RESERVE BANK OF NEW ZEALAND
TE PŪTEA MATUA

Statutory funds

Guidelines

Licensed insurers

Operational Policy

Prudential Supervision Department

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Purpose of this guideline

1) This document sets out the Reserve Bank of New Zealand's (the Reserve Bank's) guidelines in relation to specific statutory fund regulations under the Insurance (Prudential Supervision) Regulations 2010 (the Regulations). The guideline only provides guidance on areas of the Insurance (Prudential Supervision) Act 2010 (the Act) and the Regulations where the Reserve Bank believes further clarification is required.

2) This guideline relates solely to the requirements under the Act and Regulations, and does not cover requirements of other legislation that may also be of relevance to licensed insurers.

3) Nothing in this guide overrides the provisions of the Act or the Regulations.

Introduction

4) Section 82 of the Act requires a life insurer to have at least one statutory fund. A statutory fund is a fund established in the records of a life insurer and relates solely to the life insurance business of the life insurer or a particular part of that business. The Reserve Bank must be notified in the prescribed manner when any statutory fund is established.

5) The principal obligations of the statutory fund requirements are that:

   a) all amounts received by a life insurer in respect of the business of a fund must be credited to the fund:

   b) all assets and investments related to the business of a fund must be included in the fund:

   c) all liabilities (including policy liabilities) of the life insurer arising out of the conduct of the business of a fund must be treated as liabilities of the fund:

   d) the assets of a fund are only available for expenditure related to the conduct of the business of the fund:

   e) funds may not be restructured or terminated without the approval of the Bank:

   f) profits and losses of a fund may only be dealt with in accordance with sections 112 to 115 and the associated regulations.

6) Policies that meet the definition of life policy under sections 84 and 85 of the Act must be referred to a statutory fund.

Notice of establishment – business projections

7) Section 88 of the Act provides for a licensed insurer to give the Bank written notice of the establishment of a statutory fund. Regulation 15 provides further requirements for these notices. The notice of establishment is required to be filed for all statutory funds a life insurer establishes, whether this relates to business already in existence, or new business.

8) A licensed insurer is required to prepare business projections of the life insurance business to which the fund relates for the greater of either:

   a) the period of the external financing arrangements for that business; and

   b) 5 years.

9) For the purposes of this regulation business projections includes:

   a) detailed balance sheet, off-balance sheet business, cash flow and earnings;

   b) key prudential measures, including the solvency margin and solvency ratio of the fund; and

   c) the effect of the proposed reinsurance contracts relevant to the policies referable to the statutory fund.

10) The business projections must be completed for all projected new and/or existing business.

11) The Reserve Bank expects a life insurer to provide projections that are based on a reasonable business plan.

Definition of participating and non-participating business

12) Regulation 21 defines a participating benefit as a benefit that has both of the following features:

    a) the benefit is provided under a life policy:

    b) the benefit includes an entitlement to share in a distribution by the life insurer of profits or a surplus derived from the assets of a statutory fund.

13) The definition includes benefits provided under a life policy entered into before 1 September 2012 that is of a class of benefit identified that, by the evidence of past practice, has been identified by an actuary as involving participation in profits. This definition allows for all business entered into before 1 September 2012 to retain its identified classification prior to the enactment of the Regulations.

14) A number of benefits are excluded from the definition of participating benefit, as follows:

    a) an investment-linked benefit;

    b) a benefit provided under a multiple life policy;

    c) a benefit provided under a workplace group policy;

    d) a benefit provided under a contract of reinsurance.

Transfer of assets on establishment

15) Section 89 requires a life insurer to transfer assets on the establishment of a statutory fund. For the purposes of regulation 16 the licensed insurer is required to transfer assets on the establishment of the statutory fund that are at least sufficient to maintain the solvency margin of the fund immediately after the fund is established.

16) The solvency margin must be calculated in accordance with a solvency standard that is applicable to the licensed insurer.

17) The solvency margin requirement is the minimum value of assets that a licensed insurer must transfer and a licensed insurer may transfer assets above this minimum as are determined appropriate in accordance with advice from the appointed actuary.

18) The amount to be transferred on the establishment of a statutory fund is an asset of the fund and must be credited to the fund in accordance with the regulations (sections 90(1)(a) and 92(a)).

