Review of the Insurance (Prudential Supervision) Act 2010

Terms of Reference

April 2016

Introduction

The Reserve Bank intends to undertake a review of the Insurance (Prudential Supervision) Act 2010 (IPSA) over 2016-2017. The objectives of, and approach to the review are set out in this terms of reference. The legislative purposes of IPSA are not under review. These purposes are to:

- Promote the maintenance of a sound and efficient insurance sector; and
- Promote public confidence in the insurance sector.

Objectives of the review

The objectives of the review are to:

- Assess the performance of IPSA in light of its purposes to ensure that IPSA provides for a cost effective supervisory regime that promotes the soundness and efficiency of the insurance sector. The outcomes sought are that IPSA empowers a regulatory regime that:
  - provides an appropriate balance between promoting soundness and efficiency;
  - allows firms to meet requirements cost effectively and does not unduly inhibit innovation or the entry of new insurers;
  - applies requirements to the appropriate range of insurers;
  - is flexible enough to adapt to changing circumstances and diverse business models;
  - allows for a risk-based approach to regulation and supervision by ensuring regulatory requirements and responses are proportionate; and
  - can be implemented in a way that minimises administrative costs and supports transparency.
- Assess the consistency of the regime with international guidance and other legislation administered by the Reserve Bank and consider if further alignment would be appropriate given the nature of the New Zealand insurance sector.

Context

IPSA was enacted in 2010. IPSA provided the first comprehensive framework for the prudential regulation and supervision of entities carrying on insurance business in New Zealand.

Under IPSA, a person who carries on insurance business in New Zealand must hold a licence. The Reserve Bank completed the licensing process for eligible New Zealand insurers in 2013. Licensed insurers must meet the requirements imposed by IPSA, their conditions of licence, and the requirements set out in various secondary regulatory instruments administered by the Reserve Bank including: solvency standards; fit and proper persons standards; regulations and reporting requirements. The Reserve Bank also has distress management powers under IPSA.

The Reserve Bank considers that IPSA has resulted in an improvement in the soundness of the insurance sector, including through the following channels:

- Insurers operating in New Zealand are now subject to a set of minimum prudential standards and to ongoing risk-based supervision.
- There has been an increase in the level of independent representation on insurance entity boards.
- There has been an improvement in risk management capability for certain insurers.
- Some insurers have increased the amount of capital they hold against insurance and asset risks.

Over the five years since IPSA was enacted there have been a number of developments relevant to the prudential regulation of insurance that make a review timely, including that:

- International guidance on insurance regulation and supervision has been updated.
- The Reserve Bank has reviewed the legislative regime for Non-bank Deposit Takers and is developing a legislative regime for Financial Markets Infrastructures. The review of IPSA will give consideration to appropriate consistency between these regimes and the IPSA regime. Additionally there have been changes in market conduct regulation since IPSA was enacted.
- There have been changes in the insurance sector, such as the entry and exit of insurers and the developments of new business models and insurance distribution channels.
- The Reserve Bank has gained significant operational experience in respect of the application of IPSA and has implemented a risk-based approach to supervision.
- New Zealand has experienced a major catastrophe with consequences for the insurance sector.
- In the view of the Reserve Bank, the importance of a soundly-regulated sector has become broadly-accepted among the general public.

Approach to the review

The review will be undertaken by the Reserve Bank. The review will be run in an open and transparent manner and will actively seek input from industry, other stakeholders and interested government departments and agencies.

The review will be a comprehensive review of IPSA, albeit undertaken on the basis that the current legislative purposes in IPSA remain appropriate. The review will assess the statutory requirements on insurers under IPSA and the powers conferred on the Reserve Bank to enact secondary legislation. The review will not cover secondary legislation (such as solvency standards), but it is possible that the outcomes of the review may require subsequent changes to secondary legislation.

Issues that will be considered include, whether:

- There is scope to reduce the fragmentation of requirements across regulatory instruments.
- Additional tools are needed to recognise the diversity of business models in the sector.
- The requirements for overseas insurers provide an appropriate balance between objectives.
- There is more scope to use generic, as opposed to individually applied, requirements and
- There is more scope to ensure that regulatory responses are proportionate.

The Reserve Bank intends to release an Issues Paper for consultation in Q4 of 2016. This paper will set out the issues identified by the Reserve Bank at that stage of the review and seek stakeholders' views on these issues. Consultation on the Issues Paper will also provide stakeholders with an opportunity to raise any issues they think need consideration with respect to IPSA. Issues may be consulted on in a staged approach, with more than one Issues Paper. A report to Cabinet will be prepared following consideration of responses to the Issues Paper(s). This report will consider whether change is needed and, if so, propose options for change to be consulted on.

It is expected that options for change will be consulted on in 2017 in an Options Paper. If recommendations for change are agreed to by Cabinet legislation would be introduced into Parliament in 2018 at the earliest.