

FINANCIAL SUPERVISORY COMMISSION



Cook Islands

PRUDENTIAL STATEMENT

No. 11.3-2009

ISSUED UNDER SECTION 98 OF THE *INSURANCE ACT 2008*

INSURANCE LICENSING AND APPROVALS REQUIREMENTS, POLICIES AND PROCEDURES

Application for Approval as an External Insurer 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 2 of the Insurance Act 2008 (Act) on “Regulation and Supervision of Insurance Business”. It applies to proposals for an external insurer to carry on insurance business in the Cook Islands. The purpose of this Prudential Statement is to (i) provide for the standardization of written applications and minimum information requirements for the approval of an insurer that is incorporated outside the Cook Islands and (ii) promote transparency in approval requirements not only within the Cook Islands but in the international financial community as well.

The Act allows the FSC to approve certain external insurers that is insurers incorporated outside the Cook Islands, to carry on domestic insurance business in the Cook Islands without a licence. Such approvals are based, among other things, on reliance placed on the home supervisor of the insurer.

Insurance licensing and approvals are the first step towards effective insurance supervision because they determine the quality of insurers participating in the market.

2. Requirement for Approval of an External Insurer

The Act provides that no person shall carry on insurance business of any kind in or from the Cook Islands without a licence or approval under the Act. Under Section 3(1) of the Act, "insurance business" is defined as the business of undertaking liability under a contract of insurance to indemnify or compensate a person in respect of any loss or damage, including the liability to pay damages or compensation contingent upon the happening of a specified event, and includes life insurance business and reinsurance business.

Insurance business is divided into two types:

- (a) long-term business; and
- (b) general business

3. Application Requirements

Section 2 of the Act defines an external insurer as an insurer constituted or formed outside the Cook Islands. The Act allows an external insurer to carry on insurance business in the Cook Islands in either of 2 ways.

- i. By being licensed as a Category B insurer that carries on business from a branch office operation in the Cook Islands
- ii. By being an approved external insurer under section 11(3) of the Act, which does not required the insurer to hold a licence in the Cook Islands.

Subsection 11(2) of the Insurance Act 2008 provides for an external insurer to apply to the Commission for approval to carry on domestic insurance business (without a licence). Subsection 11(3) of the Act contains the criteria that must be satisfied for the Commission to grant an approval, subject to any regulations that may be promulgated under section 95 of the Act. These criteria relate both to the applicant and the applicant's home jurisdiction supervisory body. In order to satisfy the Commission that these criteria are met, information must be provided to the Commission as set out in this Prudential Statement.

Attention of applicants is drawn to section 11(3A) and 11(3B) of the Insurance Act 2008, as inserted by the Insurance Amendment Act 2009, for restrictions surrounding the approval of an external insurer.

This Prudential Statement applies to applicants for approval as an external insurer under section 11(2) of the Insurance Act 2008 and the Insurance Code.

(a) Applicant Information Requirements

- a certified copy of the incorporating instrument and memorandum and articles of association of the applicant;

- most recent copies of applicant's capital adequacy calculations;
- current organizational chart of the entire corporate group;

(b) Home Jurisdiction Regulator Requirements:

- confirmation of consent to the approval of the application;
- a certificate of good standing of the applicant (or similar document);
- confirmation that the applicant is authorized to transact and is transacting the classes of insurance it is proposing to transact in Cook Islands;
- copies of annual regulatory filings for the last 5 years in the form submitted to the insurance supervisory authorities in the home jurisdiction evidencing successful insurance operations and proven expertise in the proposed lines of business, audited financial statements and, if applicable, the most recent filings submitted to the securities regulator.

The prescribed fee of \$2,000 must be paid when an application is filed. This fee represents the application fee and the approval fee for the first year.

4. Filing of Applications

- a) Applicants are required to file their applications in accordance with this Prudential Statement. Applicants should ensure that pertinent requirements are complete before an application is filed. An application will be considered complete only when all required documents are received by the FSC.
- d) In terms of the Act, the FSC is required to either issue or refuse an approval within 3 months of receiving an application and all subsequent documentation and information requested.

5. Ongoing Requirements

On an on-going basis, applicants will be required to provide certain financial information to the FSC.

6, This Prudential Statement takes effect from 1 January 2009.