

Partners Life Limited

Response to the Issues Paper: Review of the Insurance (Prudential Supervision) Act 2010

Question 1: Do you have any comments to make on the discussion in Part 1 of the Issues Paper?
No additional comments
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.
<p>The response to this question needs to be split to insurers and reinsurers.</p> <p>For insurers and therefore insurance contracts, all New Zealand policyholder's policies should be regulated by IPSA. There is currently nothing in the legislation that would prevent for example an offshore insurer (the Amazon or Netflix selling online with no assets in NZ therefore not required to be registered under the companies act), said insurer could be in a no or low regulation jurisdiction putting policyholders at risk.</p> <p>For reinsurers and therefore reinsurance contracts, New Zealand needs access to global capacity, requiring all reinsurers to be regulated by IPSA would severely limit the amount of reinsurance capacity to New Zealand insurers. Therefore, we think that any changes to the current scope should specifically exclude reinsurers and reinsurance contracts.</p>
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? Please provide commentary in support of your view.
<p>Yes, in particular overseas re-insurers provide valuable support to the NZ market, for example reinsurance claims capacity, underwriting, product development and claims support. It is important for the sustainability of the New Zealand market that global reinsurance capacity remain available without a regulatory burden.</p> <p>Conversely for insurers, the market is very competitive and should be conducted on a level playing field for all participants. That is all participants in the market should be subject to the same regulatory and capital requirements regardless of their corporate form.</p>
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.

The banking sector in New Zealand has seen the requirement by the RBNZ for local incorporation for systemically important banks (e.g. Westpac) under its “buttressed branch requirements”

(<http://www.rbnz.govt.nz/-/media/ReserveBank/Files/regulation-and-supervision/banks/consultations/Summary-of-submissions-and-policy-decision-dual-registration-policy-for-small-foreign-banks.pdf?la=en>)

It would seem prudent for the RBNZ to consider this matter in the context of the insurance sector and take in to account whether it is prudent to require the local incorporation of large or systemically important insurers, particularly where offshore policy holders have preference to NZ policyholders.

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?

The risks for NZ policyholders is that in the event of a failure of a New Zealand insurer, the RBNZ would only have access to local assets of the branch of the global insurer. There may be occasions where the offshore policyholders have preference to NZ policy holders. The failure of a New Zealand insurer is likely to be as a result of a large / multiple claim event which is the very circumstance under which policyholders will need access to the assets of the local insurer.

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.

We believe the statutory fund framework is operating effectively. We believe the origins of statutory funds was to segregate and protect policyholder investment funds from legacy investment style insurance / whole of life products, where policy holder premiums are being invested with a surrender and / or redemption value. The majority of the life insurance products sold currently are risk only, with relatively small Current Termination Value¹.

We believe the statutory fund regime should only apply to legacy investment products, as the statutory fund regime for risk products represents an excessive compliance cost relative to the risks that the policy holder faces.

However if RBNZ has a strong view as set out in para 64 regarding the difficulties life insurance policy holders may experience in obtaining replacement cover should their personal health deteriorate over time and believes that statutory funds are required for all life insurance business then we believe it should at least be optional to include all of a life insurer health products within their statutory fund as the same personal health deterioration issues apply.

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 – for the same reasons as set out in Question 2 and 5 for insurers (i.e. not reinsurers).

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.

¹ Solvency Standard

<p>We do not believe that there should be any further changes to IPSA. If RBNZ wishes to offer further clarifications then its current approach of using Guidelines is the most appropriate mechanism as these are both agile and flexible.</p>
<p>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?</p>
<p>Similar to question 10 – RBNZ has flexibility and ability to keep pace with change through Guidelines. It is acknowledged that Guidelines are not enforceable, and we are not aware of any insurer not seeking to comply with RBNZ guidelines.</p>
<p>Question 12: Do you consider that there may be opportunities to enhance the enforcement framework? Please provide comment in support of your view.</p>
<p>We believe that Directors and Officers have existing professional and legislative obligations. For example, Senior Officers and Appointed Actuary are bound by ethical standards and professional duty of care for their respective professions (e.g. Actuary Society and Institute of Chartered Accountants).</p> <p>In addition they face significant reputation risk should they act inappropriately.</p> <p>Therefore the current approach seems appropriate, as we are not aware of any instance where an insurer as received feedback from RBNZ and not complied / acted accordingly.</p>
<p>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?</p>
<p>No, The IPSA Distress Management Framework is adequate.</p>
<p>Question 14: Are there any areas of the framework that may pose particular concerns when considering overseas insurers (branch operations)?</p>
<p>As set in question 6 and 7, the RBNZ should consider the appropriateness of branch structures in a distressed scenario around the ability to access assets (which will be limited to local assets) of insurers.</p> <p>We don't believe that the requirements in Australia whereby large deposits are required by insurers/reinsurers to carry on insurance business should be imposed. In particular as the NZ insurance market is dependent on global reinsurance capacity, decreasing access by increasing costs would be unhelpful.</p>
<p>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.</p>
<p>We understand RBNZ currently only has the ability to prescribe a minimum solvency margin in the conditions of licence which is a very blunt instrument.</p> <p>RBNZ should consult with the industry on any proposed changes, keeping in mind a consistent application of the solvency standard is appropriate as the main tool to determine solvency across the market / industry.</p>
<p>Question 16: Do you consider that consideration should be given to clarifying the Reserve Bank's</p>

<p>prudential response to deteriorations in reported solvency levels? Please provide commentary in support of your views.</p>
<p>Yes we believe more transparency from the RBNZ in terms of its own internal response guidelines should be disclosed. This would give the industry more visibility on RBNZ response regime.</p>
<p>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.</p>
<p>Should RBNZ wish to consider the change of control thresholds to the takeovers code levels, then there should be exemptions able to be applied where for example only a good character test similar to the OIO process applies.</p>
<p>Question 18: Do you consider that approval by the Reserve Bank is more or less effective than alternative mechanisms e.g. court based systems?</p>
<p>We consider RBNZ approval process is more effective and cost efficient than a court based process.</p>
<p>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.</p>
<p>No, we do not consider the current disclosure requirements unduly onerous or costly to comply with.</p> <p>There is a requirement for all insurers to have a financial strength rating in New Zealand with disclosure to policyholders and associated compliance costs. We believe that the financial strength rating provides little value to policyholders, and that there is more value in the fact that insurers are regulated by RBNZ and comply with RBNZ's solvency standards.</p>
<p>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.</p>
<p>We do not believe that additional disclosures would be of use to market participants.</p> <p>As legacy style life investment products are no longer sold in New Zealand the risks for consumers are quite different to deposit taking institutions such as banks and therefore we believe the compliance costs of imposing a Key Information Summary requirement similar to that required for registered banks would outweigh any potential benefits.</p>
<p>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.</p>
<p>Currently market data for risk business is through voluntary process i.e. Risk data collected by the Financial Services Council for respective FSC members. The Health Funds Association also collects some in force data but does not collect new business data. Data for non-member companies in these organisations may not be not collected or is estimated.</p> <p>It would be useful for the industry for RBNZ to collect and publish as the FSC data for the entire market across both the Life and Health Funds industry.</p>
<p>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.</p>

Guidelines play an appropriate role to allow for changes to best practices, and not all guidelines may be appropriate for all insurers. Legislating some of the guidelines maybe inappropriate as this then restricts RBNZs ability to respond to changes in the market.

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

No additional comments.

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.

No additional comments.

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 additional comments.

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.

No additional comments.