



Transfers and amalgamations

Guidelines Licensed insurers

Insurance Policy
Prudential Supervision Department

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Purpose of this guideline

- 1 This document sets out the Reserve Bank of New Zealand's (Reserve Bank) guidelines in relation to licensed insurers who wish to undertake transfers and amalgamations of their insurance business. This guideline relates to [sections 44 – 53](#) of the [Insurance \(Prudential Supervision\) Act 2010](#) (the Act).
- 2 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.
- 3 For the purposes of this guideline the first insurer (referred to in [section 53](#) of the Act) will be known as the transferee and the second insurer (referred to in [section 53](#) of the Act) will be known as the transferor.
- 4 Nothing in this guide overrides the provisions of the Act.

Introduction

- 5 A licensed insurer that wishes to enter into a transfer or amalgamation of all or part of its insurance business requires the approval of the Reserve Bank. The requirements of the Act are set out in [sections 44 – 53](#).
- 6 The request for approval of a transfer or amalgamation must be made in writing to the Reserve Bank and be accompanied by the information specified in the Act.
- 7 A joint application may be made by two or more licensed insurers.

Transitional provisions

- 8 [Section 243](#) of the Act empowers the Reserve Bank to, on request, approve a transaction involving an insurer that is not a licensed insurer.

- 9 The purpose of [section 243](#) is to assist insurers that wish to streamline their business before the full provisions of the Act come into force.
- 10 If a transfer under [section 243\(1\)](#) is requested or approved [sections 46 – 48](#) and [53](#) apply with all the necessary modifications as if the insurers were licensed insurers.
- 11 This process may be different for insurers that are not companies. Please talk to your supervisor at the Reserve Bank.

Approval for licensed insurers

- 12 A licensed insurer must obtain the written approval of the Reserve Bank before:
- (a) giving effect to a transaction that involves:
 - (i) for an overseas insurer, the transfer of all or part of its New Zealand insurance business to another person; or
 - (ii) for any other insurer, the transfer of all or part of its insurance business to another person; or
 - (b) the licensed insurer amalgamates with another person.
- 13 If a transferee is not a licensed insurer, the transferee needs to either:
- (a) obtain a licence before the transfer or amalgamation is approved; or
 - (b) obtain a licence simultaneously to the transfer or amalgamation being approved.
- 14 Please talk to your supervisor at the Reserve Bank for transfers involving overseas insurance business of an insurer licensed in New Zealand.

Request

- 15 A request for approval must be provided to the Reserve Bank. The request must be made in writing and the appropriate fee paid (if any). As at September 2011 there are no fees for this approval.

Information required

- 16 The Reserve Bank must have regard to certain matters when considering a request. These include:
- (a) that the transferee or amalgamated entity must be able to show that, upon the completion of the transaction, it meets the requirements in [part 2, subpart 2](#) (and [subpart 3](#) if the transaction involves life insurance) of the Act. This means the future entity must be able to satisfy the requirements relating to solvency, financial strength ratings, risk management programme, actuarial appointment and financial reporting;
 - (b) the interests of policyholders of the licensed insurers that are a party to the proposed transfer or amalgamation; and
 - (c) any other matter the Reserve Bank considers relevant.
- 17 In order to assist the Reserve Bank with its decision making, licensed insurers are encouraged to provide the following information:
- (a) an application for the proposed transfer or amalgamation which sets out the details of the transaction, the licensed insurers and any other relevant information, including details of the impact of the transfer on a transferee, the resulting balance sheet, and whether there would be any change to the type of insurance activity carried out by the transferee;
 - (b) a copy of the proposed transfer agreement;
 - (c) a copy of the actuarial reports prepared by the actuaries of each licensed insurer. However, a joint report by the actuaries from each side may be provided if this covers the same matters that would have been covered by separate reports;
 - (d) a copy of the most recent balance sheet and statement of financial performance for each licensed insurer;
 - (e) a copy of any independent advice received in relation to the transaction, including independent actuarial advice;
 - (f) a copy of the notification to policyholders, along with a summary of policyholders' views on the proposed transfer or amalgamation. It is expected that the notification period for policyholders will be at least three weeks which should provide the policyholders with sufficient time to put forward any views they may have; and
 - (g) any other relevant information.
- 18 For further information in relation to transfers involving statutory funds for life insurers please refer to the guideline at [Reserve Bank website](#) (to be published in due course).

