



Insurance Supervision Policy Statement No. 7:

Fit and Proper Requirements for Insurance Companies and Insurance Brokers in Fiji

**NOTICE TO INSURANCE COMPANIES AND INSURANCE
BROKERS LICENSED UNDER THE INSURANCE ACT 1998**

1.0 Introduction

- 1.1 This Policy is issued under Section 3(2) [a] and complements the requirements of Section 25(1) [e & f] and Section 43(1) [a, b & c] of the Insurance Act 1998. Section 25(1) [e & f] and Section 43(1) [a, b & c] of the Insurance Act 1998 requires the Directors and other officers of Insurance Companies (Insurers) and Insurance Brokers (Brokers) in Fiji to be fit and proper in terms of their knowledge and expertise, financial standing and character to hold such a position.
- 1.2 This Policy establishes minimum requirements that persons holding key positions in Insurers and Brokers in Fiji, also known as responsible persons, must be assessed against for the purposes of being deemed fit and proper.
- 1.3 For locally incorporated Insurers and Brokers, responsible persons include:
 - (i) The Board of Directors (Board), including alternate directors; and
 - (ii) Senior Management and its proxy.
- 1.4 For foreign incorporated Insurers and Brokers, responsible persons mean Senior Management, which include the senior manager or managers responsible for the Fiji operations.
- 1.5 As the organisation structure differs for each Insurer and Broker, the Reserve Bank will agree with each institution as to which positions in the institution's current organisational structure, would be considered as falling within the category of Senior Management.
- 1.6 The responsibility of ensuring that the Board Directors are fit and proper lies with the shareholders. Senior Management of locally incorporated Insurers and Brokers are assessed by the company's Board while Senior Management of branch operations is assessed by their head office. Senior Management is responsible for the fitness and propriety of all employees within an institution and their representatives.
- 1.7 Each Insurer or Broker must ensure that all their current and prospective responsible persons are assessed against the requirements of this Policy.
- 1.8 The minimum standards reflected in this Policy have been aligned to international standards and sound practices including those introduced by the International Association of Insurance Supervisors. It also aims to further strengthen legislated requirements under the Insurance Act 1998.

2.0 Objectives of this Policy

2.1 The objectives of this Policy are to:

- (i) safeguard the interests of policyholders, beneficiaries, insurance claimants and stakeholders by ensuring that insurance companies and brokers are soundly and prudently managed and directed;
- (ii) set out a minimum framework which can be used by Insurers and Brokers when determining whether a person holding a key position within an institution (responsible person) is fit and proper;
- (iii) address the risk of mismanagement within and the inadequate or inappropriate control over or influence of Insurers and Brokers; and
- (iv) facilitate consultation and the exchange of information of all responsible persons of the Insurers and Brokers, between the Reserve Bank of Fiji and the institution, to achieve the above.

2.2 Establishing a minimum standard of fitness and propriety will strengthen the institution by reducing the possibilities of problems that could impact on an Insurer's or Broker's operation, risk profile or financial soundness.

3.0 Definition

3.1 Fit and proper status for responsible persons, as a minimum, is assessed against the following criteria:

- A. Good character;
- B. Competence and capability; and
- C. Financial soundness.

A. Good Character

For the purposes of this Policy, good character qualities include honesty, integrity, fairness and reputation that are demonstrated over time. The Board and/or its proxy should consider all appropriate factors, including, but not limited to:

- (i) Whether the person has been convicted or found guilty in a criminal or disciplinary offence;

The responsible person does not fulfill the characters of a disqualified person defined by Section 23(1) [a & b] of the Insurance Act as having:

- (a) been convicted of an offence under the Act;
- (b) been convicted of an offence against any law in Fiji Islands or elsewhere in respect of -
 - 1. conduct relating to insurance; or
 - 2. dishonest conduct.

- (ii) Where the person is a controlling shareholder or has significant influence in an Insurer or Broker that has been investigated, disciplined or suspended by a regulatory or professional body, a court or tribunal, publicly or privately;
- (iii) Whether the person has been the owner or held a responsible person position of a company or organisation that has been refused registration or had its licence revoked, withdrawn or terminated;
- (iv) Whether the person has been dismissed, asked to resign from employment because of questions about integrity and honesty;
- (v) Whether the person has ever been disqualified from acting as a Director or serving in a managerial position because of wrongdoing;
- (vi) Whether the person has not been fair, truthful and forthcoming in dealings with customers, superiors, auditors and regulatory authorities; and
- (vii) Whether the person demonstrates a readiness and willingness to comply with the requirements and standards of both the Reserve Bank and the Institution.

