

## Part 1 - Introduction

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

We note that we have provided responses in relation specifically to the reinsurance market, or where we consider our views to be relevant to the review, but otherwise aimed to keep our submission succinct.

## Part 2 - Potential issues identified

### Entities required to be licensed

#### **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.**

Our view is that an active and efficient reinsurance market in New Zealand is beneficial to the maintenance of a sound and efficient insurance sector. We therefore support steps that facilitate ease of doing business, such as greater mutual recognition of home jurisdiction legislation and supervision (perhaps with allowance for specific jurisdictions which are considered at least equivalent to New Zealand) or specific exemptions from legislation. This would potentially lessen the New Zealand specific obligations reinsurers are required to comply with, while ensuring soundness of and public confidence in the insurance sector.

We believe that the RBNZ should have a broad exemption power in IPSA, which would enable the RBNZ to grant individual or class exemptions as appropriate. Such exemptions should be consistent with the purpose of IPSA and no broader than reasonable to address the matters that gave rise to the exemption. Any exemption would be subject to conditions, in RBNZ's discretion. An exemption power would provide flexibility and allow the RBNZ to consider the individual circumstances of the reinsurer.

We submit that any change to the current scope of IPSA legislation, as it alters what constitutes "carrying on insurance business in New Zealand" and what is an "insurance contract", and therefore potentially the requirement to be licensed in New Zealand, should be subject to appropriate grandfathering arrangements to ensure fairness and appropriate continuity to existing insurance/reinsurance contacts or insurance/reinsurance entities.

#### **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?**

In relation to reinsurance, we support greater mutual recognition of home jurisdiction legislation and supervision (perhaps with allowance for specific jurisdictions which are considered at least equivalent to New Zealand) or specific exemptions from legislation.

This would impose requirements on reinsurance entities that would be more proportionate to the risks these entities present to achieving the objectives of the New Zealand legislation. This change would further reduce unnecessary duplication of effort in satisfying multiple legislative regimes, reduce cost and create a more efficient framework.

#### **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.

## Overseas Insurers

**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.**

The New Zealand insurance industry is strongly supported by overseas reinsurers. In addition to the provision of reinsurance capacity, the overseas reinsurers provide valuable services to the New Zealand insurance market including expertise in claims, underwriting, pricing, risk management and insurance experience analysis; and more generally provide the New Zealand market with access to leading research and development and global practices.

**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.**

Our view is that overseas licensed reinsurers who are subject to satisfactory regulation and supervision in their home jurisdiction (perhaps with allowance for specific jurisdictions which are considered at least equivalent to New Zealand) should have available to them certain exemptions from compliance with the equivalent New Zealand requirements, reducing the duplication of supervisory resources. We support greater home jurisdiction mutual recognition arrangements.

**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 active participation in the New Zealand insurance market of overseas reinsurers contributes to increased diversification of risks in New Zealand, supporting the resilience of the New Zealand market and the soundness of the insurance sector.

## Statutory funds and enhanced protection of life insurance policyholders

**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.**

No comments.

**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.**

Our view is that the protection of the interests of New Zealand policyholder, in respect to overseas reinsurers, should be considered in the context of the overall financial strength of the overseas reinsurer in question.

If the overseas reinsurer is subject to satisfactory regulation and supervision in its home jurisdiction, particularly in relation to financial strength and capital adequacy measures, then it is not clear that a statutory fund framework increases the protection of New Zealand policyholders.

## Role of key officers and key control functions

**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.**

We do not consider an expansion of responsibilities as necessary or appropriate.

Within the context of an overseas reinsurer operating under a branch structure, we note that the requirement of the New Zealand Appointed Actuary to review the complete licensed entity is complex to apply, and consideration should be given to altering this requirement.

**Question 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?**

We would encourage the issuance of updated Guidelines that clearly set out the RBNZ's expectations as to minimum standards in terms of risk management frameworks. Guidelines are in our view preferable, rather than updating legislation, to support future flexibility and changes to technology (such as Insurtech).

Risk management framework requirements should reflect the mix of business, size and complexity of the insurer/reinsurer, and be sufficiently flexible to recognise the diversity of insurers/reinsurers within the New Zealand market. Further, we consider that any enhancements should take into account the equivalent requirements in the home jurisdiction through appropriate mutual recognition or exemption arrangements.

In our view the pre-approval model for material changes to policies should be amended to require notification (rather than pre-approval) to the RBNZ of any material changes. This would align to the licensing regime of the FMCA. We consider that the current pre-approval model may have the unintended consequence of discouraging continuous improvement to risk management programmes.

Further, the penalty for a failure to seek the RBNZ's approval under sections 34 and 73, being a fine of up to \$500,000, is in our view disproportionate.

## Enforcement regimes

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

Our view is that any enforcement regime should be relative to the materiality of the breach.

## Distress Management

**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?**

Overall, our view is that the RBNZ has sufficient distress management tools.

Our view is that the legislation should not be too prescriptive to allow for flexibility in response to reinsurers in distress, so responses can be tailored to the circumstances to achieve an optional outcome.

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

As noted previously, we support greater mutual recognition of home jurisdiction legislation and supervision, particularly in relation to financial strength and capital adequacy measures, for overseas reinsurers. We are therefore not supportive of a proposed universal minimum deposited assets test.

## Solvency Requirements

**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.**

Yes, we consider that there is some value in considering an alternative approach than the existing use of conditions of licence to apply the minimum solvency margin requirement, which may be confusing or lack transparency to market participants.

**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.**

Our view is that the existing framework provides appropriate discretion to the RBNZ to respond to deterioration in an insurers/reinsurers' solvency level based on the specific circumstances involved, and we consider that this should be maintained.

We recommend that guidance be provided on the practical supervisory measures (although not exhaustive) that may be taken due to deteriorating solvency levels, to reduce the uncertainty as to the RBNZ's potential approach.

## Supervisory processes – regulatory approvals

**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.**

Given the number of overseas reinsurers operating in New Zealand, improvements to the current Reserve Bank notification/approval regime to facilitate group reorganisations – where the transfer or amalgamation does not result in a change of the ultimate control of the licensed entity, or to allow for a transfer of a license to another group company – should be considered to support an active and efficient reinsurance market in New Zealand.

We note the current RBNZ Guidelines on Transfers and Amalgamations are in some areas limited. We would therefore welcome further guidance on what the RBNZ is expecting to see in a transfer or amalgamation application.

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

No comment.

## General disclosure and Financial Strength Rating requirements

**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.**

No comment.

**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.**

No comment.

**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.**

Yes. However, we recommend appropriate industry consultation to ensure efficiency of data collection and appropriateness of published data.

## Appropriate Regulatory Mechanisms

**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.**

Yes. Our view is that it is appropriate to consider the mix between legislation and other mechanisms (such as regulations, standards, guidance, etc) to ensure consistency, transparency, enforceability and appropriate consultation/oversight procedures.

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

No comment.