Actuarial report and costs

- 19 The actuarial report(s) prepared by the licensed insurers are required to comment at a minimum on the following areas:
- (a) policyholder issues, including security, benefit entitlements and contractual rights; and
 - (b) the financial condition of the amalgamated entity or transferee. This includes solvency, capital adequacy and other financial strength metrics; and
- 20 The Reserve Bank may require an independent actuarial review to be completed. [Section 46](#) of the Act allows the Reserve Bank to arrange for an independent actuarial report on a proposed transfer or amalgamation. This report may be requested after the Reserve Bank has reviewed the actuarial report(s) provided on behalf of each licensed insurer. A licensed insurer and every other party to the proposed transaction is required to provide the actuary with information requested in order to assist with preparation of the report.

21 Under [section 47](#) the reasonable costs incurred in preparing the report(s) detailed in [section 46](#) are payable by the licensed insurer (and if the application is a joint one these costs are jointly and severally shared amongst the licensed insurers).

Reserve Bank's decision on approval

22 After receiving a request under [section 45](#) (including all information and reports required to make its decision), the Reserve Bank has 20 working days within which to issue its decision to the licensed insurer(s) (refer to [section 49](#)). The Reserve Bank may:

- (a) give its approval unconditionally; or
- (b) give its approval subject to any conditions it may impose; or
- (c) refuse to give its approval.

23 The Reserve Bank will consider factors such as:

- (a) the financial position of the entities upon completion of the proposed transfer or amalgamation;
- (b) whether the risk management programme for the transferee is appropriate, including reinsurance coverage for the transferee;
- (c) the effect on policyholders;
- (d) the ability of the amalgamated entity to meet the requirements of the Act and its accompanying regulations; and
- (e) any other such factors that may be applicable to the circumstances of the transfer or amalgamation.

Conditions

24 Under [section 49\(3\)](#) the Reserve Bank may include conditions on its approval of the transfer or amalgamation in the following areas:

- (a) matters relating to carrying on business in a prudent manner (note: a guideline for carrying on business in a prudent manner will be released in due course);

(b) matters requiring a certain amount or proportion of the transferee's or amalgamated entity's insurance business to relate to NZ policyholders;

(c) that the licensed insurer or the directors of the licensed insurer (or both) certify that all required conditions have been complied with.

25 The Reserve Bank also has the power to impose further conditions that relate to prescribed matters.

Reasons for refusal

26 Should the Reserve Bank not give its approval for a transfer or amalgamation it must provide a statement of reasons for its decision.

Other matters

Effect of assignment

27 [Section 53](#) of the Act states that should the Reserve Bank approve a transfer under the Act, a licensed insurer (the transferee) accepts an assignment of liabilities from another licensed insurer (the transferor), and the following are taken to have occurred:

- (a) contracts where the transferee has accepted liability are treated as if they had been transferred by novation;
- (b) a policyholder under a transferring contract will have the same rights against the first insurer as they would have had against the second insurer as if the contract of insurance had been transferred by novation;
- (c) the rights of the transferee against policyholders under transferring contracts of insurance are the same as they would be had the contracts been transferred by novation.

28 With the Reserve Bank's approval, the first insurer and second insurer can agree to allocate liabilities in respect of the transferring contracts. This agreement is binding on the respective insurers and policyholders.

Transfers involving international insurers

- 29 There may be occasions where insurers may seek to transfer insurance business carried on in New Zealand either:
- (a) from a New Zealand branch of an overseas insurer to a New Zealand incorporated insurer, or branch of another overseas insurer; or
 - (b) from a New Zealand incorporated insurer to a New Zealand branch of an overseas insurer.
- 30 The transfer would need to be approved by the Reserve Bank under [sections 44 – 53](#) or [243](#) of the Act.
- 31 The licensed insurers must provide the Reserve Bank with a legal opinion that demonstrates the transfer will be effective under the law of the home jurisdiction of the overseas insurer.
- 32 In determining its approval or otherwise of the transfer or amalgamation requested, the Reserve Bank may consult as necessary with the home supervisor of the overseas insurer.
- 33 Once a decision is finalised the Reserve Bank will advise the licensed insurers of the outcome.

Board approval

- 34 The Board of the licensed insurer must take responsibility for approving the transfer or amalgamation before the Reserve Bank gives its approval.

Other enactments

- 35 The conditions for approval of a transfer or amalgamation under the Act do not limit any other legislation or enactment to which parties to the proposed transaction may be subject.

Offence

- 36 It is an offence for a licensed insurer to fail to comply with a condition of approval set under [section 50](#) of the Act.



Website

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