



Insurance Supervision Policy Statement No: 2

Offshore Placement of Insurance Business

Reserve Bank of Fiji
January 2019

PART I: PRELIMINARY

1.0 Introduction

- 1.1 This policy is issued under Section 3(2)(a) of the Insurance Act 1998 (the Act) as part of the Reserve Bank of Fiji's (Reserve Bank) standards governing the conduct of insurance and insurance broking business in Fiji and Section 17 of the Act on the placement of insurance business with insurers not licensed under the Act. .
- 1.2 The purpose of this policy is to outline the minimum requirements for the placement of Fiji insurance business with insurance companies outside of Fiji.
- 1.3 This policy will be applicable to individuals/corporates wishing to directly place their Fiji insurance business with offshore insurers and licensed insurance brokers arranging insurance covers on behalf of an insured.

2.0 Background and Outline of the Approach

- 2.1 This policy was initially implemented in June 1999, reviewed in September 2002 and May 2009.
- 2.2 In undertaking the review, the Reserve Bank considered making the offshore market more accessible by delegating part of its offshore insurance placement approvals to insurance brokers, in order to meet the insurance needs of the general public.

PART II: MINIMUM REQUIREMENTS

3.0 Principal Requirements under the Act

- 3.1 Section 17(1) states that no person may place Fiji insurance business with insurers not licensed under the Act.
- 3.2 Section 17(2) empowers the Reserve Bank to approve Fiji insurance business to be placed offshore if an application is made, and the following criteria, under Section 17(5), is satisfied:
 - (a) No insurer licensed under the Act carries on the insurance business to which the application relates; or
 - (b) It is in the public interest that the application be permitted.
- 3.3 Section 17(3) prescribes that if an application to place the whole, or, part of any Fiji insurance business offshore is being arranged or effected by an intermediary, the intermediary must give notice to the intending insured before arranging or effecting the contract, informing the intending insured that an insurer not licensed under the Act is the insurer proposed under the contract. Such notice is articulated in a client acknowledgement form (refer to Annex 1), which the intermediary must obtain after the intending insured has agreed and has subsequently, signed the contract.
- 3.4 Section 17(4) requires the signed client acknowledgment form to be lodged with the completed application for placement of Fiji insurance business offshore.

4.0 Supplementary Requirements Specific to Licensed Insurance Brokers

- 4.1 Section 6 of the Act requires an intermediary to explain to the insured, the contents of the insurance contract before the insured enters into, or renews the contract. The intermediary is furthermore liable to the insurer, and the insured for the losses resulting from the contravention.
- 4.2 Section 7 of the Act prescribes that the intermediaries must pay monies received from, or on behalf of, an insured as a premium or an instalment of premium to the insurer within 30 calendar days following the receipt of such monies. However, all such monies should only be received by the intermediaries once the insured has accepted the contract of insurance as being arranged or effected by the intermediary.

5.0 Delegation of Approval to Licensed Insurance Brokers

- 5.1 In line with the Ministerial approval on 28 August 2018, the Reserve Bank has delegated to the licensed insurance brokers, the approval to place Fiji insurance business with offshore insurers. This delegation however, is subject to the limit and prescribed documentary requirements that are stipulated in the Insurance Brokers Guideline No: 1 - Offshore Placement Approval Guidelines (Insurance Brokers Guideline).

6.0 General Responsibilities

- 6.1 No person may place Fiji insurance business offshore either directly or indirectly without the prior written approval either from a licensed insurance broker (for applications below the delegated limit)¹ or from the Reserve Bank of Fiji.
- 6.2 All applications to place Fiji insurance business offshore must be complete before it is lodged, at least 10 working days prior to the commencement, or renewal date of policy.
- 6.3 Further to paragraph 6.2 above, only in instances where an application for a new placement is not lodged within the timeframe stipulated above, and which is the result of the insured's late instructions, an applicant must immediately, upon receipt of the relevant supporting documentation, lodge the application. However, evidence of the insured's late instructions must be submitted with the application to the corresponding designations i.e. insurance broker or the Reserve Bank, for consideration.
- 6.4 Licensed insurance brokers must comply with the Insurance Brokers Guideline No. 1, when arranging for the placement of Fiji insurance business with offshore insurers, on behalf of an insured.
- 6.5 For those applications that:
- i. are above the delegated limit prescribed under paragraph 2.1 of the Insurance Brokers Guideline; or
 - ii. satisfy paragraph 2.2 of the Insurance Brokers Guideline; or
 - iii. are from individuals/companies wishing to place their insurance business directly with an offshore insurer, without the arrangement or effected by a licensed insurance broker;
- must be lodged with the Reserve Bank.

