

Reserve Bank of Fiji

Insurance Supervision Policy Statement No: 12

NOTICE TO INSURANCE COMPANIES AND AGENTS LICENSED UNDER THE INSURANCE ACT
1998

MINIMUM REQUIREMENTS FOR THE APPOINTMENT AND SUPERVISION OF INSURANCE AGENTS IN FIJI

1.0 Introduction

- 1.1 This Notice is issued under Section 3(2) [a] and 3(2) [b] of the Insurance Act 1998 (the Act) as part of the Reserve Bank of Fiji's standards governing the conduct of insurance and agent business in Fiji.

2.0 Background and Outline of Approach

- 2.1 It is in the interest of the Reserve Bank in promoting a fair, safe and stable insurance market, that the public has trust and confidence in the insurance sector. Insurance agents' interface between consumers and insurers gives them a key role in building and justifying this public trust and confidence.
- 2.2 With a view of enhancing the professionalism amongst insurance agents, the Reserve Bank encourages, amongst other things, the acquiring of professional qualifications, continuous professional development, ethical behaviour, the fair treatment of customers and better communication with the public. Such measures are aimed at enhancing public confidence. Furthermore, insurance agents can promote consumer protection by assisting consumers to make better informed decisions about the products that they buy.
- 2.3 In preparing the requirements of this policy statement, reference has been made to the recommendations of the Insurance Core Principle 18 of the International Association of Insurance Supervisors (IAIS) (October 2012), international sound practices and powers under the Act.
- 2.4 As per section 4 of the Act, the ultimate responsibility for the appointment and the supervision of insurance agents and any loss or damage caused by an agent resides with the nominated insurer. The Act also prescribes that the ultimate responsibility of sub-agents is with the principal agent.

3.0 Objectives of the Policy

3.1 The purpose of this Policy is to:

- (i) set out the minimum framework which can be used by a nominated insurer when appointing and supervising insurance agents;
- (ii) set the minimum standards of conduct and the duties required of insurance agents in conduct of insurance agent's business;
- (iii) ensure that the agents of the nominated insurer understand their individual role clearly; and,
- (iv) ensure that the agents comply with all the rules and regulations of the nominated insurer and the Reserve Bank.

4.0 Requirements under the Act

4.1 Section 4 of the Act, makes the nominated insurer liable for the actions of their agents and employees, irrespective of whether or not an agent or employee has acted within the scope of his/her authority.

4.2 Section 42(1) refers to licensing of intermediaries where a person is required to apply to the Reserve Bank for a licence and for a renewal of licence.

4.3 Section 42 (2)(c) states that an application under subsection (1) must be in accordance with the prescribed form and accompanied by:- if the application is for a licence as an agent of a nominated insurer, a document under the hand of the principal officer of the nominated insurer, or some other person duly authorised to represent the nominated insurer and approved by the Reserve Bank in writing, certifying that the applicant has been appointed by the nominated insurer and that the nominated insurer is satisfied that the person has the knowledge and experience necessary to carry on the business of agent.

4.4 Section 43(1) with respect to agents, defines the criteria that the Reserve Bank must examine in deciding whether to grant a licence. If the Reserve Bank decides to license an applicant, it may attach such terms and conditions to the licence which it considers appropriate. A person may not be licensed to carry on business as agent for more than one nominated insurer in respect of any one class of business.

4.5 Section 49 (2) states that an agent must not carry on business under a name or describe himself or his business in a way that would be likely to mislead a person into believing that the agent is a broker.

- 4.6 Section 64 requires that an agent licensed under the Act must maintain a register and make it available to the Reserve Bank, or a person authorised by the Reserve Bank.
- 4.7 Section 101 gives the Reserve Bank the power to cancel an agent's licence. The clause provides grounds on which the licence may be cancelled, but does not limit the Reserve Bank's power to these defined grounds.

