



Fit and proper policy

Guidelines Licensed insurers

Prudential Supervision Department

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Purpose of this guideline

- 1 This document sets out the Reserve Bank of New Zealand's (the Reserve Bank) guidelines in relation to the approval of a licensed insurer's fit and proper policy. These guidelines relate to the process a licensed insurer must undertake when determining fitness and propriety of its directors and relevant officers (including its appointed actuary), as well as the matters an insurer is required to take into account when determining its fit and proper policy requirements under the [Fit and Proper Standard](#) (the Standard) promulgated in accordance with [Part 2](#) of the [Insurance \(Prudential Supervision\) Act 2010](#) (Act). (All section references in this guideline are to the Standard or Act unless otherwise specified).
 - 2 Every licensed insurer is required to have a fit and proper policy in relation to determining the appropriateness of its directors and relevant officers. The fit and proper policy forms part of the insurer's [risk management programme](#) which is a licensing requirement for each insurer wanting to carry on business in New Zealand. The guidelines for that programme can also be found on the [Reserve Bank's website](#).
 - 3 The board of directors and relevant officers hold the primary responsibility for ensuring that an insurer is suitably managed and directed. Accordingly, it is of paramount importance to the Reserve Bank that members of the board of directors and relevant officers of an insurer have integrity and are suitable as these individuals can have significant and direct impact on the safety, soundness and reputation of the insurer.
 - 4 The licensed insurer is required to have regard to fit and proper matters when considering whether a person is appropriate for the position to which they have been appointed, as well as ensuring the person continues to be fit and proper for that position. The Reserve Bank has the power to remove persons it considers are not fit and proper to hold the position to which they have been appointed.
 - 5 The Act requires an insurer to document its process for undertaking the determination of a person's fitness and propriety, including matters that are required to be taken into account when making this determination.
 - 6 The Standard sets mandatory and minimum requirements to which all licensed insurers must comply. Licensed insurers may extend beyond these requirements if they wish.
 - 7 This guideline applies to all licensed insurers and relates solely to the requirements under the Act and Standard. This guideline does not cover requirements of other legislation that may also be of relevance to a licensed insurer.
 - 8 Nothing in this guideline overrides the provisions of the Act or the Standard, nor does it affect other legislated requirements that apply to licensed insurers.
- ### Criteria used in determining whether the responsible person is fit and proper
- 9 [Section 34](#) requires a licensed insurer to have a fit and proper policy which will apply to its directors and relevant officers. The definitions of 'director' and 'relevant officer' can be found in [section 6](#).
 - 10 [Section 36](#) empowers the Reserve Bank to issue fit and proper standards for the purposes of [section 34\(3\)](#) of the Act.
 - 11 The skills and experience required by each director and relevant officer depend upon that person's role. There may also be dependencies upon the skill set of other directors or relevant officers of the licensed insurer.
 - 12 The Act requires that the fit and proper policy of the insurer must set out what is required in assessing fitness and propriety. The policy must be provided with the application for licence and cannot be amended in any material way without the approval of the Reserve Bank.

- 13 A licensed insurer should take action where an individual is found to be unsuitable for a position to which they have been appointed, or for which they are the incumbent.
- 14 The fit and proper policy is expected to:
- (a) include the process for assessing the fitness and propriety of a person; and
 - (b) specify the actions to be taken where a person is assessed as not being fit and proper; and
 - (c) require fit and proper reassessments of all directors and relevant officers at least every 3 years; and
 - (d) contain adequate provisions –
 - (i) to encourage disclosure of information to the insurer or the Reserve Bank that may be relevant to a fit and proper assessment; and
 - (ii) for giving or obtaining any consents required for the collection and use of any information by the insurer to comply with the policy or this Act and by the Reserve Bank for its powers and functions under this Act.
- 15 An insurer is expected to clearly document its fit and proper policy so as to ensure all decisions made on the fitness and propriety of an individual are made in a consistent manner.
- 16 It should be noted that an adverse finding in one area may not necessarily render a person unfit or improper to hold the position. In some cases the surrounding circumstances may be taken into account.
- Criteria for determining fitness and propriety**
- (b) A person's qualifications and experience. The career of the person must be considered in making this determination.
 - (c) The composition of the Board and / or other relevant officers must be taken into account when making the appointment. Directors are required to have a broad set of skills, but these can be dependent on other members of the board.
 - (d) Any involvement in a company that has had financial or managerial trouble. The role played by the person must be considered.
 - (e) A history which involves being prohibited from being a director, promoter or from having a managerial role in an entity.
 - (f) Any professional or occupational discipline to which the person may have been subject to will also be of relevance. Consideration must be given to the conduct that occurred and the penalty imposed.
 - (g) Whether the person has at any time been adjudged bankrupt or otherwise entered into a procedure provided for under Part 5 of the Insolvency Act 2006;
 - (h) Whether the person has been prohibited from being a director, promoter or taking part in the management of an entity;
 - (i) Whether the person has at any time failed to comply with a direction given by the Reserve Bank or an overseas supervisor;
 - (j) Whether the person has any conflicts of interest, including whether the person has the available capacity to properly undertake their duties.