¹ As per the Insurance Broker Guideline No: 1 – Offshore Placement Approval Guidelines.

- 6.6 Pursuant to paragraph 6.5, the following documents must be submitted as part of the application to the Reserve Bank:
- i. An application form (refer to Annex 2) for the request to place Fiji insurance business offshore. Such application form to be duly completed by the applicant; Applicants must clearly state the reason for placing the risk offshore in the application form. If the risk is placed offshore due to better wordings and coverage, the applicant must unambiguously state the areas of difference, and the benefits to the insured as a result of placing the cover offshore.
 - ii. A signed client acknowledgement form as stated in paragraphs 3.3 and 3.4. Such client acknowledgement form must be signed by the insured;
 - iii. Documentary evidence with a request for a quote from the local insurers before approaching the offshore insurer(s), together with wordings, coverage, underwriting and claims information;
 - iv. Documentary evidence that the applicant approached the local insurers at least 30 working days prior to the commencement or renewal date of the policy;
 - v. Documentary evidence that the local insurers responded to the applicant within 5 working days of being approached by the applicant, or in the event that they failed to respond at all, the last email reminder to that insurer;
 - vi. A copy of the placing slip² or certified quotation or certified email quotation of insurance coverage from the offshore insurer(s) or offshore brokers or offshore coverholders;
 - vii. Details on the percentage of the risk written by each participating local insurer (co-insurer) and the premium.
- 6.7 For the purposes of co-insurance, applicants must provide documentary evidence that the local insurers were given the opportunity to co-insure in instances where a local insurer is not able to submit lead terms but agrees to co-insure. In addition, in instances of co-insurance, applicants must fulfil requirements outlined in paragraph 6.6 above except item (iii).
- 6.8 All applications must also account for:
- (a) non-resident withholding taxation (based on the gross premium);
 - (b) stamp duty; and
 - (ii) national fire service levy for every fire insurance cover, for classes that have components of fire, and also, where relevant.
- 6.9 Applicants must indicate on the invoice to the insured all the deductions made from the gross premium.
- 6.10 Applicants must submit the Fiji component of risks to the local insurers for their quote in cases of global insurance covers to be placed offshore.

² Placing slip: document created by an offshore broker that contains a summary of the terms of a proposed insurance contract which is then presented to selected underwriters for their consideration.

7.0 Responsibilities of a Local Insurer

- 7.1 As a result of paragraph 6.6(iii), a local insurer must respond to the applicant in writing with the wordings and coverage within 5 working days of being approached by the applicant.
- 7.2 As a result of paragraph 6.7, a local co-insurer must indicate the percentage it would cover and quote on the lead terms provided by the applicant in writing within 2 working days of being approached.
- 7.3 Each local insurer must disclose to the Reserve Bank on its official letterhead a list of the products and the classes of business it covers locally on or before 31 December of every year. The insurer must also provide this list to the brokers at the same time. The Reserve Bank will use this list in assessing the offshore applications made for either new, or renewal of insurance covers, which the local insurers do not provide.
- 7.4 Further, any update to the list required in paragraph 7.3 during the course of the year should be submitted by the local insurer(s) to the Reserve Bank and the brokers at the earliest.
- 7.5 Each local insurer is required to document the approved procedures to be followed for handling offshore placements. The Reserve Bank will examine the insurer's documented procedures to ensure compliance with this policy.