5.0 Minimum Requirements for Insurers on the Appointment and Supervision of Agents

- 5.1 Each nominated insurer is responsible for the application of a new agent and renewal of licence of agents with the Reserve Bank. An application for agent's licence to the Reserve Bank must be made pursuant to the requirements described in **Appendix A**¹ and shall be accompanied by such particulars and documents, as may be specified by the Reserve Bank from time to time.
- 5.2 Licensed insurers when nominating an agent and renewing an agent's licence, must ensure that the agent meets the following minimum requirements:
 - 5.2.1 Completed Form 6 level education or equivalent, or more than 5 years of experience in insurance industry;
 - 5.2.2 Successfully completed the examination set by the nominated insurer. At the minimum, the examination set by the nominated insurer must include relevant questions on insurance products, the underwriting and claims processes of the nominated insurer, customer service requirements, anti-money laundering requirements and ethical conduct;
 - 5.2.3 Fit and Proper criteria as outlined in **Appendix B**; and,
 - 5.2.4 Agent has read and explicitly understood the agent's Code of Ethics² in **Appendix C**.
- 5.3 The requirements provided in paragraph 5.2 above and hereafter also apply to corporate agents, and officers responsible for the corporate agents' insurance business.
- 5.4 Each nominated insurer must establish and maintain a register which must at least include:
 - 5.4.1 The names of each of its agent including corporate agents and its officers responsible for the corporate agents insurance business;

¹ Checklist of Requirements for New/Renewal of Licence to Conduct Business as an Insurance Agent in Fiji

² Code of Ethics to be signed on every page by the agent and witnessed by the nominated insurer

- 5.4.2 The names of each sub-agent authorised to act on behalf of each agent or employees of corporate agents authorised to sell insurance;
 - 5.4.3 The category or categories of insurance activity which each of its agent is carrying on; and,
 - 5.4.4 The date or dates on which each of its agent commences carrying on each category of insurance activity.
- 5.5 Nominated insurers are to ensure that their personnel or unit responsible for managing and supervising their agents is familiar with:
- 5.5.1 The scope of appointment of their agents;
 - 5.5.2 The permitted and prohibited activities of their agents; and,
 - 5.5.3 All other company-specific requirements expected of their agents.
- 5.6 The nominated insurer must provide at least **8 hours** of annual trainings on insurance products, customer service and ethical conduct to its agents (including officers responsible for corporate agents). The nominated insurer must also record the trainings provided to the agents in the register maintained in paragraph 5.4 of this policy. Trainings and competence requirements are intended to ensure that minimum competency standards are achieved and maintained in the interest of consumers.
- 5.7 The nominated insurer must ensure that an agent (including corporate agent) maintains a register as required under Section 64 of the Act. The register should also include the following:
- 5.7.1 Insurance business underwritten (new and renewals);
 - 5.7.2 Claims process; and,
 - 5.7.3 Names of sub-agents and trainings provided.
- 5.8 **Cancellation of Licence**
- 5.8.1 To complement Section 101 on the 'Cancellation of intermediary's licence, the Reserve Bank may suspend or cancel the licence of an agent at the request of a nominated insurer where there is a-
- (a) mutual agreement between the nominated insurer and the agent to this effect; or
 - (b) Breach of the written agreement and the rules of the nominated insurer, the Reserve Bank and relevant laws and regulations, by the agent.

- 5.8.2 Within 7 days of cancellation of an agent's licence, the nominated insurer or agent must return to the Reserve Bank the licence issued under section 45 of the Act with the reasons for cancellation of the licence.
- 5.9 An agent's licence will expire on 31 December of the third year in respect of the period for which the licence is issued. Nominated insurers may also conduct annual or periodical reviews of the performance of their agents in line with the criteria set out in paragraph 5.2 of this policy, and may cancel the licence for the reasons described in paragraph 5.8 of this policy whenever it deems necessary.
- 5.10 If a nominated insurer ceases operation prior to the expiry of an agent's licence, the agent's licence will cease with the cancellation of the nominated insurer's licence. Nominated insurers who intend to close their operations must inform their agents and hence cancel their agents' licences. Nominated insurers and their agents must also inform the policyholders prior to cancellation of their licence, on their intent to close operations.