- 17 Consideration must be given to each of these factors, along with the circumstances surrounding them, including time elapsed since their involvement:
- (a) Any criminal or civil wrongdoing of the person, especially where this involves fraudulent activity.

- 18 In some cases disciplinary action may be taken against a person and a finding of fault may occur, however that finding may not be made public. In this case, the director or relevant officer is expected to disclose this information to the licensed insurer when the appointment is being considered.

19 A licensed insurer cannot rely on the fact that the person was not forthcoming with any information requests placed upon them where that information is otherwise accessible to the licensed insurer through reasonable enquiry.

Appointed actuary

20 A licensed insurer's appointed actuary is included in the definition of relevant officer and is therefore also subject to the insurer's fit and proper policy. The actuary must also be a Fellow of the New Zealand Society of Actuaries Incorporated (or the holder of an equivalent qualification approved by the Reserve Bank by notice to an insurer).

21 Given the appointed actuary's position, the licensed insurer should consider whether there is a risk that the appointed actuary's independent professional judgment may be unduly influenced. The appointed actuary must also have sufficient skills and background in order to ensure they are appropriate for the position.

Use of group fit and proper policy

22 [Section 35\(1\)](#) allows for a group fit and proper policy to be adopted where a licensed insurer is a member of a group of insurers.

23 The Bank will also accept a policy that applies wider than the insurer to other group members, provided that the policy is appropriate in its own right for the insurer.

24 A supplementary document may be required under [section 35\(2\)](#) of the Act where, for any reason, the group policy does not meet the requirements of [section 34\(1\) – \(4\)](#).

Fit and proper certificate must be provided to the Reserve Bank

25 [Section 37](#) requires that a licensed insurer provide a copy of its fit and proper certificate in relation to the appointment of a new director or relevant officer.

26 The Reserve Bank will issue a template form for the fit and proper certificate as required by [section 37](#) of the Act. This form must be provided to the Reserve Bank no more than 20 working days after the relevant person's appointment.

Reserve Bank's power of exemption

27 [Section 38](#) allows the Reserve Bank to exempt overseas insurers from compliance with the requirement to provide certification for directors as to their fitness and propriety for the position to which they are appointed.

28 For the Reserve Bank to allow this exemption it must be satisfied that the home jurisdiction's law or regulatory requirements meet a standard that is appropriate for the New Zealand context.

29 [Section 237\(1\)\(d\)](#) allows for regulations to be made to prescribe countries, states, or territories as jurisdictions where the Reserve Bank can exempt a licensed insurer from providing a certificate of fitness and propriety for a new director.

30 Under [clause 5](#) of the [Insurance \(Prudential Supervision\) Regulations 2010](#) (the regulations) these jurisdictions are currently Australia, Bermuda, France, Germany, India, Japan, the Netherlands, the United Kingdom and the following states of the United States: Indiana, Illinois and Delaware. Other jurisdictions may be added upon application made by a licensed insurer and appropriate evidence of the matters referred to above in paragraph 28.

31 For further information on the exemptions that apply to relevant overseas jurisdictions please refer to sections 19(4), 38(3), and 119(3) of the Act, or to the relevant guidelines which will be issued in due course.

32 While the overseas jurisdiction that has been approved under [clause 5](#) will form the basis for the consideration, it is noted that this exemption applies on an individual basis and each insurer's specific fit and proper policy will be considered.

Powers of removal and appeal

- 33 [Sections 39 – 43](#) empower the Reserve Bank to remove directors and relevant officers it considers not to be fit and proper for the purposes of the Act. The Act allows for this decision to be appealed. For further information on the powers of removal and appeal please refer to the relevant sections of the Act.

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