B. Competence and Capability

A responsible person of an Insurer or Broker must exhibit the competency and ability to understand the technical requirements of the business, the inherent risks and the management processes required to conduct its operations effectively, with due regard to the interests of all stakeholders.

In evaluating the competency and capability of a person, the Board of Directors and/or its proxy should consider all relevant factors, including, but not limited to:

- (i) Whether the person has demonstrated, through qualifications and experience, the capacity to successfully undertake the responsibilities of the position;
- (ii) Whether the person has any medical condition that may affect competency;
- (iii) Whether the person has ever been disciplined by a professional, trade or regulatory body, dismissed or requested to resign from any position or office for negligence, incompetence, fraud or mismanagement; and
- (iv) Whether the person has acquired a sound knowledge of the business and the responsibilities of the position.

C. Financial Soundness

Proper and prudent management of his/her own financial affairs is a demonstration of the person's capacity to contribute to the safety and soundness of a financial institution. When assessing the financial soundness of responsible persons, all relevant factors must be considered, including but not limited to:

- (i) Whether the person has been the subject of any judgment or award that remains outstanding or was not satisfied within a reasonable period; and
- (ii) Whether the person has made any arrangements with its creditors, filed for bankruptcy, been adjudged bankrupt, had assets confiscated, or has been involved in proceedings relating to any of the above mentioned.

The responsible person should not fulfill the characters of a disqualified person defined by Section 23(1) [c] of the Insurance Act as having:

- (a) become bankrupt;
- (b) applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
- (c) compounded with his creditors.

4.0 Minimum Requirements of this Policy

4.1 Fit and Proper Policy

- 4.1.1 Each Insurer or Broker must establish and implement an in-house "Fit and Proper Policy", approved by the Board. Branch operations can adopt the Group's Fit and Proper Policy, or elements of its equivalent which must at a minimum, include the requirements of this Policy.
- 4.1.2 The Fit and Proper Policy must be reviewed every two years or more frequently where required.
- 4.1.3 The Insurer or Broker must submit a copy of the Fit and Proper Policy to the Reserve Bank within 30 calendar days of it being approved/reviewed and all of its branches or representatives office in Fiji must have immediate access to a copy of the Policy.
- 4.1.4 The institution's Fit and Proper Policy, must, at a minimum include:

A. The criteria in determining if a responsible person is fit and proper.

- (i) The minimum criteria for this Policy are:
 - (a) the characteristics as defined in 3.1 above;
 - (b) the responsible persons should not be acting as consultants or advisors for the Insurer or Broker they want to be a Director of;

- (c) over the age of 21 (Section 187 of Companies Act).
- (ii) Further to (b) above, should, a consultant of an Insurer or Broker be appointed as responsible person for that institution, the person must cease their role as the institution's consultant; and
- (iii) The Insurer or Broker must clearly define and document competencies and responsibilities of a responsible person position. Documentation must include any training or induction procedures appropriate to ensuring the continued fitness and propriety of a responsible person, including their continued competency.

B The processes involved in assessing whether a responsible person is fit and proper.

- (i) The assessment process must include:
 - (a) the selection of those who will conduct the assessment for each responsible person position on behalf of the Insurer or Broker;
 - (b) what information will be obtained by the Insurer or Broker and how it will be obtained; and
 - (c) the decision making processes for the assessment.
- (ii) The Fit and Proper Policy must include ongoing monitoring of responsible persons. In cases where new information is received and is of material concern, the Insurer or Broker must make queries and collect information to determine if a fitness or propriety concern exists; and
- (iii) Assessment of a responsible person must be conducted prior to appointment of the person unless it is of urgency to fill the position due to some critical reasons that would affect the soundness of the institution. In the latter case, an assessment must be conducted within 30 calendar days of the appointment.

C. The actions to be taken should a responsible person not qualify as being fit and proper.

Should an Insurer or Broker conclude that a responsible person is not fit and proper, it must ensure that the person:

- (i) Is not appointed; or
- (ii) For an existing responsible person, is relieved of his/her position as a responsible person.