6.0 Responsibilities of an Agent

- 6.1 All agents must comply with and observe the following:
- 6.1.1 The Fit and Proper Criteria in **Appendix B**;
 - 6.1.2 Code of Ethics set out in **Appendix C**;
 - 6.1.3 The continuous professional development requirements as may be determined by the Reserve Bank and the nominated insurer from time to time; and,
 - 6.1.4 All relevant laws and regulations.
- 6.2 An agent must act only for the nominated insurer(s) specified on its licence and must operate under the terms and conditions as may be specified by the nominated insurer(s) and the Reserve Bank.
- 6.3 An agent must not carry on business as an agent for more than one insurer in respect of any one class of business.
- 6.4 All agents must establish and maintain a register as required under Section 64 of the Act and paragraph 5.7 of this policy, which also must consist of internal records of the identity of each of its clients in accordance with the Financial Transaction Reporting Act 2004 and any other guidelines issued by the Reserve Bank.
- 6.5 An agent must keep in relation to its business activities, a full and true written record and include account files and business correspondence.

- 6.6 Further to the requirements of section 4(6) of the Act, an agent should not enter into any agreement or arrangement whatsoever for the appointment or engagement of any sub-agent unless approved by the nominated insurer. When appointing a sub-agent, the principal agent (an agent who appoints sub-agents) must ensure that the sub-agent meets all the requirements described in paragraph 6.1 of this policy.
- 6.7 An agent must cease to act as an agent on and from the date of suspension or cancellation of the licence.
- 6.8 An agent must surrender his/her licence to the nominated insurer immediately upon receipt of the notice of suspension or cancellation of licence by the nominated insurer or the Reserve Bank.
- 6.9 An agent whose licence has been suspended or surrendered or cancelled, must disclose to the nominated insurer immediately all details of policies being served in respect of contracts already concluded and all the details of clients where the proposals have not resulted into a policy to enable the nominated insurer to make suitable arrangements.
- 6.10 An agent whose licence has been suspended or surrendered or cancelled must immediately settle all the monies which are due to the nominated insurer.
- 6.11 An agent on settlement of all the monies due to the nominated insurer and to the clients must obtain a written clearance from the nominated insurer to enable the agent to submit to the Reserve Bank and to apply for a licence as an agent for another insurer, if required.
- 6.12 Notwithstanding the fact that the licence of an agent has been suspended or surrendered or cancelled, the agent who remains under any liability to the nominated insurer or the client must take appropriate measures to ensure that reasonable provision has been made for that liability.
- 6.13 The Reserve Bank may, at the time of suspension or surrender or cancellation of the licence, impose such conditions, restrictions and limitations as it deems appropriate.

7.0 Complaints Management

- 7.1 A customer complaint against an agent appointed by an insurer is a complaint against the insurer.
- 7.2 Insurers when dealing with complaints against agents must also comply with the Reserve Bank's Insurance Supervision Policy Statement No. 9³, which provides the insurers with a minimum framework for complaints management.

³ Policy Guideline on Complaints Management

8.0 Provision of Information

8.1 The nominated insurer or an agent must submit or make available any statements, documents, books, records and other information relating to the agent and the business of the agents as may be required by the Reserve Bank.

9.0 Reserve Bank Oversight

9.1 The Reserve Bank may approve the licensing of an agent subject to terms and conditions as it deems necessary, which an agent must strictly comply with.

9.2 The Reserve Bank will not approve an agent's licence unless all relevant documents are completed and lodged.

9.3 The Reserve Bank may revoke or impose further terms and conditions on the approval.

9.4 The Reserve Bank reserves the right to request for further information that may contribute to the assessment of an agent's licence.

9.5 Non-compliance with the requirements of this policy statement will result in the imposition of penalties as determined by the Reserve Bank.

10.0 Implementation Arrangements

10.1 This policy applies to insurers and agents licensed under the Insurance Act 1998, and is effective from 01 July 2014.

Reserve Bank of Fiji April 2014

Attachments:

Schedule: Interpretation

Appendix A: Checklist of requirements for application for a licence to conduct business as an insurance agent in Fiji

Appendix B: Fit and Proper Criteria for Insurance Agents

Appendix C: Code of Ethics for Insurance Agents and Sub-agents

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; and,
 - 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.

(2) In this Notice, unless the context otherwise requires:

‘Act’ means the Insurance Act 1998 unless otherwise specified.

‘Agent’ means a person who –

- (i) as representative of an insurer, carries on the business of channelling, soliciting, or procuring insurance business for the insurer for or in expectation of payment by way of commission, allowance, return or other remuneration; and,
- (ii) is licensed under section 43(1) of the Act to carry on such business.