8.0 Responsibilities of a Broker

- 8.1 If a particular local insurer fails to respond as required in paragraph 7.2, a broker must then include in the application the last written reminder to that insurer.
- 8.2 As a result of paragraph 7.3, a broker will not be required to seek quote(s) from those local insurer(s) who do not offer the insurance cover applied for.
- 8.3 Upon the insurer(s) advice on an updated list as required in paragraph 7.4, a broker must seek quote(s) and terms from the particular insurer(s) concerned in cases of a new cover, or on the renewal of an existing cover.
- 8.4 A broker must provide the local insurers the full underwriting details and claims experience record of the intending insured persons or parties.
- 8.5 A broker, being the intermediary for intending insured persons or parties outside Fiji, must fulfil requirements (i.), (ii.) and (vi.) as stated in paragraph 6.6.
- 8.6 In addition to paragraph 8.5, such a broker must submit to the Reserve Bank evidence of premium deposited in its bank account in Fiji.
- 8.7 A broker, being the facilitator between the intending insured persons or parties in Fiji and a broker not licensed in Fiji, must ensure compliance with this policy.

8.8 Each broker is required to document the approved procedures to be followed for handling and approving offshore placements. The Reserve Bank will examine the broker's documented procedures to ensure compliance with this policy.

9.0 Permission for Offshore Placement of Fiji Insurance Business

- 9.1 Permission to place Fiji insurance business offshore may only be granted if:
- a. No insurer licensed under the Act carries on the insurance business to which the application relates; or
 - b. Where a locally licensed insurer does carry on such business, the applicant can demonstrate on public interest grounds that the insurance business should not be placed locally; or
 - c. The local premium (excluding stamp duty) is more than 15 percent of the offshore premium (excluding overseas insurance tax).

PART III OVERSIGHT AND IMPLEMENTATION ARRANGEMENTS

10.0 Oversight by the Reserve Bank of Fiji

10.1 For the purpose of this Policy, all insurance brokers are required to provide to the Reserve Bank of Fiji, their approved procedures for handling and approving offshore placements, within 90 days from the date of the implementation of this Policy. Insurance brokers must also provide a copy of the same whenever material changes are made to the policy, and this must be submitted within 30 days of board approval.

11.0 Penalties under the Act

11.1 Section 17(7) of the Act states any person who, without the prior written permission of the Reserve Bank, directly or indirectly places any Fiji insurance business with an insurer not licensed under the Act commits an offence and is liable on conviction

- (a) in the case of an intermediary, to a fine of \$10,000 or a sum equivalent to brokerage, commission, fee allowance or other remuneration due to or received by the intermediary relating to the business placed offshore, whichever is higher; or,
- (b) in the case of any other person, to a fine of \$10,000 or a sum equivalent to the gross premium paid in respect of Fiji insurance business placed outside of the Fiji Islands, whichever is the higher.

11.2 Under Section 17(8), if the Reserve Bank has reason to believe that any person has, without its prior written permission, directly or indirectly placed any Fiji insurance business with an insurer not licensed under the Act, the Reserve Bank may call for and examine, inspect or investigate the books, accounts and records of that person in order to ascertain whether or not that person has contravened or is contravening any provision of the Act.

11.3 Further, Section 17(9) states a person who fails or refuses to submit books, accounts and records called for under subsection 17(8) or to allow the examination, inspection or

investigation of them under that subsection commits an offence and is liable on conviction to a fine of \$2,000 and to imprisonment for 6 months and, in the case of a continuing offence, to a further fine of \$200 for every day during which the offence continues.

- 11.4 For the delegated threshold, the Reserve Bank will impose as a condition of licence, terms and conditions that insurance brokers needs to comply with. As such, noncompliance by an insurance broker on such terms and conditions is deemed an offence and the penalty clause under section 48(2) of the Act will apply.
- 11.5 Under Section 48(2), an intermediary who fails to comply with any of the terms or conditions imposed on a licence commits an offence and is liable on conviction to a fine of \$5,000 and to imprisonment for 12 months and, in the case of a continuing offence, to a further fine of \$500 for every day during which the offence continues.
- 11.6 Further to paragraph 11.4, the Reserve Bank may remove the delegation of offshore insurance placement from an authorized licence insurance broker who fails to comply with the requirements of the guidelines.