4.2 Role of the Board of Directors

- 4.2.1 The Board is responsible for the safety and soundness of the financial institution by identifying and understanding the major risks of the institution.

- 4.2.2 The Board must ensure that all employees are aware of the requirements of the Fit and Proper Policy.
- 4.2.3 Directors should avoid situations that bring about conflicts of interest. In the event where a Director has a conflict of interest within an institution, this must be declared and documented in the minutes of meeting. The institution's in-house Fit and Proper Policy must indicate how the institution will address conflicts of interest.

4.3 Role of the Senior Management

- 4.3.1 Senior Management responsibilities include any relevant activities that may materially affect the whole or a substantial part of the Insurer or Broker's business or financial standing.
- 4.3.2 Senior Management responsibilities include but are not limited to having primary responsibility for one or more of the following:
- (i) High level decision making;
 - (ii) Identify, assess, manage and monitor risks incurred by the institution;
 - (iii) Implementing strategies and policies approved by the Board; and
 - (iv) Monitoring the appropriateness, adequacy and effectiveness of the risk management system.
- 4.3.3 For a foreign incorporated Insurer or Broker, Senior Management must ensure that all employees are aware of the requirements of the Fit and Proper Policy.

4.4 Role of the External Auditor

- 4.4.1 The Insurer or Broker must appoint an auditor who:
- (i) In accordance with Section 52(3) of the Insurance Act, the person:
 - (a) has a place of business in the Fiji Islands;
 - (b) is not a director, principal officer, manager, employee, related to or agent of the insurer or broker;
 - (c) holds a current certificate of public practice issued by the Fiji Institute of Accountants;
 - (d) has had suitable experience to enable him/her to audit accounts of insurance business; and
 - (e) is competent to audit such accounts.
 - (ii) Further to Sections 54 and 55 of the Insurance Act, must provide to the Reserve Bank their audit report which should include information of any instances of non-compliance by the institution with regard to the institution's Fit and Proper Policy.

- 4.4.2 The Reserve Bank Insurance Supervision Policy Statement No 1: Role of External Auditors in the Supervision of Licensed Insurance Companies defines the role of external auditors.

4.5 Role of the Actuary

- 4.5.1 Section 61 of the Insurance Act requires an Insurer that carries on any class of life insurance business to appoint an actuary to carry out any actuarial functions imposed by the Act.
- 4.5.2 The actuary must be a person who is a fellow of a professional actuarial body that is satisfactory to the Reserve Bank.
- 4.5.3 An Insurer must, within 14 days of making an appointment notify the Reserve Bank of -
- (i.) the name;
 - (ii.) the experience and qualifications;
 - (iii.) the date of the appointment; and
 - (iv.) any other particulars required by the Reserve Bank, of the person appointed.
- 4.5.4 If the Reserve Bank considers that an appointed actuary has insufficient experience or qualifications, or has failed to perform adequately and properly the functions and duties of an actuary conferred by or under this Act, the Reserve Bank may by notice in writing direct the Insurer to appoint another person as actuary for the purposes of the Insurance Act.

4.6 Whistleblowing

- 4.6.1 The Insurer's or Broker's in-house Fit and Proper Policy must have provisions that provide for employees and Directors, to report to the Reserve Bank where they have no recourse under the current reporting structure within the institution:
- (i) in such instances where a responsible person is not fit and proper and continues to be employed by the institution;
 - (ii) on the inaction of the institution on a responsible person that the Reserve Bank has declared to be not fit and proper and who continues to be employed by the Insurer or Broker; and
 - (iii) where the Insurer or Broker has not complied with this Fit and Proper Policy or the institution's internal Fit and Proper policy; and
 - (iv) the institution has not complied with any other policies issued by the Reserve Bank.
- 4.6.2 The Insurer or Broker's internal policy must protect employees who make a disclosure in good faith to ensure that they are not subject to, or threatened with, a detriment because of any notification in compliance with the requirements of this Fit and Proper Policy.