‘Insurer’ means a body corporate licensed under section 25 (1) of the Act to commence or carry on insurance business and includes a reinsurer.

‘Nominated Insurer’ means an insurer who has, through an agreement or appointment letter, appointed a person to carry on the business of agent of the insurer.

‘Principal Agent’ is an agent of an insurer.

‘Reserve Bank’ means the Reserve Bank of Fiji.

‘Sub-Agent’ means the principal agent appointing a second person to act as an agent of the principal agent.

RESERVE BANK OF FIJI

CHECKLIST OF REQUIREMENTS FOR APPLICATION FOR A LICENCE TO CONDUCT BUSINESS AS AN INSURANCE AGENT IN FIJI

The following are the requirements⁴ that applicants must submit to the Reserve Bank of Fiji for consideration of an application for a licence to conduct business as an insurance agent in Fiji.

1. **Application letter**
Letter from the insurer nominating applicant to be their agent. The letter to also describe and confirm the following:
 - (a) An agent has met the (i) Competence, (ii) Financial Soundness and (iii) Honesty, Integrity and Reputation requirements of Fit and Proper Criteria as per the Insurance Supervision Policy Statement No. 12; and,
 - (b) An agent has met all the requirements as per the Insurance Supervision Policy Statement No. 12 on Appointment and Supervision of Agents.
2. **The completed application form for an application for a licence as an agent**
Form 4 of the Insurance Regulation 1998⁵.
3. **Code of Ethics signed by the agent and witnessed and stamped by the nominated insurer**
4. **Curriculum Vitae for Individual agents only**
5. **Credentials of Directors or Senior Managers in Fiji or the Responsible Officers for Corporate agents only**
6. **Prescribed licence fees (per year):**
 - Individual agents - \$250 + Value Added Tax
 - Corporate agents - \$1,000 + Value Added Tax
7. **Certified true copy of the joint Fiji Revenue & Customs Authority and Fiji National Provident Fund card**
8. **For individual agents, 2 recent passport-size photographs** (names to be written at the back of the photographs)
9. Any other information that the Reserve Bank of Fiji may deem appropriate.

⁴ This checklist remains same for new appointments and renewal of agent's licence.

⁵ Form 4 – Application for Licensing as an agent may be found *in the Insurance Regulations 1998*.

FIT AND PROPER CRITERIA FOR INSURANCE AGENTS

1. The Nominated Insurer must review the fitness and propriety of any agent prior to the finalisation of their appointment.
2. Where the agent appoints sub-agents, the agent (now referred to as Principal Agent) must also review the fitness and propriety of its sub-agents prior to the finalisation of their appointment. References to the '*nominated insurer*' will be replaced with the '*principal agent*' and '*agent*' will be substituted with '*sub-agent*'.
3. An applicant or Agent must satisfy the following minimum conditions and requirements:

Threshold Conditions

4. An agent who is a natural person must be:
 - a. At least 18 years of age; and,
 - b. A Fiji Citizen or a Fiji Permanent Resident.
5. An agent who is not a natural person must also satisfy the Fit and Proper Requirement as described below.

Competence Requirements

6. An agent who is a natural person must at least:
 - a. Complete Form 6 level education or equivalent or have more than 5 years of experience in the insurance industry; and,
 - b. Successfully completed the examination set by the nominated insurer.
7. For corporate Agents, the employee responsible for insurance must meet the requirements described in paragraph 5.
8. In evaluating the competency and capability of an agent, the nominated insurer should consider all relevant factors, including, but not limited to:
 - a. Whether the agent has demonstrated, through qualifications and experience, the capacity to successfully undertake the responsibilities of the position;

- b. Whether the person has any medical condition that may affect competency; and,
- c. Whether the person has acquired a sound knowledge of the agent business and the responsibilities of the position.

Financial Soundness

- 9. Whether an agent has been subject of any judgement or award that remains outstanding or was not satisfied within a reasonable period; and,
- 10. Whether the agent has made any arrangements with his/her creditors, filed for bankruptcy, been adjudged bankrupt, had assets confiscated, or has been involved in proceedings relating to any of the above mentioned.

