers to share credit risk information similarly to the way banks share information. This matter would involve research on the possible application and implementation of such information share. The FSC therefore proposes to review the matter and the possibility of future inclusion but to leave the guideline as is at this time with respect to this matter.

## **6.0 Related Party Guideline**

### **6.1 Introduction**

Related party transactions are a complex issue for regulatory agencies to supervise. These transactions can be troublesome because unlike normal transactions in the market place where two independent parties negotiate terms and prices to their satisfaction before a transaction is consummated; related party transactions do not involve independent parties. As a result, there is a potential for related party transactions to be at other than fair market value and not in the best interest of the insurance company due to the nature of the relationship. This guideline sets out the expectations of the Commission for insurance companies to monitor the related part risk exposure.

### **6.2 Post-Consultation Guideline Document**

The comments received from the industry with respect to this guideline relate to the inclusion of a risk based statement in the introduction which was highlighted previously in the asset liability guideline above. No comments were received with respect to the wording of the guideline and as such no amendments have been made to the version circulated during the consultation period.

## **7.0 Statutory Reporting Guideline**

### 7.1 Introduction

The Financial Services Commission Act and the Insurance Act Cap 310 requires companies registered under the Act to submit financial statements and statutory returns in a prescribed form. The prescribed forms are in need of being updated as they no longer capture all the information required to monitor the prudential risk of the insurance sector. The Financial Services Commission has sought to produce updated statutory reporting forms. The guideline presents to the insurance industry the proposed updated statutory filing forms with instructions and details on how the forms should be completed.

### 7.2 Post-Consultation Guideline Document

Following a review of the comments from the industry, some changes were made to the circulated document. The more substantive comments received are outlined in the following section with the FSC responses included.

### 7.3 Comments Received and FSC Responses

1. Comments received recommended that instead of the form A.5 listing senior officers, the insurer should be allowed to list the senior officers as they may differ from company to company. The FSC agrees that companies may vary in their management positions and as such form A.5 will be amended to include an "other" line item where the company can add to the list of officers the FSC has detailed.

## **Conclusion**

The FSC recognises that all regulatory change has an impact on the commercial decision making and the internal procedures of those entities affected by it. The FSC is therefore seeking to create an environment in which business decisions can be made in a rational and orderly manner and in a way which avoids causing unnecessary disturbance to markets and to the interests of industry stakeholders, while also enhancing transparency in the process.

The FSC appreciates the benefit of having the industry involved in the consultative process and welcomed the comments from the sector. The guidelines have been issued concurrently with this document.