# THE NEW INSURANCE ACT AND YOU

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# Key points

**2004 –** The Central Bank assumed responsibility to regulate and supervise the insurance and pensions industry. Preliminary work commenced on modernizing the legislation.

**2009 –** The 2008 financial crisis exposed gaps in the legislation which governed insurance companies and intermediaries. These gaps were demonstrated in the collapse and ongoing resolution of issues with CLICO. Specific amendments were fast tracked.

**2011 –** The Central Bank drafted a policy proposal document for a new Insurance Act in 2011.

**2013 to 2018** – After 3 failed Bills, spanning from 2013 to 2015, and 2 further years of extensive scrutiny between 2016 and 2018, the Insurance Act, 2018 (the new Act) was passed by Parliament in 2018

**2020** - The Insurance (Amendment) Act, 2020 was passed in both Houses of Parliament

## Key points

The significant overhaul of the previous legislation was informed by:-

- International best practice
- Issues in the local and wider financial market
- Results of Financial Stability Assessment Programmes
- Extensive consultation with stakeholders
- Recommendations by Parliamentary Joint Select Committees

The Insurance Act of 2018 and the Insurance (Amendment) Act, 2020 (new Act) came into effect on **January 1, 2021**.

# Key Points

The primary objective of the Central Bank under the new Act is **“in respect of registrants, is to maintain confidence in, and promote the soundness and stability of, the financial system in Trinidad and Tobago.”**

The new Act:

- Strengthens the regulatory framework to assure greater policyholder protection
- Modernizes the legislation to effectively supervise the insurance industry
- Facilitates the Central Bank in its promotion of efficient, fair and transparent insurance markets and financial stability of the sector

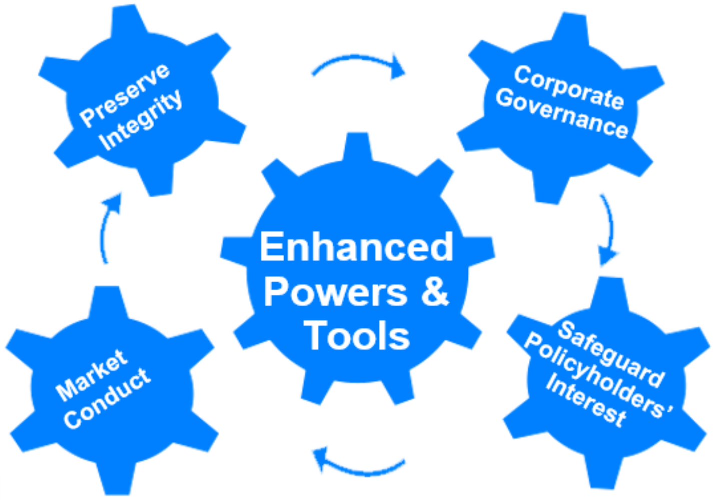
Close collaboration between the Central Bank and all stakeholders will further increase and strengthen public confidence in the insurance sector

# Working Together for a Robust and Stable Insurance Industry

## Key points

Major enhancements to the insurance legislation:

- Improved Corporate Governance for Policyholder Protection
- Stronger Supervisory Powers and Tools for the Central Bank
- Greater Safeguards for Policyholders' Funds
- Preservation of the Integrity or Soundness of the Financial Sector
- Improved Standards of Market Conduct to ensure greater transparency in the marketing and sales of insurance products



# 1. Improved Corporate Governance

**Enhanced corporate governance is a critical pillar of financial stability.**

- ➢ A strong corporate governance framework ensures that the relationships between an insurer's board, management and shareholders are transparent, fair and balanced, resulting in prudent management and protection of policyholder interests.

Examples of Objectives that are achieved by the enhanced corporate governance requirements in the new Act include:

- ➢ **Independent & Objective Oversight –**
  - Mandatory audit committee, with at least two independent directors.
  - Segregation of Duties - Appointed Actuary cannot be CEO or CFO
  - Minimum Criteria for Independence of Auditor

# 1. Improved Corporate Governance

- **Defined Responsibilities/Accountabilities related to Risk Management**
  - Directors and management required to certify their responsibility for and satisfaction with:
    - Adequacy of internal controls, information and risk management systems
    - Compliance with the Act, Regulations and Guidelines
    - Adequacy of procedures for claims settlements
- **Transparency & Integrity**
  - Directors prohibited from voting on contracts for which they have a conflict of interest
  - Notification to the Central Bank of adverse material effects
  - Appointment of Internal Auditor and an Appointed Actuary

# 1. Improved Corporate Governance

- **Prudent Management (for example)**
  - **Directors' Remuneration and Dividend Payments**

Compensation package structures are critical in preventing a corporate culture where short-term risky behavior is rewarded. Boards are now required to:

