Guide to Intervention for Federally Regulated Property and Casualty Insurance Companies

The Intervention Process

The objective of the intervention process is to enable the Office of the Superintendent of Financial Institutions (OSFI) to identify areas of concern at an early stage and intervene effectively so as to allow OSFI to minimize losses to policyholders and other creditors of federally regulated property and casualty insurance companies (companies or company).

The *Insurance Companies Act of Canada* provides a wide range of discretionary intervention powers that allow OSFI to intervene to address any concerns that should arise with a company. All assessments made throughout the intervention process consider the unique circumstances of the company including its nature, scope, complexity and risk profile.

The roles of OSFI and PACICC

OSFI has primary responsibility for regulating and supervising companies. In exercising this responsibility, OSFI conducts risk-based assessments of the safety and soundness of these companies. The mission of the Property and Casualty Insurance Compensation Corporation (PACICC) is to protect eligible policyholders from undue financial loss in the event that a member insurer becomes insolvent.

There are no regular supervisory interactions between PACICC and member companies. PACICC works to minimize the costs of insurer insolvencies and seeks to maintain a high level of consumer and business confidence in Canada's P&C insurance industry through the financial protection it provides to policyholders.

Overview of the Guide to Intervention

The objective of the Guide to Intervention is to promote awareness and enhance transparency of the framework for intervening with companies. The Guide outlines the types of involvement that a company can normally expect from OSFI and PACICC by summarizing the circumstances under which certain intervention measures may be expected and describing the co-ordination mechanisms in place between OSFI and PACICC and other pertinent parties.

Interpreting the Guide to Intervention

The intervention process is not a rigid regime under which every situation is necessarily addressed with a predetermined set of actions. Circumstances may vary significantly from case to case and the Guide should not be interpreted as limiting the scope of action that may be taken by OSFI and/or PACICC in dealing with specific problems or companies. The Guide aims to communicate at which stage an action/intervention would typically occur. However, interventions described at one stage are also used at later stages and, in some situations, certain interventions may also take place at an earlier stage than set out in the Guide. Additionally, OSFI and PACICC may choose to implement their powers at different times and/or stages in different circumstances.

No significant problems/Normal activities – If OSFI determines that the company's financial condition, policies and procedures are sufficient and that practices, conditions and circumstances do not indicate significant problems or control deficiencies, the company will typically not be staged. When a company is not staged, OSFI has determined that the combination of the company's overall net risk, capital and earnings makes the company resilient to most normal adverse business and economic conditions. The company's performance has been satisfactory to good, or key indicators are not significantly less than industry norms. The company may have access to additional capital[1] and is able to address any supervisory concerns that might arise.

OSFI	OSFI/PACICC Co-ordination	PACICC
OSFI's activities/responsibilities may involve: Assessing the financial situation and operating performance of the company. Reviewing publicly available information, information obtained from statutory filings, financial reporting requirements and management reporting to the Board, including minutes of the Board and Board Committee meetings. Conducting meetings with the company. Conducting regular risk-based supervisory reviews of the company (onsite and/or monitoring). In some cases, OSFI officials attending Board meetings of the company to discuss the on-site supervisory review results. Providing the company with a supervisory letter	**Co-ordination activities/responsibilities may involve:** Superintendent meeting annually with the PACICC Board. PACICC discussing the results of their analysis of information disclosed to them by the company. PACCIC informing OSFI of any material fact that may be brought to PACICC's attention regarding the company. OSFI and PACICC's Pre-insolvency Regulatory Liaison Committee[2] ("PIRL Committee") discussing any remedial measures that OSFI has requested the company to undertake.	**PACICC's activities/responsibilities may involve:** Pursuing analysis based on the information disclosed directly by the company. Monitoring and reviewing public information.

[1] Certain companies, such as mutual companies, do not have access to capital, or stock companies may not have access to capital should their parent organization choose not to support their subsidiary or branch operations.

