

OFFSHORE GROUP OF INSURANCE SUPERVISORS



**GUIDELINES
SEPTEMBER 1998**

**THE IMPLEMENTATION OF THE “FIT & PROPER”
STATEMENT OF PRINCIPLES**

OFFSHORE GROUP OF INSURANCE SUPERVISORS

GUIDELINES ON THE IMPLEMENTATION OF 'FIT AND PROPER' STATEMENT OF PRINCIPLES

The 'Fit and Proper' Statement of Principles has been agreed to by the Members during the Working Group Meeting, held in Barbados on May 31 and June 1, 1997. This guideline suggests how insurance supervisors in assessing whether one is fit and proper to work in the insurance industry can apply the Statement of Principles. While the process of assessments should be applied mostly to individual persons, certain principles can be expected of corporate entities as well.

Individuals

An insurance supervisor or regulator, in determining whether a person is 'fit and proper' to hold the position of a director, chief executive officer or general manager, shall consider the following:

- a) his probity, competence and soundness of judgement in fulfilling the responsibilities of that position;
- b) the diligence with which he is fulfilling or likely to fulfil those responsibilities; and
- c) whether the interest of policy owners, insurance claimants, customers and creditors of the licensee, as the case may be, in any way threatened by his holding that position.

The particular person should not have record or evidence in his previous business conduct and activities that he/she:

- a) has been imprisoned or caused to be imprisoned of an offence under any insurance laws and related legislations;
- b) has engaged in any business practice appearing to the regulator to be deceitful, improper, whether unlawful or not, or which otherwise reflect discredit on his method of conducting business; or
- c) has engaged in, or been associated with, any other business practices, or otherwise conducted himself in such a way, as to cast doubt on his competence and soundness of judgement.

A person who is, or is to be, a director of a licensee:

- a) shall have appropriate qualification or working experience in finance, preferably in the insurance industry to enable him to perform his duties effectively;
- b) shall not have acted in a manner which may cast doubt on his fitness to hold the position of a director; and
- c) shall not have been a party to any action or decision of the board or management of the licensee, which is detrimental to the interests of the licensee, and in the case of a licensed insurer, its policy owners.

A person who is, or is to be, a chief executive officer or a general manager of a licensee:

- a) shall have appropriate qualification and working experience in the finance, preferably in the insurance industry to enable him to perform his duties effectively;

- b) shall not have held a position of responsibility in the management of any company which has been convicted of an offence under any written law during his tenure of office unless he proves that such offence was committed without his knowledge or consent and he was not in a position to prevent the offence;
- c) shall be available for full time employment, and shall not carry on any other business or vocation, except with the approval of the Board;
- d) shall not cause a conflict of interest situation with that of the licensee, wither by himself or through his spouse, child, parent, brother or sister;
- e) shall not have acted in a manner which may cast doubt on his fitness to hold the position of chief executive officer or manager, or acted in blatant disregard for proper professional conduct, especially in dealings with policy owners, claimants and customers; and
- f) shall not have been a party to any action or decision of the management of the licensee which is detrimental to the interests of the licensee, or in the case of a licensed insurer, its policy owners.

The individual person must also have achieved satisfactory outcomes of the following security and financial vetting:

- a) Security vetting is to be undertaken with the help of the Police and if necessary, the Police can contact their counterparts with Interpol / Scotland Yard / Federal Beureau of Investigations / Serious Fraud Office / etc. As long as there is no criminal record involving fraud, cheating, criminal breach of trust, forgery and other criminal offences relating to dishonesty, the individual can be favourably considered. (Information required of an applicant for the purpose of security and financial vetting is given in Appendix 1);
- b) The Supervisor of Insurance in the country of origin/business operation should be contacted to assess whether there are records of non-compliance, contravention of the Statutory Act and Regulation, non-cooperation, industry misconduct etc. In this respect, amore collaborative framework within the OGIS for sharing of such information can be established;
- c) Financial vetting with the Central Bank / Monetary Authority, financial institutions, Official Assignee, Central Credit Bureau and the Anti Corruption Agency can be undertaken. Such records will ascertain whether there is any bad financial misconduct, improper conduct of financial account with financial institutions, bad loan, applicant has not been filed as a bankrupt and there is no record of corruption activities;
- d) Other databases, which could be of use, are as follows:
 - NAIC's database in Kansas City
 - Database from Insurance Department, Cayman Islands Monetary Authority
 - Private Financial Services, and
 - Previous employers

If necessary, an interview could be conducted with the prospective applicant. It is important that the insurance supervisor has a firm idea of the applicant's credibility and soundness, which could be ascertained through the interview.