- ✓ Establish procedures for remuneration
- ✓ Disallow payments of bonuses where an insurer does not meet minimum capital requirements
- ✓ Restrictions on payments of dividends when the insurer is in financial difficulty

# 1. Improved Corporate Governance

- **Enhanced Assessments of the Integrity, Competence and Character of Persons who hold Key Positions in an Insurer**

  - **Persons debarred from being directors/officers** unless expressly approved e.g.:
    - Bankrupts
    - Persons involved in management of a company that was insolvent in the last 10 years

# 1. Improved Corporate Governance

- **Fit and proper requirements for directors, management, auditors and actuaries:**
  - ✓ Composition of the Board must collectively possess the relevant skillset
  - ✓ Entities (Insurers, Brokers, Agents etc) must conduct business in prudent manner to safeguard policyholders' interests and to manage inherent risks.
  - ✓ Assessment of individuals considers a wide range of factors for example:
    - Past behavior that is deceitful or oppressive whether unlawful or not;
    - Engaged in practices to cast doubt on soundness of judgement

# 2. Stronger Regulatory Powers and Tools for the Central Bank

**Financial stability also requires an independent regulator with adequate and effective powers to achieve its objectives.**

The new Act enhances the powers of the Central Bank and the Inspector of Financial Institutions to allow them to effectively –

- Intervene in registrants' affairs where necessary through mandatory directions or court proceedings.
- Monitor and examine the affairs of registrants in order to identify risks and take regulatory action to address unsafe and unsound conduct; and

# 2. Stronger Regulatory Powers and Tools for the Central Bank

- **Examination/Investigatory Powers include**:
  - To conduct consolidated supervision of all companies in a financial group and/or to restructure the group
  - To request information from past or present directors, officers, actuaries, or shareholders of registrants
  - To examine records of educational institutions to verify continuing professional development returns

# 2. Stronger Regulatory Powers and Tools for the Central Bank

- **Measures to Deal with Unsafe or Unsound Practices include:**
  - Restrict transactions with any parties or other measures necessary to safeguard policyholders' interests
  - Direct disposal of shares by shareholders
  - Direct insurers and/or parent company to increase capital and liquidity levels
  - Direct any registrant to comply with Guidelines issued by the Central Bank
  - A person can be deemed a connected party if the relationship may be a conflict or a regulatory risk

# 2. Stronger Regulatory Powers and Tools for the Central Bank

- **Obligations of the Bank include:**
  - **Mandatory Intervention Action** – Regulatory capital ratio falls to 70% or less
  - **Report to Professional Associations**: If evidence that Auditor/Actuary failed to perform their duties, committed misconduct or is incompetent
- **Powers to Aid Effective Administration of the Act:**
  - Administrative Fines can be issued for specified offences under the new Act – 88 offences for which Administrative Fines can be issued
  - Authority to allow extensions of prescribed deadlines in event of natural or unavoidable catastrophes

# 3. Preserve the Integrity of the Financial Sector

The Central Bank is responsible for ensuring that the financial sector is stable, well functioning and promotes public confidence.

Financial stability requires prudential measures as well as accurate, timely and relevant regulatory reporting.

Together these factors will preserve the integrity and soundness of the insurance sector.

# 3. Preserve the Integrity of the Financial Sector

## Enhanced Regulatory Reporting

- Financial statements consistent with International Financial Reporting Standards must now be published in daily newspaper
- Timely Reporting Requirements – 3 months after fiscal year end vs. previous Act which was 6 months for Returns and 9 months for actuarial reports
- Various Quarterly submissions for e.g. on  insurer’s financial position, credit exposures, shareholding of insurers, capital adequacy positions

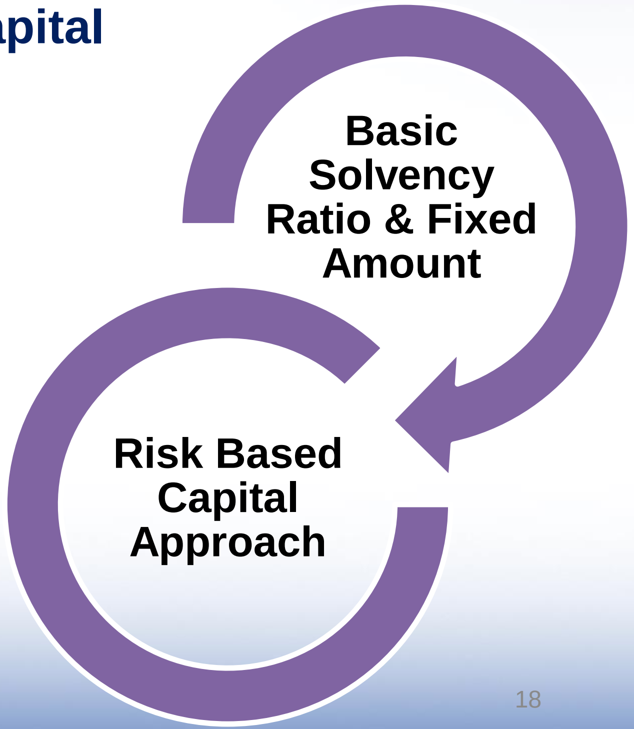
# 3. Preserve the Integrity of the Financial Sector

