

29th June 2017

Richard Johnson, , Senior Adviser
Prudential Supervision Department
Reserve Bank of New Zealand
PO Box 2498
Wellington 6140

By email to - ipsareview@rbnz.govt.nz

Dear Richard,

The Review of the Insurance (Prudential Supervision) Act 2010 (IPSA)

Atradius Credito y Caucion S.A de Seguros y Reaseguros (Atradius) is a the world's second largest credit insurance and surety group with a presence in more than fifty countries.

Registered in Madrid, Spain, Atradius holds a license to conduct insurance business issued by, and is authorized and registered by, the Spanish regulator, Dirección General de Seguros y Fondos de Pensiones (General Directorate of Insurances and Pension Funds).

Atradius is a licensed insurer in New Zealand. Our New Zealand branch is currently located in Wellington though we have recently notified the Reserve Bank of New Zealand (RBNZ) of our intention to relocate our office to Auckland by the end of 2017.

The Atradius Group is "A" rated by AM Best (Excellent).

Atradius has reviewed the discussion document paper by RBNZ. We have given careful consideration to the issues and proposals raised in the discussion paper and we welcome the opportunity to participate in the consultation process.

Generally, we feel the discussion paper outlines a number of positive steps in ensuring even-handed and streamlined regulation in a market where overseas insurers are playing an increasingly important role. Achieving a balanced approach to regulation for all insurers – irrespective of where they may be domiciled – has obvious benefits for New Zealand insureds. As a branch of an overseas insurer, however, we believe that changes to IPSA need to also acknowledge that the stringent licensing and home jurisdiction considerations already ensure that licensed overseas insurers are supervised and regulated via comparative if not stricter conditions. Plus, whilst overseas insurers have some exemptions from IPSA, these are appropriate given the degree of regulation and supervision in the home jurisdiction

In submitting specific comments and recommendations, we will address those issues that have a direct impact upon Atradius.

We thank-you for the opportunity to submit our comments and suggestions and look forward to the next phase of this important consultative process. In the meantime, should you require clarification or further information in relation to any aspect of this submission, please do not hesitate to contact us.

Yours faithfully

Mark Hoppe
Managing Director, Australia and New Zealand

Question 1. Do you have any comments to make on the discussion in Part 1 of the Issues Paper?

No.

Question 2. Do you consider that the Review should assess the current scope of IPSA in terms of the nature of the insurance contracts or entities that are subject to the legislation.

No

Question 3. Do you consider that there are entities where the current provisions of the legislation result in inappropriate compliance costs or inappropriate regulatory obligations relative to the risks being addressed by the legislative framework?

No

Question 4. Are you aware of any currently non-licensed (under IPSA) insurance business activity in New Zealand that you consider should be within the scope of regulation in some form to enhance the effectiveness of the framework?

No

Question 5. Do you agree that overseas insurers provide valuable support to the New Zealand insurance market?

Yes and in particular to trade credit insurance.

Atradius is the world's second largest provider of trade credit insurance and it is interesting to note that all of the major multinational providers of this type of insurance are active in New Zealand. There are very few – if any – New Zealand insurers that provide credit insurance. Hence, we have to assume that overseas insurers are plugging a huge gap in terms of assisting New Zealand companies to trade and grow with confidence. This, in turn, is contributing to New Zealand's economy.

Question 6. Do you consider that the Review should reassess the application of the legislation to insurers operating as branches?

No. As an overseas insurer, Atradius has a number of exemptions under IPSA. However, we believe that these are appropriate given that the reporting and compliance requirements for overseas insurers are largely the same as for locally incorporated insurers. We say this in the context that the revenue generated by our New Zealand branch is an extremely small portion of our overall global business.

Plus, the question of supervision and regulation must be seen in the context that overseas insurers are also supervised and regulated in their home jurisdiction. We have recently worked with RBNZ in seeking approvals of both the Netherlands and Spain as suitable home jurisdictions. The process is very detailed and in determining the appropriateness of home jurisdiction, RBNZ considers – amongst other things – the supervisory, regulatory and reporting framework in place in the home jurisdiction and how it compares with the requirements of IPSA and RBNZ. We feel that this is appropriate and sufficient

Question 7. In the context of overseas insurers, what do you consider are the most significant risks posed to the New Zealand economy or New Zealand policyholders that need to be taken into account?

In terms policyholders, the most obvious risk is the failure of the overseas insurer in the context that there may be some form of home policyholder preference in the country of registration. However, this issue is addressed as part of the licensing process and also in consideration of home jurisdiction. If any degree of home jurisdiction became evident during those considerations, we would expect safeguards in either conditions on the license or refusal to issue a license or the requirement to retain additional capital in New Zealand for allocation purely to New Zealand policyholders in the event of the failure.

We believe that this should be managed at individual insurer level rather than legislated across the board. Again we say this in the context that for Atradius, there is no home policyholder preference in Spain. In the event of the failure of an insurer and all policyholders (Spanish and overseas) would have equal entitlements to payment.

In terms of the New Zealand economy, as already stated trade credit insurance enables companies to trade with confidence. It also promotes growth through domestic and export trade. Given that a large portion of the

current trade credit market would be furnished by overseas insurers, it follows that overseas insurers are actively supporting and promoting the New Zealand economy.

