

FINANCIAL SUPERVISORY COMMISSION



Cook Islands

PRUDENTIAL STATEMENT

No.11.4-2009

ISSUED UNDER SECTION 98 OF THE *INSURANCE ACT 2008*

INSURANCE LICENSING REQUIREMENTS, POLICIES AND PROCEDURES

Application for an Insurance Intermediary 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 Insurance Intermediaries". It applies to proposals to become a licensed Insurance Intermediary. 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 intermediary 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, or hold himself out as carrying on business as an insurance intermediary in or from the Cook Islands without a licence under section 44 of the Act. Under Section 2(1) of the Act, "insurance intermediary" is defined as an insurance broker or an insurance agent.

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Insurance intermediaries who were operating in the Cook Islands as at 31 December 2008 will have until 1 March 2010 to comply with the new licensing requirements in place of the date specified in Paragraph 10, Schedule 1, Transitional Provisions..

Insurance licensing is the first step towards effective insurance supervision because it determines the quality of participants in the market. In deciding whether to grant a licence, the FSC reviews the application under four general headings.

- **Applicant and key functionaries** (Are they "fit and proper" persons for their respective roles?)
- **Business plan** (Is it realistic and viable, for the nature of its proposed business?)
- **Location** (Where will management and records physically located?)
- **Systems and controls** (Are they adequate to ensure that the intermediary will carry on business in a prudent manner and comply with the requirements of the Financial Transactions Reporting Act 2003?).

Once an insurance intermediary 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 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. Application Requirements

Section 44 of the Insurance Act 2008 applies to licence applications for insurance intermediaries. This Prudential Statement identifies the criteria than an applicant must meet and the information that must be submitted to allow the FSC to assess the applicant's information against the criteria.

The Act provides for external intermediaries to be licensed, that is, a body that is incorporated outside the Cook Islands, a partnership that has its principal off ice outside the Cook Islands or an individual who is resident outside the Cook Islands. An insurance broker's licence will only be granted to either a Cook Islands company or a company that is incorporated, constituted or formed outside the Cook Islands.

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3. 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 the applicant or by each individual who is or will be a significant shareholder, 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,.
- **Confidential Financial Statement (FSC Form INL-4)** - to be completed by the applicant or by each person who is or will be a significant shareholder of applicant.

The prescribed fee of \$1,000 for an insurance broker and a body corporation agent and \$200 for an individual agent must be paid when an application is filed. This fee represents the application fee and the licence fee for the first year.

4. Filing of Applications

- a) Applicants 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 an 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.

5. 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 following:

- 1) The nature and adequacy of the financial resources of the applicant.
- 2) The business record and experience of the applicant.
- 3) For existing intermediaries, previous business operations in the Cook Islands.
- 4) The reputation of the applicant that is consistent with standards of good character and integrity.

The following information is required in order to assess an application against the criteria referred to above.

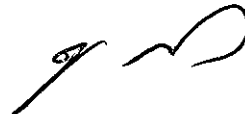
- in the case of a corporate applicant, a certified copy of the incorporating instrument and memorandum and articles of association of the applicant;
- the classes of insurance for which the applicant is seeking a licence.
- In the case of application for an agent's license, the applicant must provide a letter from the licensed insurer or approved external insurer appointing it to be the insurer's agent in Cook Islands. Each time an applicant is appointed by an insurer, the letter referred to above must be provided.
- address of office(s) in Cook Islands, or if no office is to be maintained in the Cook Islands, the address for contact purposes;
- name, address, nationality and CV of the applicant. In the case of corporate applications, the names, addresses, nationalities and CV's of directors and significant shareholders of the applicant).
- evidence of sound financial standing (personal or corporate financial statements) showing financial resources sufficient to carry on the proposed business
- Evidence of the appointment of an auditor acceptable to the FSC for a broker, if the applicant is not an external insurance intermediary.

- details of accounting systems and information to be reported to insurers. Applicants are required to maintain records in the Cook Islands of their business operations in the Cook Islands, if the applicant is not an external insurance intermediary.
- a copy of professional indemnity insurance policy held by the applicant.

6. **Ongoing Requirements**

Applicants should note that all 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 an insurance intermediary's licence as well as, in some cases, prosecution.

7. **This Prudential Statement takes effect from 1 January 2009.**



FINANCIAL SUPERVISORY COMMISSION



Application Document Checklist

Name of Applicant _____

Contact Person:

Name _____

Telephone _____

Email Address _____

please tick

- _____ **Licence Application [INL-1]**
- _____ Annex A – Certified copy of First/Renewal Certificate of Incorporation
- _____ Annex B – Copy of the proposed/latest Articles of Incorporation
- _____ Annex C – Copy of the proposed/latest Bylaws
- _____ Annex D – Proposed/present Organisational Chart
- _____ Annex E – Chart of Group Structure/Significant Shareholding
- _____ Annex F – Manuals/guidelines showing risk management, accounting and internal control systems

Sub-annex Document title

- _____ Annex G – Business Plan/Financial Statements and Projections
- _____ Annex H – Documents to satisfy the provisions of Section 11 of the Act if the applicant is an external insurer
- _____ Evidence of supervision/regulation in home country
- _____ Written confirmation from home authority of no objection to Insurer operating in the Cook Islands
- _____ Home authority statement that Insurer is supervised consistent to IAIS guidelines
- _____ Written acknowledgement from the Insurer that Commission may discuss conduct and status with home authority
- _____ Declaration completed

- _____ **Personal Affidavit [INL-2]** _____ (no. of Forms)
- _____ Bank Reference Letter
- _____ 2 x Character Reference Letter
- _____ Copy of passport
- _____ Police Clearance
- _____ Certification completed

- _____ **Corporate Declaration [INL-3]**
- _____ Declaration completed

- _____ **Confidential Financial Statement [INL-4]** _____ (no. of Forms)
- _____ Financial Statement and Schedules
- _____ Certification completed
- _____ Confirmation Inquiry Part I

Planned Date of Commencement (for new applicants only): _____ (dd/mm/yy)

\$	—	Application/Licence Fee	
		Date paid _____ (dd/mm/yy)	Receipt no. _____

For FSC use only

Date Application received _____

Checked by:

Deficiencies:

Action taken:		
By	Date	Comments