

30 June 2017

Mr Richard Johnson
Senior Adviser
Prudential Supervision Department
Reserve Bank of New Zealand

CHUBB

By email: ipsareview@rbnz.govt.nz

Dear Mr Johnson

**Submission on issues paper
Review of the Insurance (Prudential Supervision) Act 2010**

I refer to the above issues paper dated March 2017 calling for submissions by 30 June and now **attach** submission for Chubb Insurance New Zealand Limited (**Chubb**).

By way of background, I provide the following general information about Chubb's global and local operations.

- Chubb is the world's largest publicly traded property and casualty insurer. With operations in 54 countries, we provide a wide range of insurance solutions to a diverse group of clients -- from commercial and personal property and casualty insurance, to reinsurance, life insurance as well as personal accident and supplemental health insurance.
- Chubb's operation in New Zealand offers Property & Casualty, Group Personal Accident and Business Travel Insurance products through brokers. It leverages global expertise and local acumen to tailor solutions to mitigate risks for clients ranging from large multinational companies to local SMEs. Chubb in New Zealand also provides personal insurance solutions such as Masterpiece, a unique policy for people who own prestigious homes and valuable possessions.

If you have any queries or require any further information, please do not hesitate to contact either myself or my General Counsel (Australia & New Zealand), Gabija Simmonds.

Yours sincerely,

Andrew Brooks
Country President - NZ
Chubb Insurance New Zealand Limited

E Andrew.Brooks@chubb.com

Gabija Simmonds
General Counsel - Australia & NZ
Chubb Insurance New Zealand Limited

E Gabija.Simmonds@chubb.com

Submission

1. ***Do you have any comments to make on the discussion in Part 1 of the issues paper?***

We support and agree with the rationale for the review and RBNZ's views on the philosophy of supervision and regulation. We broadly agree that IPSA and the prudential supervision framework has resulted in an improvement in the soundness of the insurance sector (while not overly constraining efficiency). Overall, we believe the regime is working reasonably well (albeit there may be some opportunities for review/improvement as detailed below).

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.***

We do not see a need to regulate indemnity products that are not currently licensed insurance e.g. warranties and guarantee products, credit repayment waivers, overseas insurers that offer products in New Zealand but do not meet the 'carrying on business' test unless these products give rise to significant regulatory concern of which we are unaware.

We support the concept of 'competitive neutrality' as argued for by ICNZ.

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?***

Our view is that the legislation appropriately regulates relevant entities and there is sufficient flexibility in the present regime. One example of such flexibility that we are strongly in favour of retaining relates to small life books where it would be inappropriate to impose greater regulation.

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?***

We are not currently aware of any currently non-licensed insurance business activity in New Zealand that should be within the scope of regulation.

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

Yes we agree– we see overseas insurers providing competition as well as providing important insurance capacity to the NZ market. In terms of support for this view, we reference the views of the Commerce Commission in the 2014 IAG/Lumley decision where the Commission expressly noted the choice available to local brokers due to the presence of overseas insurers.

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.***

Our expectation is that all entities, including branches should be subject to the same solvency requirements as all other licensed entities .

The basis of this view is as follows:

- (a) As noted we support the concept of competitive neutrality. We see it as an odd outcome that the form of entity chosen by an insurer dictates a different regulatory outcome.
- (b) Our view is that the practical ability for New Zealand policy holders to access branch assets held offshore in the event of insolvency will be limited. On this basis, we do not see overseas solvency regulation offering 'like for like benefits' to New Zealand policy holders (compared to local rules).

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?***

- (a) We see the most significant risk is that branches will not have sufficient capital held in New Zealand that the RBNZ has jurisdiction over. There are few, if any, examples of significant branch insolvencies in New Zealand so any adverse event will be, to some extent, a voyage into the unknown.
- (b) Whether or not there is an express local policy holder preference, we see it as likely that there will be at least some bias in overseas Courts/regulators towards local interests if New Zealand policy holders seek to obtain the benefit of assets held overseas.