Honesty, Integrity and Reputation

- 11. An agent must not be convicted of:
 - a. An offence under the Insurance Act 1998 or any rules and regulations of the Reserve Bank of Fiji and the nominated insurers, including the Code of Ethics for agents and sub-agents;
 - b. An offence against any law in Fiji Islands or elsewhere; or
 - c. A criminal offence involving fraud, misrepresentation or dishonesty.
- 12. An agent must not:
 - a. Be the subject of criminal proceedings which are pending in Court; and,
 - b. Have had any judgement (in relation to the finding of fraud misrepresentation or dishonesty) given against him/it in any civil proceedings in Fiji or elsewhere, or is a party to any pending proceedings that may lead to such a judgement.
- 13. An agent has not been dismissed, asked to resign from employment because of questions about integrity and honesty.
- 14. An agent has not been fair, truthful and forthcoming in dealings with customers, superiors, auditors and regulatory authorities.

15. Whether an agent demonstrates a readiness and willingness to comply with the requirements and standards of both the Reserve Bank of Fiji and the nominated insurer.

CODE OF ETHICS FOR AGENTS and SUB-AGENTS Insurance Act 1998 (Section 43(1))

A. Preamble

A person who is licensed to act as an agent under Division 3 of the Insurance Act 1998 is subject to the Code of Ethics as set out below. Any agent who commits any act thereunder forbidden or declared to be unethical or fails to do anything they are required to do shall be in breach of the Code of Ethics.

Sub-agents referred to in section 4(6) of the Insurance Act 1998 are also subject to the Code of Ethics as set out below. Any sub-agent who commits any act thereunder forbidden or declared to be unethical or fails to do anything they are required to do shall be in breach of the Code of Ethics.

Any breach of the Code of Ethics would be a sufficient ground for the cancellation of any such licence issued to the agent. For clarity purpose, the Code of Ethics refers to agents or sub-agents by the first person “you”.

B. Codes

1. You shall discharge your duties to clients, members of the public, fellow agents and insurers with integrity/honesty. Integrity/Honesty is a fundamental quality demanded of every insurance agent as trust is the foundation of all dealings in the insurance industry. You must be trustworthy, conducting all professional activities with integrity, reliability and honesty. The principle of trustworthiness extends beyond insurance business activities. Your conduct in other areas may reflect on your trustworthiness and call into question your suitability to hold an insurance agent’s licence.
2. All agents of companies have a common obligation to work together in serving the best interest of the insuring public, by understanding and observing the law governing insurance in letter and in spirit, and by being fair in all relations with the fellow agents and competitors, always placing the policyholder’s interest first.
3. You must give advice only on insurance matters on which you are sure of the correctness of the statement you make and not hazard an opinion on matters about which you cannot be certain. In areas of uncertainty and complexity including for example the legal positions of the parties to the contract, estate planning, business assurance where matters of taxation, death duties and gift duties are concerned, you must seek or recommend insurer’s advice.

4. You shall not place yourself in a conflict of interest with your client, unless the client has first approved of your conduct after full disclosure of the conflict, preferably in writing.
5. Where there is an irreconcilable conflict between your duty to a client and your other duties as an agent, you should decline to act in the transaction. For example, if a client asked you to conceal information from an insurer that was material to the risk, you should decline to act.
6. A conflict of interest is also said to occur where you have a personal interest that conflicts or might possibly conflict with your role to provide the best possible advice or service to a customer. This may occur as a result of agency relationship or family or personal relationships with insurer. In circumstances where avoidance of such conflicts of interest may not be practicable, you should disclose to the customer the conflict of interest arising from the relationship with the insurer, including any material information or facts that may compromise your objectivity, before the insurance is arranged.
7. In selling insurance policies, you must:
 - a) Explain all provisions of the insurance cover afforded by the policy or policies which you are recommending so as to ensure as far as possible that a prospective policyholder understands what he or she is or may be buying;
 - b) Draw attention to all restrictions, exclusions and conditions applicable to the policy;
 - c) If necessary, obtain from the insurer specialist advice in relation to items (a) and (b) above;
 - d) Not impose any charge in addition to the premium required by the insurer;
 - e) In the case of with – profit business, make clear that bonuses declared in the future may be lower or higher than those currently quoted, thus past performance may not necessarily be a guide to future performance; and,
 - f) Where projected benefits are illustrated, make clear where applicable that they are based on certain assumptions and hence are not guaranteed and these assumptions should be stated.

