



# **Governance**

# **Guidelines Licensed insurers**

Insurance Policy  
Prudential Supervision Department

June 2011

## Part 1 - Introduction

### Purpose of this guideline

- 1 This document sets out the Reserve Bank of New Zealand's (the Reserve Bank) guidelines on the governance of a licensed insurer. These guidelines relate to the licensing requirements set out in [section 19](#) of the [Insurance \(Prudential Supervision\) Act 2010](#) (the Act). (All section references in this guideline are to the Act unless otherwise specified).
- 2 This document is not a comprehensive guide to sound governance for licensed insurers. The OECD has published *Guidelines for Insurers' Governance* (2005), which are intended to provide guidance and serve as a reference point for insurers. The International Association of Insurance Supervisors' *Insurance Core Principles and Methodology* (October 2003) also contains guidance on corporate governance. In the New Zealand context, guidance for good corporate governance can be found in:
  - (a) New Zealand Securities Commission, *Corporate Governance in New Zealand Principles and Guidelines: A Handbook for Directors, Executives, and Advisers*, March 2004; and
  - (b) NZX Limited, 'Corporate Governance Best Practice Code', *NZSX and NZDX Listing Rules*, August 2010.
- 3 This guideline relates solely to the requirements under the Act, and does not cover requirements of other legislation that may also be of relevance to licensed insurers.

- 4 Nothing in this guideline overrides the provisions of the Act or any regulations, or affects other legislated governance requirements that apply to licensed insurers. These guidelines do not limit other matters that the Bank may take into account in determining whether it is satisfied in terms of [section 19\(1\)\(i\)](#) of the Act.

## Part 2 – Governance requirements

### Background

- 5 A licensed insurer must have sound corporate governance arrangements, both at the time of licensing, and during ongoing operations.
- 6 This guideline sets out the *minimum* governance requirements for licensed insurers. The governing body will continue to have ultimate responsibility for the governance of the licensed insurer. 'Governing body' is defined in [section 6](#).
- 7 This guideline will address the licensing requirements in relation to governance identified in [section 19\(1\)\(i\)](#). The Reserve Bank must be satisfied that an applicant's incorporation and ownership structure, ownership, and governance structure are appropriate, taking into account the size and nature of the applicant's business or proposed business, including the size and type of the insurance business, and the size and type of risks to be insured.
- 8 Where an applicant is an overseas person, the Reserve Bank must also be satisfied that the corporate governance standards that apply to the applicant in the applicant's home jurisdiction are appropriate, and at least as satisfactory as the New Zealand governance requirements (sections [19\(i\)\(i\)](#) and [19\(3\)\(e\)](#)).

## Incorporation and ownership structure

- 9 While a licensed insurer must be a body corporate, the Act does not prescribe incorporation requirements for licensed insurers. Licensed insurers can therefore be New Zealand incorporated and New Zealand-owned, New Zealand incorporated and owned by an overseas person, or New Zealand branches of overseas persons.
- 10 The Reserve Bank must be satisfied that the regulatory and supervisory frameworks, and legal and accounting practices in the applicant's home jurisdiction are sufficient. If the Reserve Bank is not satisfied then the person may not carry on insurance business in New Zealand as a branch of an overseas person.
- 11 The Act also does not dictate the ownership structures of licensed insurers. [Section 11](#) provides that where a licensed insurer is a friendly society or a credit union, the Act applies to the licensed insurer as if it were a body corporate.
- 12 Although there are no restrictions on ownership structure, the size and risk of the licensed insurer's business will influence which ownership structure the Reserve Bank will consider to be appropriate. The larger or riskier the business, the less appropriate certain structures may be. Consideration will be given to the transparency of the group structure, nature of the business, and the proportionality of the governance structure to manage the licensed insurer's business.

- 13 If a licensed insurer intends to change its corporate form, [section 27](#) requires the licensed insurer to notify the Reserve Bank *before* the change takes place. The Reserve Bank will then consider whether it would still be satisfied that the licensed insurer is entitled to a licence under [section 19](#) following the change. In doing so, Reserve Bank considerations will include the effect of the change of corporate form on New Zealand policyholders.