5.0 Assessment of Fitness and Propriety by the Reserve Bank

- 5.1 Section 25(1) [e & f] and Section 43(1) [a, b & c] of the Insurance Act, the Reserve Bank has the powers to assess and review the responsible person of an Insurer or Broker to ensure that he/she satisfies the Fit and Proper requirements.
- 5.2 Further to this, the Reserve Bank will review the fitness and propriety of a proposed responsible person prior to the finalisation of their appointment.
- 5.3 In assessing the fitness and propriety of an appointed or elected or proposed responsible person, the Reserve Bank would require submission of the curriculum vitae of the responsible person. The curriculum vitae should clearly indicate the professional qualifications, previous and current positions, names and contact details of three professional referees and any financial connections they may have with the institution.
- 5.4 The Reserve Bank may conduct an interview with the appointed or elected or proposed responsible person as and when deemed necessary.
- 5.5 The Insurer or Broker must inform the Reserve Bank in writing, within 30 calendar days after any resignation, retirement or removal of a responsible person. The Reserve Bank must also be updated on any changes to details of a responsible person.
- 5.6 If an Insurer or Broker forms a belief that a person is not fit and proper for a responsible person position they hold, or was not fit and proper for a responsible person position they held within the previous 28 days, then it should inform the Reserve Bank:
 - (i.) If the person remains in that position, the reason the person remains and what action is taken; or
 - (ii.) If the person no longer holds the responsible person position, a statement of that fact.
- 5.7 If the Reserve Bank is of the opinion that a person who has been appointed as a principal officer has insufficient experience or qualifications, or has failed to perform adequately the responsibilities of a principal officer as provided for in the Insurance Act, the Reserve Bank may direct the Insurer or Broker to revoke the appointment of that person as principal officer and to appoint another person.
- 5.8 In the proposal to disqualify a person, the Reserve Bank shall, as per Section 18(6) of the Insurance Act, the Reserve Bank shall give a direction in writing and specify the grounds on which the direction has been given.

- 5.9 Any Insurer or Broker that contravenes 5.7 above (as per section 18(5) of the Insurance Act), commits an offence and is liable on conviction to a fine of \$10,000 and, if the offence is a continuing one, to a further fine of \$1,000 for every day during which the offence continues.

6.0 Oversight by the Reserve Bank

- 6.1 In addition to ongoing monitoring, the Reserve Bank, during its on-site examinations of Insurance Companies and Insurance Brokers will determine whether the institution has adequate policies, procedures and resources for compliance with the requirements of this Policy.
- 6.2 Should an Insurer or Broker fail to comply with the requirements of this Policy, the Reserve Bank will impose such fines as specified in Section 168(1) of the Insurance Act.

7.0 Implementation and Arrangements

- 7.1 This Policy Statement is a minimum requirement and applies to all Insurance Companies and Insurance Brokers licensed under the Insurance Act 1998, and comes into effect from 01 August 2008.

Reserve Bank of Fiji
June 2008

SCHEDULE

Interpretation –

- (1) Any term or expression used in this Notice that is not defined in this Notice:
- (a) which is defined in the Act shall, unless the context otherwise requires, have the meaning given to it by the Act;
 - (b) which is not defined in the Act and which is defined in any of the Reserve Bank of Fiji Policy Statements shall, unless the context otherwise requires, have the meaning given to it by those policy statements; and
 - (c) which is not defined in the Act or in any of the Reserve Bank of Fiji's Policy Statements shall, unless the context otherwise requires, be interpreted in accordance with generally accepted accounting practice.
- (2) In this Notice, unless the context otherwise requires:

'Act' means the Insurance Act 1998 unless otherwise specified.

'Actuary' means the actuary with the meaning given to it by the Act.

'Broker' means a Broker with the meaning given to it by the Act.

'Conflicts of interest' means where a responsible person influences the Insurer's or Broker's decisions in ways that could result in their personal gain, benefit or advantage of any kind.

'Director' means a Director with the meaning given to it by the Act.

'Fiji Operations' means all business, operations, or undertakings conducted in or from Fiji.

'Foreign incorporated' means an Insurer or Broker incorporated outside Fiji which has been licensed as a branch to conduct business in Fiji. The parent is also an Insurer or Broker in its country of domicile, authorised, registered or licensed by the appropriate insurance supervisory authority.

'Insurer' means an Insurer with the meaning given to it by the Act.

'Locally Incorporated' means an Insurer or Broker incorporated in Fiji which has been licensed to conduct insurance business in Fiji.