

# FINANCIAL SUPERVISORY COMMISSION



Cook Islands

## PRUDENTIAL STATEMENT

No. 11.5-2009

**ISSUED UNDER SECTION 98 OF THE INSURANCE ACT 2008**

### INSURANCE LICENSING REQUIREMENTS, POLICIES AND PROCEDURES

#### **Application for an Insurance Manager to carry on Insurance Business in the Cook Islands**

#### 1. **Preamble**

This Prudential Statement is issued by the Financial Supervisory Commission (FSC) pursuant to Part 3 of the Insurance Act 2008 (Act) on “Regulation and Supervision of Insurance Managers and Intermediaries”. It applies to proposals to set up as an Insurance Manager. The purpose of this Prudential Statement is to (i) provide for the standardization of written applications and minimum information requirements for the licensing of an insurance manager and (ii) promote transparency in licensing requirements not only within the Cook Islands but in the international financial community as well.

The Act provides that no person shall carry on business as an insurance manager in or from the Cook Islands unless the person holds a licence issued under section 44 of the Act in the appropriate category.

Licensing of insurers and other participants in the industry is the first step towards effective supervision because it determines the quality of insurers

and other participants in the market. In deciding whether to grant a licence, the FSC reviews the application under four general headings.

- **Owners and prospective managers** (Are they “fit and proper” persons for their respective roles?)
- **Business plan** (Is it realistic and viable?)
- **Location** (Will management and records be physically present in the Cook Islands?)
- **Systems and controls** (Are they adequate to ensure that it will carry on business in a prudent manner and comply with the requirements of the Financial Transactions Reporting Act 2004?).

Once an insurance manager is licensed, ongoing supervision is directed towards ensuring that the above criteria continue to be met.

The FSC’s policies and procedures outlined in this Statement are based on internationally accepted standards for the licensing and prudential supervision of insurers, insurance managers and insurance intermediaries and are applied to licensees regardless of the nature and size of their operations.

This Prudential Statement shall be applied in conjunction with Part 3 of the Insurance Act 2008 and the Insurance Code.

**2. Existing Licensees under the Off-shore Insurance Companies Act**

**3. Application Requirements**

The Insurance Act 2008 provides for a company to carry on business as an insurance manager in the Cook Islands, servicing licensed insurance companies incorporated under the International Companies Act of the Cook Islands. Paragraph 43(1)(a) of the Insurance Act specifies that application may be made only by a company incorporated under the Companies Act.

In order to obtain a licence, the FSC must be provided with all agreements affecting the management, shareholding, profit sharing or control of the insurance company or proposed insurance company, notwithstanding that such agreement may not be in existence at the date of application.

Section 44 of the Insurance Act contains the criteria, which an applicant for a licence must satisfy. No applicant shall be granted a licence unless the FSC is satisfied that the applicant complies with the following criteria:

- the applicant possesses the required professional qualifications, expertise, competence, and integrity to enable the applicant to carry on business in the Cook Islands as an insurance manager;
- each shareholder and officer are of good character and standing;
- the applicant discloses particulars to the FSC of the nature of the business to be transacted by the applicant and the anticipated volume of such business;
- the administration and management of the applicant's business shall occur within the Cook Islands;
- the business of the applicant shall not be detrimental to the interests of the Cook islands;
- the applicant shall have sufficient financial means as will enable the applicant to carry on business as an insurance manager.

Where an applicant is registered as a trustee company under the Trustee Companies Act 1981-82, the FSC will accept the existing documentation relating to the character and good standing of shareholders and officers and such documentation does not need to be re-submitted. However, the FSC will require details of the person who will be responsible for the Insurance Manager's role.

#### **4. Application Forms and Fees**

In order to obtain a licence, applicants must complete and submit the following forms and supporting schedules and documentation:

- Licence Application (FSC Form INL-1) - to be completed by the applicant.
- Personal Affidavit (FSC Form INL-2) - to be completed by each individual who is or will be a significant shareholder, associate, director and/or officer of the applicant.
- Corporate Declaration (FSC Form INL-3) - to be completed by each person, other than individuals, who is or will be a significant shareholder/associate.
- Confidential Financial Statement (FSC Form INL-4) - to be completed by each person who is or will be a significant shareholder of applicant.

The prescribed fee of \$250 must be paid when an application is filed. This fee represents the application fee and the licence fee for the first year.

General Instructions are included in the Licence Application form and more specific instructions and notes in each section. The FSC may require the submission of additional information and documents should they be considered necessary.

## 5. **Filing of Applications**

- a) All applicants to be Insurance Managers are required to file their applications in accordance with this Prudential Statement. The FSC will not accept an application other than in the prescribed form. Applicants should ensure that pertinent requirements are complete before an application is filed.
- b) Applications lacking specific documents that need to be obtained from government agencies, such as police clearances etc., will be accepted by the FSC provided there is evidence to support that a written request for such document has been made at least a month before the filing of the application. An application, however, will be considered complete only when all required documents are received by the FSC.
- c) In terms of the Act, the FSC is required to either issue or refuse a licence within 3 months of receiving a completed application and all subsequent documentation and information requested.
- d) A general checklist of all documents for each prescribed form should accompany an application. All required forms and documents must be properly indexed following the sequence of the checklist.

## 6. **Criteria for the Issue of a Licence**

The FSC must determine whether an applicant satisfies the criteria for the issue of a licence under Section 44 of the Act. To this end, information provided by applicants will be evaluated, confirmed and investigated as may be necessary.

Full details must be provided with respect to the beneficial owners and persons controlling “mind and management” of an applicant. For the FSC, a critical element of the evaluation will be to ensure that all significant shareholders, associates, directors, officers or managers are fit and proper persons for their respective roles.

The FSC must be satisfied that persons concerned possess:

- 1) Honesty, integrity and a good reputation. (Supporting evidence, including references, must be provided and may be the subject to further enquiry by the FSC.)
- 2) Competence and capability. (Information must be provided for each individual including full details of their background, qualifications and

experience. This must include sufficient information to enable a judgment to be reached on their competence and capacity to adequately perform their specific role.)

There is a requirement to hold a minimum capital of \$25,000 in the Cook Islands. The FSC will reserve the right to increase the level of capital if it believes this is warranted by the size of the insurance manager's operations.

Details are also required of the proposed internal systems and controls. Manuals and written guidelines must be submitted covering such items as underwriting, record keeping, accounting policies, public information, internal controls, policies and procedures to meet the requirements of the Financial Transactions Reporting Act 2004 and risk management policies and procedures. The latter must include policies and control procedures relating to underwriting, investment, credit, liquidity, foreign exchange as well as operational risks, where applicable.

**7. Ongoing Requirements**

Applicants should note that virtually all of the requirements that are referred to above and which form the major part of the licence application process are ongoing and will be the subject of regular examination and review by the FSC. New directors, officers and significant shareholders therefore have to comply with applicable forms and documentary requirements and the criteria for a licence. Likewise, the criteria for the issue of a licence under Section 44 of the Act must be satisfied on an ongoing basis. A standard condition of all licences is that any significant change must be reported immediately and proposed changes of ownership, directors, management and external auditor require prior FSC approval. Failure to meet these conditions may lead to suspension or revocation of a manager's licence as well as, in some cases, prosecution.

**8. This Prudential Statement takes effect from .....**

**FINANCIAL SUPERVISORY COMMISSION**  
(Date)