[2] The PIRL Committee members are exclusively Public Directors (i.e., Directors that are not affiliated with any PACICC member companies).

that summarizes the results of supervisory work and provides the composite risk rating. Providing the Chair of the Audit Committee with copies of supervisory letters. Requesting that the company's management provide a copy of the supervisory letter to external auditors and appointed actuary. Advising the company of any corrective measures that the company is requested to undertake. Monitoring any corrective measures which may include requesting additional information and/or conducting follow-up supervisory reviews. Reporting to the Minister of Finance on an annual basis.		

Stage 1 -- Early warning - If a company is categorized as Stage 1, OSFI has identified deficiencies in the company's financial condition, policies or procedures or the existence of other practices, conditions and circumstances that could lead to the development of problems described at Stage 2.

The combination of a Stage 1 company's overall net risk, capital and earnings when considered together, demonstrate an increasing composite risk profile of the institution. Stage 1 is an early warning that serious safety and soundness concerns, and possibly a risk to the company's financial viability, may develop as a result of one or more of the following conditions:

- The combination of the company's overall net risk and its capital and earnings compromises the company's resilience.
- The company's performance is deteriorating, and is considered to be marginally below industry norms.
- The company has issues in its risk management or control deficiencies, although not serious enough to present a threat to financial viability or solvency, which could deteriorate into more serious problems if not addressed.
- If the company is a foreign insurance company (e.g. a branch), difficulties are evident in its home jurisdiction, or its home jurisdiction's Regulator has instigated Regulatory actions.

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In addition to its Stage 0 activities, at Stage 1, OSFI's activities/ responsibilities may involve: Formally notifying the institution's management, Board of Directors, external auditor and appointed actuary of the company by way of a supervisory letter that the company is at Stage 1 and that the company is required to take measures to mitigate/rectify the identified deficiencies. Meeting with management, and/or Board of Directors (or a Committee of the Board) and/or external auditor of the company to outline concerns and discuss remedial actions. Sending a notice of the assessment surcharge to the company.	**Co-ordination activities/responsibilities may involve:** Superintendent meeting annually with the PACICC Board. OSFI informing PACICC's PIRL Committee that it is staging the company, the reasons for the staging and any action that OSFI is planning to take. PACICC discussing the results of their analysis of information disclosed to them by the company. PACCIC informing OSFI of any material fact that may be brought to PACICC's attention regarding the company.	**In addition to its activities at the preceding stage, PACICC activities/responsibilities may involve:** Analyzing relevant public information and information obtained directly from the company or from Regulators.

Monitoring the company on an escalating basis by increasing the frequency of reporting requirements and/or expanding the level of detail of information that the company is required to submit (i.e. increased reporting of the institution's progress in achieving its business plans, increased reporting with respect to related-party transactions, etc.). Conducting enhanced or more frequent onsite supervisory reviews, or directing the company's internal specialists to conduct reviews that focus on particular areas of concern, such as actuarial reserves. Entering into a prudential agreement with the company for the purposes of implementing any measure designed to maintain or improve the safety and soundness of the company. Ordering the company to increase its capital. Imposing business restrictions on the company in appropriate circumstances and/or issuing a direction of compliance which may cover payments of dividends or management fees, business volumes or activities, amounts of capital or vested assets and reinsurance arrangements.		

Stage 2 -- Risk to financial viability or solvency – At Stage 2, the company poses serious safety and soundness concerns and is vulnerable to adverse business and economic conditions. OSFI has identified problems that could deteriorate into a serious situation if not addressed promptly, although the problems are not serious enough to present an immediate threat to financial viability or solvency. One or more of the following conditions would likely lead OSFI to classify a company as Stage 2: • The combination of the company's overall net risk and its capital and earnings makes it vulnerable to adverse business and economic conditions, which may pose a serious threat to its financial viability or solvency unless effective correction action is promptly implemented. • The company's performance is below industry norms, which is reducing the quantity and/or quality of capital or vested assets. • The company has issues in its risk management that, although not serious enough to present an immediate threat to financial viability or solvency, could deteriorate into serious problems if not addressed promptly. • If the company is a foreign insurance company (e.g. a branch), difficulties are evident in its home jurisdiction, or its home jurisdiction's Regulator has instigated Regulatory actions.