12.0 Implementation Arrangements

- 12.1 This policy applies to all insurance companies and insurance brokers licensed under the Act and will be effective from 01 March 2019.

**Reserve Bank of Fiji
January 2019**

Annex 1: Client Acknowledgement Form

RESERVE BANK OF FIJI

SUVA, FIJI



SCHEDULE 2
(Regulation 3)
INSURANCE ACT 1998
FORM 1

PLACEMENT OF INSURANCE BUSINESS WITH AN UNLICENSED OFFSHORE INSURER

CLIENT ACKNOWLEDGMENT

INSURANCE ACT 1998 – SECTION 17(4)

ACKNOWLEDGMENT BY AN INTENDING INSURED THAT AN INSURANCE CONTRACT IS TO BE ARRANGED OR EFFECTED WITH AN UNLICENSED OFFSHORE INSURER

NOTICE TO THE INSURED

Your insurance contract is to be arranged or effected wholly or partly with an unlicensed offshore insurer that is not licensed under the Insurance Act 1998 to conduct insurance business in the Fiji Islands. Such insurers are not subject to the provisions of the Insurance Act and are not supervised by the Reserve Bank of Fiji.

It is a matter for your consideration whether you should obtain further information from the insurance intermediary involved, on such matters as:

- a) the name and postal address of the insurer;
- b) country of incorporation of the insurer and whether that country has a scheme of financial supervision of insurers;
- c) paid up capital of the insurer and its financial position; and
- d) which country's laws will determine disputes under the contract.

ACKNOWLEDGMENT

I,.....(full name)of.....
(address) have read the above notice and I acknowledge and understand that the insurance contract is to be arranged or effected wholly or partly with an unlicensed offshore insurer that is not licensed under the Insurance Act 1998 to conduct insurance business in the Fiji Islands and is not subject to the supervision of the Reserve Bank of Fiji.

..... Dated this.....day of.....in the year.....
(signature of insured)

.....
(company stamp if insured is a body corporate)

Annex 2 Form D

RESERVE BANK OF FIJI
INSURANCE ACT 1998 (CAP 217) & EXCHANGE CONTROL
ACT (CAP 211)

FORM

D

INSURANCE RELATED TRANSFERS



FOR OFFICIAL USE ONLY

APPLICATION TO PLACE INSURANCE OFFSHORE / TRANSFER CURRENCY TO AN INSTITUTION RESIDENT OUTSIDE FIJI FOR INSURANCE RELATED BUSINESS

COMPLETE THE FORM CLEARLY USING BLOCK CAPITALS. SUBMIT THE FORM IN DUPLICATE

Give the name of the Bank and Branch in Fiji through which the transfer is to be effected **BANK / BRANCH** _____

I/We the undersigned, hereby apply for permission to make the payments/offshore placement detailed below:

Full name and residential/business address of applicant	Full name and business address of beneficiary/offshore insurer (if more than one, please indicate percentage participation)
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Policyholder/policy details to include Name, Class, Period of cover and Sum Insured (indicate if for new/ renewal or endorsement)	Purpose for offshore placement/remittance
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Gross Premium:	Non Resident Withholding Tax:	National Fire Service Levy:	Brokerage/Commission:	Stamp Duty
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Name of Currency:	Amount to be Remitted:	Amount in Words:
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I/We certify that the above statements are true and the currency will be used solely for the purpose stated. Applicant /Brokers Company Stamp

Signature: _____

Date : _____

Stamp of the Bank verifying the applicant's signature
 If the application is for **ANY RECURRING PAYMENT, PLEASE QUOTE PREVIOUS PERMIT NO.**

FOR OFFICIAL USE ONLY

Evidence: The application should be supported by documentary evidence, the nature will vary according to the type of payment to be made. All supporting documents should be stamped by the applicant's banker.