Question 8. Do you consider that there is opportunity to clarify or enhance the effectiveness of the statutory fund framework?

Possibly for life-insurers

Question 9. In the context of overseas insurers, do you consider a statutory fund framework may help protect the interests of New Zealand policyholders?

No but as per question 7, there may be a requirement for additional capital to be held in New Zealand where any degree of home policyholder preference exists. Again, this should be managed at insurer level and a condition of the license.

Question 10. Do you consider that the expectations placed on the directors, chief executive officer, chief financial officer or appointed actuary of insurers would benefit from being considered further within the Review?

No. However, the role of the appointed actuary – for overseas insurers – is a tricky one. The appointed actuary is generally very involved with the local branch but it is not practical to expect that person to undertake an actuarial review of the licensed entity. This should be considered as part of the review of IPSA.

Question 11. Do you consider that the Review should encompass further consideration of an insurer's key control functions (paragraph 84) to promote effective risk management and consistent application of requirements across the sector?

The current system allows flexibility based on an entity's internal control, governance compliance and risk framework which is also a consideration for licensing and – for overseas insurers – a determination that the existing frameworks are also compliant with international standards. We would support greater clarity in relation to local requirements, perhaps through an APRA-style suite of prudential standards that outline the minimum requirements. However, the requirements should be in line with existing international best-practice such as the IAIS Insurance Core Principles and should not add extra compliance or reporting obligations on licensed entities.

Plus, we agree that they must allow a degree of flexibility based on the fact that the "one rule fits all" really doesn't work in a diverse and expanding industry.

Question 12. Do you consider that there may be opportunities to enhance the enforcement framework?

No views

Question 13. Do you consider the distress management framework with IPSA could be considered within the Review to enhance the expected effectiveness of the framework, particularly for smaller licensed insurers?

No the current requirements are clear and concise and what you would expect to see in a business failure scenario.

Question 14. Are there any areas of the framework that may pose particular concerns when considering overseas insurers (branch operations)?

No the current requirements are clear and concise and what you would expect to see in a business failure scenario.

Question 15. Do you consider that the current approach to prudential capital requirements by reference to a solvency margin and condition of license should be within the scope of the Review?

No. The current solvency requirements are clear and concise and in line with requirements in other jurisdictions

Question 16. Do you consider that consideration should be given to clarifying the Reserve Bank's prudential response to deteriorations in reported solvency levels?

No. The current solvency requirements are clear and concise and in line with requirements in other jurisdictions

Question 17. Do you consider the Review should reassess the current framework for approval of material transactions and policy changes?

No in terms of material transactions such as corporate mergers, transfers and amalgamations. Atradius has recently experienced these processes first-hand and they worked extremely well. However, we can see some merit in examining the forms and extent of approvals for consistency e.g. transfer of business vs change of control proposal.

Yes in terms of policy changes. Our experience with other regulators/supervisors is that they permit changes to key documents without prior approval. However, this is largely based on the upfront understanding of the minimum requirements and that the changes do not fall short of these minimum requirements. Outlining the minimum requirements in more prescriptive standards may allow a similar approach to be adopted in New Zealand.

Question 18. Do you consider that approval by the Reserve Bank is more or less effective than alternate mechanisms e.g. court-based systems?

Our experience – again based on other jurisdictions – is that the approval of material transactions by the RBNZ is more efficient and less costly (time and money) than court-based systems.

Question 19. Are there any aspects of the current disclosure requirements that you consider do not provide useful information or are unduly onerous or costly to prepare?

No

Question 20. Do you consider that there is information that is not currently required to be disclosed that would be beneficial to market participants?

No. Atradius currently discloses (and continues to update and disclose) solvency and financial ratings plus actuarial information is available. Plus we have the requirement to notify stakeholders of changes in the financial ratings. These disclosures are not required – in the same manner – in other jurisdictions and are sufficient.

There is some merit in requiring all insurers to disclose governance structures and compliance statements in annual reports, if only for consistency and on the basis that it is best practice

Question 21. Do you consider that the Reserve Bank (or other authority) has a role in providing appropriate industry data to the market?

Yes most definitely in terms of industry statistics and subject to further consultation.

Question 22. Do you consider that the Review should reassess the manner in which requirements are currently specified and the mix between requirements set out in the legislation, standards or guidance?

Yes and it would be worthwhile examining an APRA-based system where key requirements are outlined in a regulatory standard (per topic) and generic licensing requirements and standard wording of declarations and certificates be included in these documents. This would mean that only specific license requirements (per insurer) need be attached to the license itself.

Question 23. Are there any aspects of the current requirements that you consider would be better specified using different regulatory tools?

No

Question 24. Are there any further issues you would like to raise that you consider should be within the scope of the review?

No

Question 25. Are there any areas of the legislation that you consider are now redundant or you feel could have clearer drafting or require technical corrections?

No

Question 26. Are there any areas of the legislation that you consider, having regard to the purposes of the legislation, unduly restrict competition or innovation within the New Zealand insurance market?

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