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In addition to its activities at the preceding stages, OSFI's activities/responsibilities may involve: Enhanced monitoring of remedial measures through more frequent reporting requirements. Conducting follow-up supervisory reviews more frequently and/or enlarging their scope. Requiring the company to produce/expand the scope of a business plan to be approved by OSFI that reflects appropriate remedial measures aimed at rectifying problems within a specified time frame. Requiring the company's external auditor to enlarge the scope of the review of the financial statements and/or to perform other procedures and	**Co-ordination activities/responsibilities may involve:** OSFI informing PACICC's PIRL Committee that it has moved the company to stage 2, the reasons for the change in stage rating and any action that OSFI is planning to take. PACICC sharing knowledge about the staged company with OSFI, as appropriate. OSFI informing PACICC's PIRL Committee of results and data obtained from enhanced supervisory reviews, expanded audits and enhanced monitoring. OSFI commencing contingency planning in consultation with PACICC's PIRL Committee	**In addition to its activities at the preceding stages, PACICC's activities/responsibilities may involve:** Requesting and analyzing information from OSFI, including: • Business plan obtained from the company reflecting its remedial measures; • Reports and results of OSFI regulatory and special examinations; • Mandate, scope and results of work done by auditors; and • Mandate, scope and results of work completed by actuaries. Hiring consultants[3] to provide in-depth analysis of critical areas.

[3] OSFI will treat these consultants in the same manner as senior PACICC management so long as appropriate confidentiality agreements are in place.

prepare a report thereon. Note - OSFI may assign the cost of the external auditor's work to the company. Requiring the company to conduct a special audit to be performed by an auditor other than the company's external auditor. Note - OSFI may assign the cost of the auditor's work to the company. Imposing business restrictions on the company as appropriate given the circumstances and/or issuing a direction of compliance which may cover such matters as: • dividend payments or management fees; • investment powers; • restrictions on underwriting activities, including revenue restrictions; • increasing capital or vested assets; • disposing of certain investments; and • other restrictions depending on the circumstances. Developing a contingency plan to enable OSFI to be ready to take rapid control of the assets of the company in case of rapid deterioration.	(although in unusual circumstances, this could occur at Stage 1). Management of PACICC meeting with OSFI as required to discuss all Stage 2 companies in depth. OSFI providing PACICC's PIRL Committee with information that may include: • reports and results of OSFI's regulatory and special inspections; • the most recent actuarial reports, Dynamic Capital Adequacy Testing and Own Risk and Solvency Assessment; • the mandate of actuaries, as well as the scope and results of their work; • the mandate given to the independent auditor, as well as the scope and results of the auditor's work; and • the company's business plan outlining the remedial measures.	

Stage 3 -- Future financial viability in serious doubt – If a company is categorized as Stage 3, OSFI has identified that the company has failed to remedy the problems that were identified at Stage 2 and the situation is worsening. The company has severe safety and soundness concerns and is experiencing problems that pose a material threat to its future financial viability or solvency unless effective corrective measures are promptly undertaken. One or more of the following conditions are present: • The combination of the company's overall net risk and its capital and earnings makes it vulnerable to adverse business and economic conditions, which poses a serious threat to its financial viability or solvency unless effective correction action is immediately implemented. • Its performance is poor, with most key indicators well below industry norms. • The company has significant issues in risk management or control deficiencies which present a serious threat to its financial viability or solvency unless effective correction action is promptly implemented.

