I G Rowley & Associates Ltd
Chartered Accountants & Advisers
P O Box 8862 Riccarton Christchurch 8041

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

Dear Richard

Review of the Insurance (Prudential Supervision) Act 2010

My submission is specifically in respect of the effect of the Act and the related Regulations on Captive Insurers.

A Captive Insurer is generally defined as an insurance company that is wholly owned by its insureds; its primary purpose is to insure the risks of its owners; and its insureds benefit from the Captive Insurer's underwriting profits.

I would like to emphasise that a Captive Insurer does not seek to provide insurance services directly to "the public".

If we look at the Captive Insurer and its insured's, they are generally a group of companies under common ownership or control. The Captive Insurer contracts, on behalf of the Group, with insurance companies or re-insurers to obtain the cover that the Group requires. In that respect it is no different to the group companies each, or as a group, contracting with insurers. The benefit of using the Captive Insurer is that the Group may be able to obtain direct access to the re-insurance market and therefore more extensive cover and/or more competitive and lower costs of cover.

IPSA was enacted to ensure that the insurance market and insurance companies are regulated to protect, as much as possible, the general public who are seeking to obtain financial protection in the event of loss of, or damage to, their assets or to minimise potential liabilities, based on their estimate of the value of the assets or the cost of the potential liabilities.

In doing this IPSA is monitoring whether the insurance companies have sufficient financial capital and resources to meet their expected liabilities under the contracts they have entered into with customers.

IPSA is not required to ensure that the public have appropriate (or, in fact, any) cover. That is determined by the insured parties including, in the case of Groups with Captive Insurers, the Directors or management of the Group.

I understand that there are approximately 15 Captive Insurers with New Zealand policyholders. From a reading of their names it appears that the majority only insure the risks of their parent and/or fellow subsidiaries. Other names suggest that the Captive Insurers represent professional groups (for example, Veterinary Professionals Insurance Society) or a grouping of organisations with similar risk profiles (for example, Civic Assurance Limited).

The current Act and Regulations require Captive Insurers to:

- Prepare annual financial statements in accordance with the New Zealand equivalents to International Financial Reporting Standards (NZ IFRS) and other reporting standards as applicable for a Tier 1 for-profit entity; have these financial statements audited; and the financial statements filed with the Reserve Bank of New Zealand (RBNZ).
- Prepare half year financial statements in accordance with NZ IFRS and file them with the RBNZ.
- Appoint an actuary to complete a Financial Condition Report and an Insurer Solvency Return for each financial half year and each full financial year and file them with the RBNZ;
- Require the auditor to complete an audit of the annual Financial Condition Report and Insurer Solvency Return and Report to the RBNZ.

The financial statement presentation and audit requirements are more onerous, and more expensive, than those required under the Companies Act 1993 and the Financial Reporting Act 1993 for a company that is a subsidiary of a holding company. In addition, the Group has to bear not only the cost of the actuary's and auditor's services but also the administrative costs of preparing the additional information to complete the financial statements to the Tier 1 standard and to supply the additional information required by the actuary and auditor.

In my opinion, given that the Captive Insurer is only effectively a vehicle to arrange the insurance cover for its group of related insureds, the current scope of IPSA is too broad and imposes inappropriate compliance costs and inappropriate regulatory obligations relative to the risks that the legislative framework is attempting to address.

In Appendix 2 to the Issues Paper you record that the gross annual insurance premiums are NZ$10,146,753,000. While you do not disclose the insurance premiums of Captive Insurers, I would be surprised if they exceeded 2% or 3% of this amount.

I would emphasise that I agree that a robust and inclusive legislative framework is appropriate and necessary for insurers who are providing their services to the public in general.

My submission and recommendation is that Captive Insurers be exempt from the requirements of IPSA.

However, if it is considered that some oversight is required, I suggest it be restricted to:

- Filing with RBNZ, unaudited annual financial statements of the Captive Insurer, approved and signed on behalf of the Board of Directors by two Directors;
- The Captive Insurer preparing and filing with RBNZ, an annual simplified Solvency Return which calculates and compares the Actual Solvency Capital and the Minimum Solvency Capital; and is signed on behalf of the Board of Directors by two Directors.

If you require any further information please contact me by email at george@rowleyassociates.co.nz.

Yours faithfully
I G Rowley & Associates Limited

George Rowley
Director