



# **Fit and proper standard**

## **Licensed insurers**

Insurance Policy

Prudential Supervision Department

June 2011

## I. Introduction and authority

1. The Insurance (Prudential Supervision) Act 2010 (the Act) requires licensed insurers to be subject to a fit and proper policy for directors and relevant officers (which includes appointed actuaries). The Act empowers the Reserve Bank of New Zealand (the Reserve Bank) to issue fit and proper standards for this purpose.
2. This standard is made in accordance with sections 34 - 36 of the Act and sets out the requirements for a fit and proper policy. The standard applies to all licensed insurers, and the requirement for a licensed insurer to comply with this standard is continuous.
3. Below are the factors that a licensed insurer must take into account when determining a person's fitness and propriety for a defined position. Each of these matters must be reviewed with respect to conduct both within and outside of New Zealand.

## II. Requirements

1. For the purposes of section 36(1) of the Act the matters that are relevant to the consideration of whether a person is a fit and proper person to be appointed to, and continue to hold, a position as director or relevant officer of a licensed insurer are outlined below:
  - (i) whether the person has the qualifications and experience reasonably expected for the position;
  - (ii) whether the person has been concerned with or taken part in the management of a person that has—
    - (a) been put into liquidation, receivership, voluntary administration, or another insolvency procedure or has otherwise been wound up or dissolved on the basis that it could not pay its debts when due; or
    - (b) been declared to be subject to statutory management or judicial management; or
    - (c) been subject to an arrangement or process under the laws of an overseas jurisdiction that corresponds, or is similar, to any of those specified in subparagraph (a) or (b); or
    - (d) entered into any procedure or arrangement with its creditors on the basis that it is unable to pay its debts when due, for example a moratorium arrangement;
  - (iii) whether the person has, in any civil or criminal proceedings, been found by a court or tribunal to have—
    - (a) engaged in an act, omission, or course of conduct that constitutes serious wrongdoing; or
    - (b) aided, abetted, counselled, or procured any other person to engage in an act, omission, or course of conduct that constitutes serious wrongdoing;
  - (iv) 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 and, if the person has been discharged from bankruptcy or any other procedure provided for under that Part, the time that has elapsed since the person was discharged;

- (v) whether the person—
  - (a) is the subject of current disciplinary action in respect of a profession or occupation (being disciplinary action taken by a regulatory or disciplinary body for persons engaging in that profession or occupation); or
  - (b) has been the subject of disciplinary action of that kind that has involved a finding of guilt, however expressed;
- (vi) whether the person has at any time been prohibited from 1 or more of the following under an order made, or a notice given, under New Zealand law or the law of an overseas jurisdiction:
  - (a) being a director of an entity; or
  - (b) being a promoter of an entity; or
  - (c) being concerned or taking part in the management of an entity;
- (vii) whether the person has at any time—
  - (a) failed to comply with the directions of the Reserve Bank given by or under this Act or any other enactment; or
  - (b) failed to comply with the directions of an overseas supervisor given by or under the law of an overseas jurisdiction; or
  - (c) obstructed or hindered the Reserve Bank in its exercise or performance of a power, function, or duty under this Act or any other enactment; or
  - (d) obstructed or hindered an overseas supervisor in its exercise or performance of a power, function, or duty under the law of an overseas jurisdiction;
- (viii) whether the person has any conflict or potential conflict of interest (direct or indirect) that affects, or may affect, the person's proper performance of the duties of the position;
- (ix) whether the person has been convicted of an offence and, if so,—
  - (a) the nature of the offence; and
  - (b) the circumstances in which the offence was committed (including the time that has elapsed since the offence was committed and the person's age when the offence was committed).

### III. Application

The matters listed above apply whether the circumstance, conduct, or event is, or occurs, in New Zealand or any other country.



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