Ewart S Williams: Preparing enhanced insurance regulations for Trinidad and Tobago

Speaking notes by Mr Ewart S Williams, Governor of the Central Bank of Trinidad and Tobago, for the "Public Consultation of the Draft Insurance Bill & Accompanying Regulations", Port-of-Spain, 10 December 2009.

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Introduction

Good morning ladies and gentlemen.

My role is to make a few introductory remarks to get the main discussion going. Obviously we all would like this to be a serious working session and not an opportunity for speech-making.

Let me start by saying how delighted I am ***to be with you*** this morning as today's Public Consultation which marks the final phase of a process that started roughly five years ago. As you would recall the regulation of the insurance sector was transferred from the Office of the Supervisor of Insurance in the Ministry of Finance, to the Central Bank in 2004.

The process of preparing a new Insurance Act has been a collaborative approach between the Central Bank and a stakeholders' Committee, comprising members of ATTIC, the Brokers Association and other industry consultants.

This collaborative approach bears testimony to the firm commitment of the Central Bank to ensuring that the legislation for the sector strikes the right balance between international best practices and local market conditions and circumstances.

Prior to April 2004, the Central Bank had oversight of 6 commercial banks and 15 non-banks. After the shift in regulatory authority, the Bank took on responsibility for 51 insurance companies, and 256 registered pension plans. This was a major undertaking and necessitated a significant increase in staffing and infrastructural requirements, including training.

The insurance sector, as you know, is a major contributor to the domestic economy. It accounts for close to $40 billion, second only to the $88 billion for commercial banks. The sector is a major repository for private savings and by covering risks and unexpected developments; it facilitates private and public sector activity. In short, the industry is one of enormous economic and social value and critical to our developmental efforts.

The legislation that underpins insurance activity in Trinidad and Tobago is grossly outdated. The basic Act dates back to 1966 and was modified in 1980. As all of you know better than I, the insurance industry of today bears little resemblance to that of 1966 or even 1980.

As I am sure you know, inadequate financial regulation or regulatory failure has been widely cited as one of the factors behind the international financial crisis of 2008–2009. As a consequence of this global financial crisis comprehensive reforms are underway to address the weaknesses which were exposed in the regulatory regimes of most developed countries.

On the domestic front, the events of early 2009, which saw the Central Bank intervening in two insurance companies and an investment bank in the same group, ***served to reinforce the need for enhanced regulation of the sector***. These events propelled the enactment of few amendments to the Insurance Act in February 2009. These amendments were needed to treat with some urgent immediate issues and covered:

(i) quarterly reporting;

(ii) ensuring that the Statutory Fund is sufficient to provide policyholder protection ***on an ongoing basis***, rather than only at the end of the year as required by the previous legislation;

(iii) timely corrective action by replacing a ***cumbersome, time consuming intervention regime*** with a more flexible and effective process that allowed for the issuance of compliance directions, and

(iv) authorizing the sharing of information with other regulators.

It is absolutely vital that our laws and regulations ***keep abreast of wider market developments***. Indeed, even in the absence of any problems there is always a need for legislative review. In most developed jurisdictions, periodic reviews are written into legislation to ensure that it remains current since financial innovation will eventually outpace and weaken legislative provisions.

As noted earlier, the Bank has engaged in extensive consultation with stakeholders in the insurance industry. This process began in October 2004 and was a major departure from the way the legislation was formulated in the past. ***The close collaboration and consultation with the industry has served to enhance the quality of the draft legislation which we are discussing today.***

Ladies and Gentlemen, it is important to emphasize that in the first instance, the ***most important reason for upgrading our insurance legislation is to protect the policy holder***. That is why, for example, the draft legislation requires an increase in capital for insurance companies. Obviously, something must be wrong when companies are required to hold only ***$1–3 million in capital***, while they mobilise policy-holders' funds totalling hundreds of millions or billions of dollars. We recognise that many companies have held way beyond the statutory minimum capital.

The draft legislation also seeks to ensure that insurance companies ***correctly value their liabilities so that they could hold adequate reserves to protect their policy-holders***. Currently there are no prescribed actuarial standards for insurance in Trinidad and Tobago. This has resulted in serious ***under-estimation of liabilities and reserves*** and also makes it difficult to make inter-company comparisons.

The draft legislation recognises that some insurance companies would be content with more traditional and safer modes of operations, while others would engage in more risky activities. For this reason, ***the draft proposes a risk-based capital regime***. The greater the level of risk, the larger the capital requirement.

And very importantly the draft legislation seeks to give some authority to the Central Bank to promote compliance. Thus it is proposed that the Central Bank be given the authority to require timely corrective action and to impose sanctions including fines, when these are deemed appropriate.

Conclusion

Ladies and gentlemen, regulation is a continuously evolving process. The reforms to the insurance legislation, which we propose to discuss with you today, ***will bring our regulatory framework closer in line with international standards and will promote a more transparent and reliable regulatory structure***.

It has been a long journey to reach to this point but the journey has been paved with a great deal of healthy dialogue and ***"give and take"*** between the insurance industry and the Central Bank. I believe this was possible because at the end of the day, ***we share a common goal as we strive towards a more robust and better regulated industry***. Similar to past consultations I anticipate that today's dialogue will be fruitful and will occur in an atmosphere of mutual trust and respect so that at the end of the process, the result would be legislation of which we can all be proud.

I will now pass you back to the Moderator who will introduce Mr. Carl Hiralal, the Inspector of Financial Institutions, to discuss the highlights of the draft Bill in greater detail.