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In addition to its activities at the preceding stages, OSFI's activities/responsibilities may involve: Directing external specialists or professionals to assess certain areas such as quality of asset values, sufficiency of reserves, underwriting practices, etc. Enhancing the scope of business restrictions that have already been imposed on the company and/or expanding the amount of information that the company is required to submit. OSFI staff being present at the company to monitor the situation on an ongoing basis. Expanding contingency planning. Communicating to management and the Board of Directors of the company the importance of considering resolution options such as restructuring the company, selling or reinsuring blocks of business, or seeking out a prospective purchaser.	**Co-ordination activities/responsibilities may involve:** PACICC's PIRL Committee and OSFI conducting more in-depth and frequent discussions about the company. Establishing a working group between OSFI and PACICC's PIRL Committee to co-ordinate the intervention with the company. The working group would be chaired by OSFI.	**In addition to its activities at the preceding stages, PACICC's activities/responsibilities may involve:** Estimating its coverage exposure. PACICC's PIRL Committee analyzing the pros and cons of each intervention option and comparing them against those that may arise from winding up the company, including the costs that may be absorbed by PACICC. Planning, as needed, the funding of its commitments.

Stage 4 – Non-viability/ insolvency imminent – If a company is categorized as Stage 4, OSFI has determined that it is experiencing severe financial difficulties and has deteriorated to such an extent that:

- the company has failed to meet regulatory capital and surplus requirements in conjunction with an inability to rectify the situation within a short period of time;
- the statutory conditions for taking control have been met; and/or
- the company failed to develop and implement an acceptable business plan, resulting in either of the two preceding circumstances becoming inevitable within a short period of time.

At Stage 4, OSFI has determined that the company will become non-viable on an imminent basis.

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In addition to its activities at the preceding stages, OSFI activities/responsibilities may involve: Assuming temporary control of the assets of the company (or in the case of a foreign company, of its assets in Canada together with its other assets held in Canada under control of its chief agent, including all amounts received or receivable in respect of its insurance business in Canada) if the statutory conditions for taking control of assets exist and if circumstances are such that there is an immediate threat to the safety of policyholders and/or other creditors. Maintaining control of assets or taking control of the insurance company if the statutory conditions for taking control exist, such as the company's failure to comply with an order to increase capital, unless the Minister advises OSFI that it is not in the public interest to do so. Taking control of the company.	**Co-ordination activities/responsibilities may involve:** OSFI informing other relevant regulatory agencies of proposed regulatory intervention measures that will be applied to the company. Attorney General seeking a Winding-Up Order. OSFI discussing with PACICC's PIRL Committee the steps to be followed that may involve: • taking control (assets of company); • arranging for interim management; • planning for the conclusion of the control period and proceeding to liquidation, and • identifying a liquidator and/or appointment of a standby agent.	**In addition to its activities at the preceding stages, PACICC's activities/ responsibilities may involve:** Obtaining Board commitment to provide coverage in the event of liquidation. Proceeding with planning an assessment to raise funds required to meet coverage obligations in anticipation of the Winding-up Order being issued. This can happen at any time. Where appropriate, planning for an orderly commencement to liquidation with the assistance of the appointed liquidator, including: • collaborating on the company`s winding-up process; • acting as inspector for the winding-up; • preparing a communication plan with the industry; • obtaining commitment from PACICC's

Requesting that the Attorney General of Canada apply for a Winding-Up Order in respect of the company where the assets of the company are under the control of the Superintendent or the company is under the control of the Superintendent. Identification and scope determination of prospective liquidators.	PACICC's PIRL Committee discussing with OSFI the implementation of the liquidation contingency plan prepared during Stage 3.	Board of Directors to provide coverage; • establishing funding and reporting arrangements during liquidation, in accordance with PACICC`s By-Law No. 1 and Memorandum of Operation; • planning an assessment to raise funds required for compensation; • developing strategies with the liquidator for operating the company in liquidation; and • compensating policyholders.