## Ownership

- 14 Suitable ownership is important to promote public confidence in the insurance sector, as insolvent or fraudulent owners may compromise policyholders.
- 15 An applicant must provide details of its ownership, including beneficial ownership, to the Reserve Bank. If the applicant intends to operate as part of a group, details of the group's structure should also be provided.
- 16 The ownership of each applicant will be considered on its merits. The Reserve Bank must be satisfied that owners do not pose a risk to policyholders' interests, and may consider matters such as:
- (a) integrity demonstrated in personal behaviour and business conduct;
  - (b) soundness of judgment; and
  - (c) financial soundness.

- 17 Where the owner is a legal person, the following may also be considered:
- (a) financial soundness and strength;
  - (b) nature and scope of business;
  - (c) significant owners and key functionaries; and
  - (d) group organisation (if applicable).
- 18 If the owner is regulated in another jurisdiction, the Reserve Bank may seek information on the owner from the relevant overseas regulator.
- 19 If a proposed transaction will result in a person becoming a holding entity, or obtaining control, of a licensed insurer, the Reserve Bank must be notified *before* the transaction takes effect ([section 26](#)). The Reserve Bank must be satisfied that the licensed insurer's ownership will still be appropriate after the change ([section 28](#)).
- 20 The licensed insurer must provide the Reserve Bank with details of material changes resulting from the proposed transaction, such as changes to the governing body. Policyholders should also be informed of such changes, via the licensed insurer's website.
- Governance structure**
- 21 These guidelines on governance structure do not apply to licensed insurers operating in New Zealand as branches of overseas persons, as the governing structure is a product of foreign law over which we have no influence. However, the Reserve Bank will look to the licensed insurer's New Zealand chief executive officer (defined in [section 6](#)) to ensure appropriate governance of the branch.
- 22 The licensed insurer's governance structure needs to be sufficiently sophisticated to ensure effective oversight of its activities, taking into account the size and nature of the business. The Reserve Bank must be satisfied that the governance structure is appropriate, and that the governing body is operating effectively.
- 23 It is important that the governance of the licensed insurer is kept separate from its ownership; responsibilities should be allocated accordingly through a formal charter. There should also be processes in place to provide the governing body with information to identify, monitor, and manage risks.
- 24 Governance arrangements should be disclosed to shareholders or member policyholders, and other stakeholders. It is expected that a licensed insurer will include a corporate governance statement in its annual report, including a statement of its corporate governance policies, practices, and processes, as well as information about the directors (as defined in [section 6](#)), how the governing body operates, and any committees of the governing body.
- 25 For a licensed insurer who operates as a friendly society, there may be instances where different terminology is used to cover the same position.
- 26 The Act makes it clear that it is the substance of the position that should be taken into account, rather than the name the position is given. Therefore, licensed insurers need to consider who within their organisation performs the tasks of director, Chief Executive Officer and Chief Financial Officer, and ensure those in each position meet the requirements.

## **Composition**

- 27 It is expected that a licensed insurer will have a minimum of two directors.
- 28 Beyond this minimum, the number of directors, as well as their skills and background, should reflect the size and nature of the business.
- 29 For larger or more complex licensed insurers, a larger governing body is likely to be required so that it is of sufficient size and sophistication to oversee the licensed insurer's operations. The sufficiency of the governing body will be assessed by the Reserve Bank on a case-by-case basis.
- 30 It is expected that a licensed insurer will have formal, transparent methods for the nomination and appointment of directors.
- 31 The chair (or equivalent) of the governing body is expected to be an independent, non-executive director. The chair and the chief executive officer (defined in [section 6](#)) should be separate, and the chair should not have been the chief executive officer at any time during the previous three years. The position of chair should be reviewed annually.
- 32 The governing body should demonstrate independence and exercise objective and impartial judgment. It is expected that at least half of the directors will be independent, and the licensed insurer should disclose in its governance statement which directors are considered 'independent'. Guidance on independence is provided in the following section.
- 33 It is expected that at least two directors will be ordinarily resident in New Zealand. Where the licensed insurer is a branch of an overseas person, the New Zealand chief executive officer should be ordinarily resident in New Zealand. 'Ordinarily resident in New Zealand' is defined in [section 6\(4\)](#).
- 34 Directorships should be reviewed periodically. Where individuals have been directors for a long time, it should be considered whether the length of the director's service means they may reasonably be perceived as no longer able to act in the licensed insurer's best interests or be independent.
- 35 It is expected that the licensed insurer will have a formal conflicts of interest policy, and a procedure to resolve any potential or apparent conflicts of interest that may arise. This policy should be disclosed to the Reserve Bank.
- 36 There should be a formal procedure for assessing the performance of the governing body relative to its objectives. The chair should be responsible for these assessments, which should be at the level of individual directors as well as the governing body as a whole. The licensed insurer should have a formal policy on the renewal of the governing body, to ensure the retention of skills and expertise.

