

BELIZE:

INSURANCE (AMENDMENT) ACT, 2014.

ARRANGEMENT OF SECTIONS

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No. 11 of 2014

I assent,

(SIR COLVILLE N. YOUNG)
Governor-General

7th February, 2014

AN ACT to amend the Insurance Act, No. 11 of 2004; to make provision for application of the fit and proper test in relation to appointment in the management or change in shareholders of an insurance company or insurance intermediary and to any application for license as an association of underwriters; and to provide for matters connected therewith and incidental thereto.

(Gazetted 7th February, 2014).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the

Short title.

INSURANCE (AMENDMENT) ACT, 2014.

Act 11 of 2004
S.I. 81 of 2004
S.I. 117 of
2008.

and shall be read and construed as one with the Insurance Act, which is hereinafter referred to as the principal Act.

Amendment of
section 2.

2. The principal Act is amended in section 2, by deleting the definition of “fit and proper person” and substituting the following definition –

““fit and proper” has the meaning given in section 2A;”.

Insertion of
section 2A.

3. The principal Act is amended by inserting immediately after section 2 the following section –

“Fit and
proper.

2A. – For the purposes of this Act, and subject to subsection (2), whether a natural person is a fit and proper person shall be determined by the Supervisor, and in making such determination, the Supervisor shall make such investigations and inquiries as necessary and shall consider–

- (a) the probity of the person;
- (b) the background, experience, integrity, competence and soundness of judgment of the person;
- (c) the diligence with which the person is fulfilling or is likely to fulfill the responsibilities of the position in question;
- (d) whether the interest of policyholders or potential policyholders of the insurer are, or are likely to be, in any way

threatened by the person holding a particular position; and

- (e) any other matter the Supervisor considers appropriate.

(2) Without prejudice to the generality of subsection (1), in determining whether a person is a fit and proper person, the Supervisor may have regard to the previous or existing conduct and activities in business of financial matters of the person in question, and, in particular, to any evidence that the person—

- (a) has had any judgment, including a consent judgment, made against him or any penalty or fine imposed upon him by any court or other competent judicial authority in any country in any matter involving fraud, deception, dishonesty or breach of trust;
- (b) engaged in any business practices appearing to the Supervisor to be deceitful, oppressive or otherwise improper, whether lawful or not, or which otherwise discredit his method of conducting business;
- (c) has an employment record which leads the Supervisor to believe that the person carried out an act of impropriety in the handling of his employer's business;

- (d) 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 judgment; or
- (e) has, in the opinion of the Supervisor, as a director or senior officer of a bank, financial institution, insurer or investment company participated in or contributed to decisions or other actions which seriously threatened the continued financial viability of the bank, financial institution, insurer or investment company.

(3) In determining whether a company is a fit and proper person the Supervisor shall have regard to, but not limited by, the following—

- (a) whether the directors of the company are fit and proper under subsections (1) and (2);
- (b) whether the company has been found guilty of insider trading or fraud involving trading in securities by a local or foreign authority;
- (c) whether the company has been convicted of any offence under this Act;

- (d)** whether in the opinion of the Supervisor the company has not carried on its business in a prudent manner;
- (e)** whether in the opinion of the Supervisor the company is insolvent or is likely to become insolvent;
- (f)** whether the company has suspended or is about to suspend payment in respect of, or is unable to meet its obligations, as they fall due;
- (g)** whether in the opinion of the Supervisor the affairs of the company or any associated person are being conducted in a manner prejudicial to the soundness of the financial institution in question or the financial system of Belize; and
- (h)** any other matter which the Supervisor may prescribe.”.

4. The principal Act is amended in section 38, by inserting the following subsection after subsection (1) –

Amendment of section 38.

“(1A) The Supervisor shall object to an appointment referred to in subsection (1) where he is not satisfied that the person concerned is fit and proper to hold the intended office.”.

5. The principal Act is amended by inserting immediately after section 38 the following section –

Insertion of section 38A.

“Transfer of significant interest.

38A. – (1) A person owning or holding a significant interest in an insurance company shall not sell, transfer, charge or otherwise dispose of his interest in the insurance company, or any part of his interest, unless the prior written approval of the Supervisor has been obtained.

(2) A person shall not, whether directly or indirectly, acquire a significant interest in an insurance company, unless the prior written approval of the Supervisor has been obtained.

(3) An insurance company shall not, unless the prior written approval of the Supervisor has been obtained,

- (a) cause, permit or acquiesce in a sale, transfer, charge or other disposition referred to in subsection (1); or
- (b) issue or allot any shares or cause, permit or acquiesce in any other reorganisation, including of its share structure, that results in
 - (i) a person acquiring a significant interest in the insurance company; or
 - (ii) a person who already owns or holds a significant interest in the insurance company, increasing or decreasing the size of his interest.

(4) An application to the Supervisor for approval under subsection (1), (2) or (3) shall be made by the insurance company.

(5) The Supervisor shall not grant approval under subsection (1), (2) or (3) unless he is satisfied that, following the acquisition or disposal, any person who will acquire a significant interest is fit and proper.

(6) For the purposes of this section, “significant interest”, in respect of a company, means a holding or interest in the company or in any holding company of the company held or owned by a person, either alone or with any other person and whether legally or equitably, that entitles or enables the person, directly or indirectly –

- (a) to control ten per cent or more of the voting rights of that company at a meeting of the company or of its members;
- (b) to a share of ten per cent or more in any distribution made by the company;
- (c) to a share of ten per cent or more in any distribution of the surplus assets of the company;
or
- (d) to appoint or remove one or more directors of the company.”

6. The principal Act is amended in section 73, by inserting the following paragraph after paragraph (1)(b) —

Amendment of
section 73.

“(ba) each member of the committee or governing body of the applicant is fit and proper;”.

Amendment of section 75.

7. The principal Act is amended in section 75, by inserting the following paragraph after paragraph (1)(c) —

“(ca) is satisfied that one or more of the members of the committee or governing body of the association is no longer fit and proper; or”.

Amendment of section 178.

8. The principal Act is amended in section 178, by inserting the following paragraph after paragraph (o) —

“(oa) the prevention of the use of the insurance industry for money laundering and terrorist financing; and”.