- **Prudential measures, some of which include:**
  - Requirement for General insurers to have an Appointed Actuary
  - Directors, Actuaries and Auditors required to report on any matters that have adverse material effects on the financial condition of insurers
  - Restrictions on engaging in business other than insurance
  - All Unclaimed monies on policies are to be paid into the Central Bank

# 4. Safeguarding Policyholders’ Funds

**The new Act implements this aspect in 5 main ways:**

1. **Enhanced capital buffers and new risk based capital requirements to absorb unforeseen losses**
   - **Previous Act:**
     - Fixed minimum stated capital
     - Statutory Fund and Statutory deposit
     - Out dated Margin of Solvency requirement
   - **New Act:**
     - Significantly increased minimum stated capital
     - Risk based capital based on risk exposure
     - Maintain adequate capital and liquidity



# 4. Safeguarding Policyholders' Funds

**2. Enhanced testing of the strength of insurers' balance sheet and to ensure adequacy of capital through stress testing:**

- Insurers are required to project and analyse the impact of their capital adequacy under a variety of future adverse but plausible scenarios

- Promotes the understanding and management of risks by an insurer's board of directors and senior management by identifying:
  - Plausible threats to the insurer;
  - Actions by the insurer which shall lessen the likelihood/mitigate those threats; and
  - Any unviable financial condition scenarios

# 4. Safeguarding Policyholders’ Funds

## 3. Limiting Related Party Transactions

- Reduces the risk of abuse by groups to utilize insurance monies
- Promotes increased transparency and confidence

## 4. Common Actuarial Valuation Method for long-term insurance

- Ensures that the valuation of liabilities are based on a minimum standard
- Provides a sound basis for the determination of the new risk based capital requirements

## 5. Enhanced requirements for key risk areas:

- New Guidance on the management of reinsurance risk
- Mandatory reserve fund for catastrophe risks
- Implementation of rules regarding payments between intermediaries, insurers and policyholder

# 5. Improved Standards of Market Conduct

**The New Insurance Legislation introduces improved Standards of Market Conduct along four fundamental pillars:**

- Transparency and Clear Marketing
- Product Suitability
- Professional Standards for Market Practitioners
- Customer Redress

**Strengthening the conduct of insurers, either directly or through intermediaries seeks to promote public confidence in the system.**

# 5. Improved Standards of Market Conduct

➢ **Transparency and Clear Marketing**

Insurers' Sales and Marketing Materials must be **clear**, **fair**, **accurate** and **not misleading** e.g.:

- Size of small print/footnotes must be clearly visible
- Key information of different products must be clearly distinguished, based on facts or verified information and all assumptions must be reasonable and stated
- Adequate disclosure of all relevant information to allow informed decisions

Post Sales Communications Guidelines:
https://www.central-bank.org.tt/sites/default/files/page-file-uploads/Post%20Sales%20Communication-Policy%20Discontinuance%20Guideline.pdf

# 5. Improved Standards of Market Conduct

- **Product Suitability**
  - The Insurance product being offered to the customer must be aligned to the customer’s profile and the Customer’s needs.
  - Customer must confirm that he/she understands the product being purchased.
- **Professional Standards of Market Practitioners**
  - Insurance Intermediaries are required to obtain Continuous Professional Development hours
  - Enhanced Fit and Proper Requirements for Market Practitioners

# 5. Improved Standards of Market Conduct

- **Customer Redress**
  - Insurance companies need to have an operational process to handle and manage customer complaints
  - All insurance companies must register with an Alternate Dispute Resolution Scheme that customers can access in dispute is not resolved.
  - Office of the Financial Services Ombudsman has traditionally performed a similar function.

# Key Milestones

- Transition of existing foreign insurance companies to be regulated under the new Act by June 30, 2022
- Full transition to the minimum regulatory capital ratios for insurers by December 31, 2025
- New reporting regime for annual returns of insurers to commencing between 2021 and 2022
- Commencement  of Continuing Professional Development Hours for intermediaries in 2021
- Transition of individual agents and brokers registered under the old Act to corporate entities by December 31, 2021
- Full transition to new capital requirements for brokerages by December 31, 2023

# Thank You

Be safe 😷

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