



Westpac Life-NZ-Limited

Submission to the Reserve Bank of New Zealand on the Issues
Paper: *Review of the Insurance (Prudential Supervision) Act
2010*

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1. INTRODUCTION

1.1 This submission to the Reserve Bank of New Zealand (**RBNZ**) is made on behalf of Westpac Life-NZ-Limited (**Westpac Life**) in respect of the Issues Paper: *Review of the Insurance (Prudential Supervision) Act 2010 (Issues Paper)*. Thank you for the opportunity to provide feedback on the proposals.

1.2 Westpac Life's contact for this submission is:

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1.3 Westpac Life generally supports the submissions made by the Financial Services Council on the Issues Paper. However, we have specific comments on the following consultation questions.

2. RESPONSE TO CONSULTATION QUESTIONS

Question 2: Do you consider that the Review should assess the current scope of the Insurance (Prudential Supervision) Act (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.

2.1 Consideration should be given to bringing peer to peer insurance within the scope of IPSA in order to ensure there are adequate protections for consumers.

2.2 We do not support extending the legislative scope to a wider range of entities within the insurer's corporate group. Expanding the legislative scope would increase the administrative burden. However, it is not evident that it would create material additional benefits. The existing regime already includes governance requirements, including the requirements that an insurer must have independent directors and that its governing body must demonstrate independence. In addition, the RBNZ receives details on the material risks faced by licensed insurers through the Financial Condition Report and the Risk Management Framework so it is unclear how widening the scope would provide additional detail.

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?

2.3 See our response to question 2 above.

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?

- 2.4 The well-established global reinsurance companies provide valuable support to the New Zealand insurance market in terms of spreading risk through risk pooling, and providing strong financial backing for the portions of risk that are reinsured.

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

- 2.5 As the well-established global reinsurers are in the business of pooling their risks across the world, it is natural for them to operate as a branch in New Zealand and, subject to confirmation of an appropriately active and strong regulator in the home domicile territory of the reinsurer, this is acceptable.
- 2.6 In terms of direct insurers, the RBNZ should reassess the application of the legislation to insurers as branches. The reason for this is to ensure that a level playing field is achieved across insurers that offer the same categories of insurance to the public, and to ensure that life insurers can be appropriately compared.
- 2.7 The Review should assess how the potentially adverse consequences of allowing overseas insurers to operate in New Zealand on a branch basis can be mitigated. The following aspects of the current regime can be improved:

- The relative solvency position of branch operations is opaque. The solvency positions cannot be compared where branches report only on the basis of their head office and overseas regulator.
- Assets may not be held within New Zealand. If the insurer suffers financial distress overseas, they may not have these assets to satisfy their obligations to New Zealand policyholders.
- Priority may be given to overseas policyholders ahead of New Zealand policyholders as a result of overseas legislation. New Zealand policyholders may not understand that their interests are subordinated to overseas 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?

- 2.8 New Zealand policyholders may not be sufficiently protected should the branch of an overseas insurer suffer financial distress.

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.

- 2.9 Section 99(2)(c) provides that a life insurer must not invest assets of a statutory fund in an associated person that is not a subsidiary of the life insurer. In 2013 there was engagement with the RBNZ to seek clarification on whether investments into collective investment schemes managed by associated persons could be seen to be an investment in an associated person. The RBNZ confirmed that they were not – although the RBNZ would look through to the underlying investments of the managed fund and determine whether these investments were in associated persons. The RBNZ could consider clarifying this position in the legislation.

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?

- 2.10 If the Review is to consider this, we would recommend that insurers that are part of larger groups should have the flexibility to be able to continue comply via group policies and processes.

- 2.11 We support the current approach. As stated at paragraph 77 of the Issues Paper: *The legislation permits the use of a group risk management programme or fit and proper policy where such policies meet the relevant requirements. This reduces compliance costs from duplication of documentation.*

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?

- 2.12 Yes. As part of that assessment, the RBNZ should consider the extent to which the distress management framework is understood by policyholders, in particular the RBNZ’s ability to apply to the High Court to reduce the value of contracts of insurance. Consideration should be given to whether riskier insurers (eg those whose financial strength rating falls below a certain level) should be required to make disclosures about this.

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

- 2.13 See response to question 6.

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.

- 2.14 It would be useful if the RBNZ Bank would publish further guidance on when a change to an insurer’s risk management programme requires approval. In particular, we would support guidance that changes to *strengthen* the programme do not require approval.

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.

- 2.15 The common international view is that the regulator should collect industry data, however this was already being performed in New Zealand on a voluntary basis by the industry prior to IPSA. One approach might have been to agree to enhancements or expansion of the current voluntary reporting to meet the RBNZ's needs.
- 2.16 In any event, the RBNZ has mandated its own reporting, which has created an additional compliance burden for insurers as the RBNZ has evolved and clarified its requirements over recent years. The RBNZ intends to only publish aggregate data, whereas insurers currently have access to this information at a granular company level. To avoid moving to less informative output from the data collection, the industry will need to continue to engage an independent third party to also collect data, or receive the RBNZ data returns, and report back at a company level.
- 2.17 The RBNZ should consider whether there is a more effective and efficient approach to data collection that will also produce insightful granular output rather than only an aggregated view.

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.

- 2.18 We would support streamlining and simplifying the regulatory framework to support ease of reference. In particular, detail on mandatory requirements which have been noted in Industry Updates should be incorporated into guidance so that they are easily accessible in the future.

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?

- 2.19 Section 63 provides that after receiving notice in writing that its financial strength rating has changed or that a credit watch warning has been given, an insurer must within 20 working days deliver a certificate by the rating agency of the new rating or credit watch warning. This means that the insurer is required to obtain a second, separate document from the rating agency, ie it is not sufficient to inform the RBNZ of the original notice or provide the RBNZ with a copy of that notice. It is not evident what benefit is derived from this extra documentation. This requirement could be streamlined.