Corporate Entity

The test and evaluation of fit and proper principles could also be applied to institutions in certain areas. The test should not only be conducted at the entry level but also applied continuously to assess the performance of the institution in terms of fitness and probity.

In the broad test of fitness and probity for institutions, insurance supervisors should look for evidence that the institutions meet a high standard by reviewing the following:

- their financial soundness and strengths;
- the nature and scope of their business;
- the institutions' record-keeping and internal control systems;
- the institutions' business records; and
- their other business interest.

Financial Soundness and Strengths

Capital: Having adequate capital is essential to insurance operations. It provides a permanent source of funding for the institutions and a cushion to absorb losses as well as a base for further growth of the institutions. Generally, it represents the fundamental resources supporting the general infrastructure of the business. At the entry stage, a minimum level of paid up capital should be required before consideration is given for licensing for each type of insurance business. In the maintenance of sound financial health, insurers should also be required to comply with appropriate solvency margins.

In assessing the financial strength of the insurer, consideration should be given to the exposures of the risks underwritten. For certain insurers, eg. Captives that may issue only small number of policies with well defined maximum limits, or may purchase aggregate stop loss protection, total exposures may be easily assessed. In other instances, qualification may be more difficult, nevertheless exposures should always be taken into account.

Financial Ratios: Relevant financial ratios should also be computed in the assessment of financial soundness and strengths. Supervisors may set minimum ratios for insurers to meet. These ratios can include the following:

- 1) Solvency margins – This is an essential indicator of financial health. Regulators should require that every offshore insurer maintains a realisable value of its assets that exceed the amount of its liabilities by a margin;
- 2) Provisioning ratio – percentage of provision for insurance liabilities over the shareholder funds;
- 3) Profitability – net income over shareholder funds (ROE) and net income over total assets (ROA);
- 4) Claims ratio – net claims incurred over earned premium income.

Source of information: Sources of information would include audited financial reports, management reports and international rating agency reports.

Nature and Scope of Business

Supervisors should determine the extent of the insurer's current businesses as well as its future undertakings. For example, certain supervisory authorities may want to separate insurance business into life and general business, and may want to limit an institution to conduct just life or general or both activities.

This information could be obtained from financial reports, business plans of the institutions and international rating agency reports.

Record-keeping and Internal Control Systems

The management of the institution should establish a strong system of internal control to ensure the soundness of the institution. An effective internal control system helps to reduce the risk of frauds, errors, omissions and other irregularities from occurring.

A strong internal control system would include the following:

- 1) having an effective internal audit function;
- 2) key control procedures exist;
- 3) proper segregation of incompatible functions is practised at all times; and
- 4) the existing control system is adequate in realising the insurers' objectives and goals.

The institution should have the necessary expertise (management competency) and staffed with appropriate and adequate personnel who themselves are fit and proper persons; and

Evidence of the status of an institution's internal control system can be obtained from, inter-alia, internal audit reports and external audit reports.

Business Records

The insurer should be a well-established institution of international standing;

There should not be any adverse report or announcement in any financial journal or newspaper or any reliable sources; and

Supervisors should review the institutions' business plans to assess its feasibility intentions and reasonableness.

Business Interests

Supervisors should analyse the other business interest of the insurer to ensure that it is not connected or involved in activities which are incompatible with the status and standards of a well-managed insurer;

Inter-company dealings should also be reviewed to ensure that all these dealings are at arm length basis; and

The information relating to related business interest could be found through company search at the Registrar of Companies and returns submitted by the insurer.

While the shareholders of an insurer may propose for the appointments of directors, chief executive officers or general managers, the final approval lies with the Insurance Supervisor. In assessing the 'Fit and Proper' principles on a corporate director, an Insurance Supervisor should be guided by the Guideline on Implementation of 'Fit and Proper' Statement of Principles of a corporate entity. In addition, the results of the fit and proper test on individuals and institutions should be documented for future references.

Information Required for the purpose of Security and Financial Vettings

- Name
- Address and Telephone Number
- Date and Place of Birth
- Nationality
- Passport / Identity Card:
 - * Number
 - * Date and Place of Issue
 - * Issuing Authority
- Family Status
- Academic Qualifications
- Past Working Experience
 - * Previous Employer
 - * Designation (including duties and responsibilities)
 - * Date of Appointment
 - * Date of Resignation
- Bank Account:
 - * Name of Bank
 - * Branch and Address
 - * Type and No. of Account
 - * Personal Loan
 - * Corporation Loan where applicant has equity interest or is a director
 - * Loan where applicant has become a guarantor