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.***

As primarily a general insurer (to which the framework does not apply) we have no particular views on this 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.***

Yes – we believe a Statutory Fund framework applying to branch overseas insurers would protect the interests of local policyholders. In the event of insolvency, this would allow local policy holders to obtain the benefit of assets ring fenced from foreign policy holders and other creditors. The other option (more consistent with our views expressed in 6) is at least require overseas branches to meet the same local asset and insolvency requirements as locally incorporated insurers.

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.***

Legislative change appears not to be required however, there may be scope for additional guidance from RBNZ in terms of expectations and responsibilities.

11. ***Do you consider that the review should encompass further consideration of an insurer's key control functions to promote effective risk management and consistent application of requirements across the sector?***
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We do not believe there are material issues with regard to an insurer's key control functions.

12. ***Do you consider that there may be opportunities to enhance the enforcement framework? Please provide comment in support of your view.***
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We agree that the enforcement regime could sensibly allow for a wider range of more proportionate enforcement responses that fall short of criminal convictions. The circumstances in which directors can be personally liable should also be reviewed. Imposing personal liability in circumstances where there is no realistic prospect of such liability (due to the lack of materiality) creates uncertainty and ultimately reduces the deterrent effect of the relevant sanction.

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?***
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We do not have any particular views on distress management.

14. ***Are there any areas of the framework that may pose particular concerns when considering overseas insurers (branch operations)?***
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As noted, the concerns regarding branch operations are a lack of competitive neutrality and a lack of assets in New Zealand within the jurisdiction of RBNZ

We are also concerned that there is potential for insurers to underwrite New Zealand risks without triggering the branch requirement (due to a lack of 'on the ground' presence). A more insurance focussed definition should be considered (while having appropriate carve outs for reinsurers to ensure availability of reinsurance capacity).

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.***
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No – the current approach with reference to a solvency margin is appropriate and consistent with other jurisdictions.

16. ***Do you consider that consideration should be given to clarifying the RBNZ's prudential response to deteriorations in reported solvency levels? Please provide commentary in support of your views.***
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Yes – there needs to be clear understanding on how the RBNZ responds and rectifies deteriorating solvency levels. This will provide confidence to the industry and policyholders.

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.***
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We do not have any material concerns with the current framework.

18. ***Do you consider that approval by the RBNZ is more or less effective than alternative mechanisms, e.g., court-based systems?***
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We believe the approval processes by the RBNZ is significantly more effective than mechanisms such as Court approved schemes of arrangement and should be retained.

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.***
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Yes – currently there are three forms of reporting – Quarterly Insurer Survey (QIS), the half yearly Insurer Return (IR) and the half yearly Insurer Solvency Return (ISR). The IR and QIS contain similar information, so we suggest the forms be amalgamated and submitted each quarter – this would provide the RBNZ with more information each quarter and the insurers will save preparation time by having one less form to complete each half year.

We also believe that provided an underwriter discloses its rating to a broker and uses reasonable diligence to procure disclosure, it should not be liable for any failure by the broker.

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.***
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We do not have any particular views as to additional beneficial information.

21. ***Do you consider that the RBNZ (or other authority) has a role in providing appropriate industry data to the market? Please provide commentary in support of your view.***
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We have no particular views on this issue.

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.***
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We are generally comfortable with the mix of requirements (legislation, standards and guidance). One observation is that certain guidance notes are now a number of years old and there may be scope to update based on more recent experience (some guidance notes are relatively repetitive of the legislation as opposed to providing further detail regarding RBNZ expectations).

23. ***Are there any aspects of the current requirements that you consider would be better specified using different regulatory tools?***
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As noted, we are broadly comfortable with the existing regulatory tools.

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.***
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We do not have any particular further issues to raise.

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?***
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Generally the legislation appears sound and reasonably current (noting the difficulty of applying the 'carrying on business' test in the internet age).

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.***
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As noted, we believe the legislation broadly fosters competition and innovation (while balancing other relevant factors).