## **Independence**

- 37 Independence of the governing body is important for effective governance. Directors should be free from any associations that could materially interfere with the exercise of independent judgment.

38 Criteria that the Reserve Bank will consider when determining whether a director is independent include, but are not limited to:

- (a) any financial or other obligation the director may have to the licensed insurer or its directors;
- (b) whether the director is, or has been, employed in an executive capacity by the licensed insurer or any associated person (as defined in [section 10](#)), within the last three years;
- (c) whether the director is, or has been, a provider of material professional services to the licensed insurer or any associated person, within the last three years;
- (d) whether the director has a material contractual relationship with the licensed insurer or any associated person;
- (e) any remuneration received in addition to the director's fee, related directorships or shareholdings in the licensed insurer; or
- (f) whether the director is a 'related party' of the licensed insurer, as defined in [section 6](#).

39 If the licensed insurer is a mutual insurer, a director will not fail to be independent simply because they are a member of the mutual.

40 If a director is an independent member of the governing body of the licensed insurer's parent then, depending on the particular circumstances, the director may still be considered to be an independent director on the governing body of the licensed insurer.

41 Where a person is a director of a sister company of the licensed insurer, the Reserve Bank may confirm that none of the sister company directorships held by that person disqualify him or her from being an independent director of the licensed insurer.

42 If an independent director has been a member of the governing body for a significant period of time, then the governing body should consider whether the length of service means the independent director may no longer reasonably be perceived as independent.

### **Qualifications and experience**

43 Each director must meet the requirements of the Reserve Bank's [Fit and Proper Standard for Licensed Insurers](#). This requires directors to have appropriate qualifications and experience for their position.

44 Collectively, it is expected that the governing body will have a full range of skills, knowledge, and experience to run the licensed insurer and its operations, and avoid a concentration of particular skills and experience. In addition, directors should regularly undertake relevant training.

45 The relevant qualifications and experience of directors should be disclosed in the licensed insurer's corporate governance statement.

### **Committees**

46 The governing body of the licensed insurer should establish a separate audit committee to review the effectiveness of the licensed insurer's financial reporting, internal audit, and risk management framework.

47 The audit committee should be of a sufficient size to be able to manage the functions it carries out.

- 48 The majority of the audit committee members will be independent as defined in this guideline. The audit committee can have directors as members, but director membership is not mandatory. The audit committee will report to the governing body, and it is the governing body that is responsible for audit committee decisions. It is expected that the chair will be independent, and should not be the chair of the governing body itself. At least one member of the audit committee should have a finance or accounting background.
- 49 Depending on the size and type of the licensed insurer's business, the Reserve Bank expects the governing body to establish other committees, such as:
- (a) a remuneration committee, to establish a remuneration policy and procedures, and recommend remuneration packages for directors;
  - (b) a compliance committee, to ensure compliance with regulatory requirements;
  - (c) a risk committee, to monitor and assess the licensed insurer's risks and advise the governing body and senior managers on them; and
  - (d) a nomination committee, to recommend director appointments.
- 50 In the absence of these additional committees, responsibility for these matters falls to the Board.
- 51 Each committee should have its own formal terms of reference. The governing body remains responsible for ensuring that functions delegated to a committee are performed.

### Part 3 – Transitional arrangements

- 52 Those persons carrying on insurance business in New Zealand immediately before the commencement of the Act, who wish to continue as a licensed insurer, may be issued a provisional licence under [section 244](#). This enables those persons to continue carrying on insurance business, whilst allowing any necessary changes to be made to their governance arrangements in order to be eligible for a full licence.
- 53 All other persons intending to carry on insurance business in New Zealand should ensure their governance arrangements comply with the guideline before applying for a full licence.
- 54 All insurers must have at least a provisional licence by 7 March 2012, and be at full compliance, with a full licence, by 7 September 2013.

**Website**

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