8. You shall treat all information supplied by the prospective policyholder, whether or not associated with the proposed policy of insurance, as completely confidential to you and to your principal.
9. You should not collect, use or disclose personal data about a client unless:
 - a) The client has given his/her consent to the collection, use or disclosure; or,
 - b) The collection, use or disclosure, is required or authorized under any written agreement and rules of the insurer and the Reserve Bank of Fiji.
10. Twisting is declared to be unethical. Twisting is the act of including a policyholder, premium payer or owner to lapse, surrender or cancel a policy or convert it a paid up policy for the purpose of replacing such policy with a new one to the financial detriment of such holder, premium payer or owner.
11. Rebating is hereby declared to be unethical and defined as giving or offering to give any inducement not included in the policy contracts to persuade or induce a person to enter into an insurance contract.
12. Defamation is hereby declared to be unethical and defined as making, publishing, or circulating an oral, written or printed statement which is false, or maliciously critical of or derogatory to the financial condition of any insurance company or agent or which is calculated to injure any person engaged in the business of insurance.
13. The conduct of transferring your existing client base portfolio to another agent or to another insurer should you join a new insurer for monetary gain is hereby declared to be unethical. Policyholders are clients of the insurer and the insurer has the ultimate right to deal with the policyholders directly. Should you ending your agency with an insurer, you should advise your clients to deal with the insurer directly.
14. Misrepresentation is hereby declared to be unethical and defined as making, publishing, or circulating any false, deceptive, or misleading statements or illustrations:
 - a) as to the term benefits, dividends, or other advantages of any policy already issued, or to be issued; or
 - b) as to the financial condition of any life insurance company; or

- c) with respect to any person in the conduct of his insurance business.
15. (a) Wherever you submit a completed proposal for any prospective client, such proposals should contain the following information:
- i. the date of the proposal; and,
 - ii. the signature and address of the agent submitting it.
- (b) you shall ensure that all proposal forms are completed by the proposer, except where the proposer is unable to read and write English sufficiently to complete the proposal form.
- (c) You should not withhold from a policyholder or client any written evidence or documentation relating to the contract of insurance.
16. In procuring new life insurance business, you shall:
- (a) take into consideration the needs of the proposers for life insurance and make reasonable efforts to ensure that they do not exceed their capacity to pay premiums;
 - (b) make all reasonable inquiries in regard to the lives to be insured, their health and habits, their family background and financial commitments before recommending proposals for acceptance, and bring to the notice of the insurer any circumstances which may adversely affect the risk to be underwritten. Any statement concerning the financial capacity and commitment shall be signed by the proponent;
 - (c) not interfere with any proposal introduced by any other agent;
 - (d) obtain any required medical record certificate before submitting the proposal to the insurer for processing.
17. You shall, with a view to conserving the business secured, maintain contact with the persons who have become policyholders through you and shall:
- (a) advise every policyholder to effect nomination or assignment in respect of his policy and offer necessary assistance in this behalf;
 - (b) as a part of the service to policyholders of his introduction, keep in continuous touch with them with a view to ensuring that premiums on their policies are paid as and when they fall due.

- (c) endeavour to prevent the lapsing, surrender or cancellation of a policy or is conversion into a paid up policy;
 - (d) render all reasonable assistance to claimants in filling claim forms and generally in complying with the requirements laid down in relation to settlement of claims.
18. You shall not make comparisons with other types of policies unless you make clear the differing characteristics of each policy and also not comment on other insurers policies.
 19. All Individual agents must present the valid licence card to the clients to ensure that you are an agent licensed to sell insurance policies for the nominated insurer(s).
 20. You must comply with and observe all relevant laws and regulations at all times.

Ihereby state that I have read and fully understood the above Code of Ethics subject to which an insurance AGENT'S licence may be issued to me and I hereby agree to abide by the Code of Ethics if any application by me for an insurance agent's licence is accepted and I further accept that any breach of the Code of Ethics would be a sufficient ground for the cancellation of any such licence issued to me.

SIGNATURE:

DATE:

Witnessed by:..... (Name of Nominated Insurer or Responsible Person)

Signature:

Date:

Company Stamp: