Response to the

Reserve Bank of New Zealand

on the


30 June 2017
EXECUTIVE SUMMARY

This submission has been prepared by BNZ Life Insurance Limited (BNZ Life) in response to the Reserve Bank of New Zealand (RBNZ) Issues Paper titled “Review of the Insurance (Prudential Supervision) Act 2010”. We welcome this opportunity to provide a response to the Issues Paper and appreciate the current and planned industry consultation on this matter.

BNZ Life is supportive of this review and the intent to promote a sound and efficient insurance sector in New Zealand. In our experience, we have found the prudential supervision regime to be operating effectively and meeting the objectives of the legislation.

The Act provides important protection to policy holders and we welcome any refinement of obligations to ensure that the regime continues to provide that protection in a way that is effective, manageable and efficient for industry participants.

Any changes to the legislation, regulations or guidelines should be considered in the context of rapidly changing technology to ensure that the outcome of the review is fit for purpose for the future. We are very supportive of a balanced approach to regulation that gives consideration to risks to consumers and the costs and complexity of compliance and flexibility in response.

We will continue to participate in the review process and consultation as these matters progress.

Should RBNZ have any questions in relation to this submission, please contact:

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

BNZ Life’s experience is that the IPSA regime is working effectively and there are no material areas of concern. There are areas where BNZ Life supports further refinement of the obligations to support operational and cost efficiencies as highlighted later in this submission. BNZ Life supports the review, particularly the objectives of maintaining a sound insurance sector in New Zealand, whilst providing flexibility and having regard to the cost and effectiveness of compliance with various aspects of the regime.

Question 2: Do you consider that the Review should assess the current scope of IPSA in terms of the nature of insurance contracts or entities that are subject to the legislation? Please provide commentary in support of your view.

In considering the best interests of New Zealand policyholders, BNZ Life supports the scope of this review including an assessment of insurance entities subject to the legislation, particularly branch operations of overseas insurers. There is a significant risk to New Zealand policy holders where a branch operation is subject to home jurisdiction policy holder preference. BNZ Life does not consider that disclosure alone is effective in managing this risk, and consideration should be given to requiring the ring fencing of assets for New Zealand policyholders in order to better manage exposure in this area.

BNZ Life submits that overseas reinsurers provide critical support to the New Zealand market. BNZ Life does not support a licencing process for offshore reinsurers that could adversely impact access to those global services and expertise.

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?

While BNZ Life does not consider that there are material issues in this area, the practical aspects of compliance can create disproportionately large costs and allocation of resources compared to the risks to consumers. In that regard BNZ Life supports risk based consideration of materiality in the application of some requirements, particularly in the area of timing and nature of disclosure, with focus given to the benefit to consumers (further outlined in the response to question 19 in this submission).

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?

BNZ Life does not have any comment to make in this area.

Question 5: Do you agree that overseas insurers provide valuable support to the New Zealand insurance market? Please provide commentary in support of your view.

BNZ Life strongly agrees, particularly in the area of reinsurance where offshore reinsurers provide significant support and international experience to the New Zealand insurance industry.

Question 6: Do you consider that the Review should reassess the application of the legislation to insurers operating as branches? Please provide commentary in support of your view.

BNZ Life supports a reassessment of the application of the legislation to insurers operating as branches. While BNZ Life understands that the current regime provides some efficiency in the application of the regulatory framework, it is submitted there are risks to consumers that are not adequately addressed. As such, BNZ Life supports this review including an assessment of the application of the legislation to insurers
operating as branches to ensure those risks (noted below in the response to question 7) are appropriately managed.

**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?**

There is a real risk that New Zealand policyholders do not clearly understand the implications of a home jurisdiction policyholder preference when dealing with a branch of an overseas insurer. This is currently managed through disclosure, which we do not believe is an adequate means to inform New Zealand policyholders of the risks they may be subject to in the event of distress of the overseas insurer. The review should consider and address this risk to policyholders and BNZ Life supports regulatory reform in this area to ensure the best interests of New Zealand consumers are met.

**Question 8: Do you consider that there is opportunity to clarify or enhance the effectiveness of the statutory fund framework? Please provide commentary in support of your view.**

BNZ Life would welcome further guidance on the practical application of the requirement to place the interests of the policyholder before those of the shareholder in the management of the assets of the statutory fund. This is particularly so, given this is a core requirement under the regime that is open to interpretation within the industry.

The obligations relating to disclosure of statutory funds to consumers would benefit from review given the need to disclose which statutory fund a policy is referable to, even if an insurer has only one fund. BNZ Life submits that statutory fund disclosure from a consumer point of view is relatively meaningless.

**Question 9: In the context of overseas insurers, do you consider a statutory fund framework may help protect the interests of New Zealand policyholders? Please provide commentary in support of your view.**

A statutory fund framework should assist in this area (unless the overseas insurer can prove that New Zealand policyholders will not be any worse off in the absence of a statutory fund). The effectiveness of this would be entirely dependent on the operational criteria of those statutory funds, including ring fencing of assets for New Zealand policyholders and any other safeguards regarding removal of assets from a statutory fund in the event of distress.

**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? This may include clarifications of current expectations or expansion of responsibilities.**

BNZ Life does not consider that any additional prescription of duties for Relevant Officers or Directors is required. However, additional practical guidance on the existing obligations would be welcomed.

BNZ Life does not support further expansion of the responsibilities of Appointed Actuaries given this has been relatively ineffective in the Australian market. In addition to existing IPSA requirements, Appointed Actuaries are also subject to the NZ Society of Actuary standards which provides for consistency in application of professional standards in this area.

**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?**

BNZ Life submits that the current risk management requirements under the IPSA regime are working effectively. BNA Life supports flexibility in the application of the requirements based on the size, structure and classes of business relevant to the licenced insurer. Satisfaction that an insurer’s key control functions
are adequately managed should be sourced through the existing Risk Management Programme requirements rather than through any additional prescription in this area.

**Question 12:** Do you consider that there may be opportunities to enhance the enforcement framework? Please provide comment in support of your view.

The existing enforcement framework may result in disproportionate penalties relevant to the significance of the breach and resulting impact to consumers. BNZ Life therefore supports RBNZ having a wider range of enforcement tools, with the key requirements being transparency and fairness in the process. There are currently significant penalties that can be imposed on Directors and Relevant Officers – any reform in this area should ensure that the penalties are appropriate given the risks to consumers and potential breaches, without deterring Directors from obtaining or maintaining governance roles for licensed insurers given the limited availability of competent Directors in the New Zealand industry when coupled with Fit and Proper requirements.

An example of relevance here is the Securities Act 1978 and the transition to the new Financial Markets Conduct Act 2013 where, in the example of false or misleading disclosures in an offer document for securities, there was a very conscious move by legislators away from the use of criminal conduct for incorrect disclosures unless the conduct by individuals was deliberate or reckless. In all other cases civil liability, including pecuniary penalties and compensation, was the preferred method of enforcement.

BNZ Life supports a broader range of enforcement responses that are relative to the materiality of the breach without the need for involvement of the courts (where not required).

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

BNZ Life does not consider there are material issues with the existing distress management framework. Any review of this framework should maintain flexibility in responding to insurers in distress to ensure that outcomes are appropriate and distress management is handled effectively.

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

BNZ Life has no further comment to make in this area.

**Question 15:** Do you consider that the current approach to prudential capital requirements by reference to a solvency margin and conditions of licence should be within scope of the Review? Please provide commentary in support of your view.

BNZ Life understands that the current solvency standards are outside of the scope of this review. BNZ Life submits it is not necessary for prudential capital requirements to be in scope. However, given this is a core part of the regime, the industry may welcome review in this area. BNZ Life notes that a more complex approach to risk based capital should not be a necessary outcome.

**Question 16:** Do you consider that consideration should be given to clarifying the Reserve Bank’s prudential response to deteriorations in reported solvency levels? Please provide commentary in support of your views.

BNZ Life has no comment to make in this area.

**Question 17:** Do you consider the Review should reassess the current framework for approval of material transactions and policy changes? Please provide commentary in support of your view.

BNZ Life has no comment to make in this area.
Question 18: Do you consider that approval by the Reserve Bank is more or less effective than alternative mechanisms e.g. court based systems?

BNZ Life submits that protection of policyholders’ interests should be considered more important than cost or speed efficiency in this area. If the current approach is to remain, it is critical that RBNZ have and maintain the capacity and necessary skills to approve amalgamation proposals.

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? Please provide commentary in support of your view.

BNZ Life supports a thorough review of disclosure requirements to consumers. Disclosure may serve an important purpose in helping to educate and protect New Zealand policyholders but the timing and nature of disclosure must be meaningful. The current requirements can be onerous to comply with and may restrict activity the insurer may otherwise have undertaken. An example would be use of surplus capital, which may result in a downgrade in financial strength rating that poses no real risk to consumers, however the IPSA would require public disclosure. We would be supportive of some flexibility within the regime here with the response based on the risk to consumers. Additionally, BNZ Life understands the purpose of disclosure prior to an insured entering into or renewing an insurance contract, with the majority of the industry offering a ‘free look’ period to consumers where they will not be penalised for cancelling the contract, there is limited value in requiring up front disclosure which could occur at policy fulfilment with no real harm to consumers. Simplification in this area would be welcomed.

While statutory fund provisions within the regime are in place to protect policyholders, disclosure relating to statutory funds will be meaningless to most consumers. We would be supportive of these matters being managed at a regulatory oversight level rather than requiring formal disclosure to policyholders.

We would also welcome acknowledgement of web based channels as a method of meeting disclosure requirements. This will reduce costs of compliance for insurers and will ensure that up to date information is always available for consumers.

Question 20: Do you consider that there is information that is not currently required to be disclosed that would be beneficial to market participants? Please provide commentary in support of your view.

BNZ Life submits that additional disclosure over and above existing requirements would not materially benefit policyholders.

Question 21: Do you consider that the Reserve Bank (or other authority) has a role in providing appropriate industry data to the market? Please provide commentary in support of your view.

BNZ Life submits that published statistics would be of limited value in the absence of significant investment. If RBNZ is to perform this role, then it really requires standardised data collection across the market (which doesn’t currently exist) and could come at considerable cost and effort (varying between easy and extremely difficult for insurers depending on their individual system capability). This is already a challenge with the existing data collection requirements, including Quarterly Insurer Surveys and the Half Yearly/Insurer Returns. BNZ Life would welcome further consultation in this area to ensure that there is efficiency and consistency in the information collected given there are vast differences in the way that insurers collect, record and organise their data.

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 legislation, standards or guidance? Please provide commentary in support of your view.
BNZ Life would welcome the scope of this review simply ensuring that there is clarity and consistency in the application of the regulatory instruments and that they are easy to follow for insurers.

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

BNZ Life has no comment to make in this area.

**Question 24:** Are there any further issues you would like to raise that you consider should be within scope of the Review? Please provide commentary in support of your view?

While BNZ Life acknowledges the efficiency and capacity drawn from the current portfolio supervision structure, further attention could be given to the responsiveness to matters raised and requirements delivered through that channel at RBNZ’s request. In addition, there are times when it would drive more efficiency from an insurer’s perspective if there were a supervisor or named contact person appointed for “smaller” insurers who would operate as a point of escalation or contact for material matters whilst still maintaining the efficiency of the portfolio supervision framework for day to day matters.

**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?

BNZ Life has no comment to make in this area.

**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? Please provide commentary in support of your view.

BNZ Life has no comment to make in this area.