Starting amount

19) Regulations 29(2), 30(2), 31(2) and 32(2) provide for a starting amount to be determined for each pool within the statutory fund. The pools include:

    a) the policyholders' retained profits;

    b) the shareholders' or members' retained profits (participating);

    c) the shareholders' or members' retained profits (non-participating); and

    d) the shareholders' or members' capital.

20) The starting amount must be determined on the date of the statutory fund's establishment.

21) The life insurer must have regard to the advice of the appointed actuary when determining the starting amount for each pool within the statutory fund.

Transfer by endorsement – amount to be transferred

22) For the purposes of regulation 20, where a policy is to be made referable to a statutory fund, other than the statutory fund to which it is currently referable, the life insurer must transfer assets from the losing fund to the gaining fund which are of an equivalent value to the liabilities being transferred. In accordance with regulation 20(1)(b) and (c) the life insurer must transfer the assets that back the policy liabilities as well as other liabilities of the life insurer that:

a) arose out of the conduct of the business of the statutory fund or funds that the life policy was referable to before the endorsement took effect; and

b) may fairly be attributed to the life policy.

23) In determining the amount of assets that back the policy liabilities to be transferred, the life insurer should calculate the aggregate of the policy liabilities for the policies being transferred by endorsement. The life insurer is required to obtain written advice from its appointed actuary on the amounts to be transferred and must have regard to that advice.

24) The life insurer must ensure that, on the transfer of assets that back the liabilities, neither the owners of the policies that are transferred to the new statutory fund nor the owners of policies remaining with the losing fund are disadvantaged. Consideration in this area should include:

a) the nature and value of the asset being transferred;

b) whether the value placed on the liabilities is consistent with the value adopted for the assets;

c) whether that the nature of the liabilities to be transferred to a gaining fund and those to remain in a losing fund have the objectives of:

(i) facilitating the operation of the gaining and losing funds; and

(ii) protecting the interests of the owners of the policies referable to the losing and gaining funds are protected; and

d) whether the method used has taken the appointed actuary's advice into account appropriately.

25) The part of the liabilities to be transferred (including policy liabilities) of the licensed insurer must be ascertained in a manner in which, in the opinion of the appointed actuary, will not result in unfairness to the owners of the policies that remain referable to a fund or the owners of the policies that cease to be referable to that fund (particularly having regard to the nature of the assets to be transferred).

26) The appointed actuary is required to sign-off on the part of the liabilities and the nature of the assets to be transferred.

27) Where the life policy is referable to more than one statutory fund as a result of the endorsement taking effect, the proportion of the assets that back the liabilities under regulation 20(1)(b) and 20(1)(c) that is attributable to each of those funds must be determined based on the proportion of the premium that is credited to each fund.

Ascertainment of income and outgoings on a statutory fund

28) The Act requires a life insurer to ascertain the income and outgoings of the statutory fund. For the purposes of section 103 of the Act, income and outgoings of a statutory fund are the amounts relating to that statutory fund that have the character of profit and expenses in accordance with NZ GAAP that provide for the determination of profit and loss.

Appendix one

Template for notice of establishment of a statutory fund

Name of insurer notifying of establishment of statutory fund

Date of establishment

The nature of the life insurance business of the life insurer to which the fund relates

NB: This must include the types of life insurance business to be carried on by the life insurer within the fund

Particulars of the proposed external financing arrangements for the writing of new life insurance business to which the fund relates

Business projections of the life insurance business to which the fund relates for whichever is greater of the following periods:

a. the period of the external financing arrangements for that business; and
b. 5 years

A statement by the appointed actuary of the validity of the assumptions and methodology relating to the business projections referred to above

For the purposes of section 88(2) of the Act, the notice must be given in writing within 90 days after the establishment of the statutory fund

RESERVE BANK OF NEW ZEALAND
TE PŪTEA MATUA

Website
http://rbnz.govt.nz/regulation-and-supervision/insurers

Email
insurance@rbnz.govt.nz

Telephone
+64 471 3591

Mail
Reserve Bank of New Zealand
Prudential Supervision – Operational Policy
PO Box 2498
WELLINGTON 6140