

INSURANCE INDUSTRY LICENSING UPDATE

MAY 2013

GENERAL UPDATE

With the 9 September 2013 deadline to fully licence or exit fast approaching, the Bank is busy assessing licence applications and requests relating to ongoing consolidation such as transfer approvals. Meanwhile, the Bank continues to also closely monitor the impact of the Canterbury earthquakes on property insurers that had exposures in Canterbury where significant uncertainty remains.

The Bank is well advanced in its assessment of licence applications and had issued 42 full licences as at 9 May 2013. As previously advised, the Bank is working through applications in line with a prioritisation framework. Nothing should be inferred about the prudential standing of an insurer from the order in which licences are granted or notified.

By now insurers should have submitted all of the required full licence material, other than those items that have not yet fallen due according to specified provisional licence due dates such as financial reporting items relating to balance dates after November 2012. Due to the heavy work program through to September 2013 the Bank cannot guarantee licence assessments will

occur if information, other than items not yet due, have not already been provided or is not provided as soon as it falls due.

COMPLIANCE

The Bank advises it is moving into a more stringent approach to compliance breaches.

The industry has had a transitional period of over two years to gain the knowledge and resources required to fulfill obligations under the Insurance (Prudential Supervision) Act (the Act). Responsibility rests with the licensed insurer to ensure that obligations are understood and met. There is still some room for improvement with regard to information being provided late, incomplete information being provided or around requirements not being adequately understood. Examples include but are not limited to:

- financial reporting being provided late;
- s78 reports not being filed with the Companies Office;
- annual and Half-Year Certification not being completed and/or incorrect wording being used;

- Bank approval not being sought for material changes to Fit & Proper and Risk Management Programs;
- Fit & Proper Certificates provided late – outside the 20 working day timeframe;
- Solvency Margin Disclosure requirements on websites not being present; and
- overseas insurers not advising the Bank of new director notifications.

ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM ACT 2009

The Anti-Money Laundering and Counter Financing of Terrorism Act 2009 (AML/CFT Act) was passed on 15 October 2009 and places obligations on reporting entities to detect and deter money laundering and terrorism financing. The AML/CFT Act will come fully into effect on 30 June 2013. Life insurers are reporting entities under the AML/CFT Act.

As part of a life insurer's full licence application the Bank requires insurers to confirm whether they must comply with the AML/CFT Act or indicate that they expect to benefit from an exemption. Certain exemptions from the AML/CFT Act are available to life insurers under the Anti-Money Laundering and Counter Financing of Terrorism (Exemptions) Regulations 2011.

The Bank, on a case-by-case basis, may request a legal opinion or some other similar confirmation satisfactory to the Bank from life insurers detailing their obligations under the AML/CFT Act. If life insurers are in any doubt about their obligations the

Bank recommends such a legal opinion be obtained and provided to the Bank for the purposes of a full licence application. The Bank's AML/CFT supervisors may contact insurers after 30 June 2013 to establish whether any exemptions will apply to an insurer's business. The Bank's AML/CFT supervisors can be contacted at amlcft@rbnz.govt.nz.

If a life insurer has determined that it has obligations under the AML/CFT Act it will be expected to provide the information requested in the Full Licence Application Form. The Full Licence Application Form requests that insurers provide:

1. certification from the insurer's AML/CFT compliance officer appointed under section 56 of the AML/CFT Act that the insurer has established a compliance programme under section 56; and
2. a statement from the AML/CFT compliance officer as to when the first audit report is expected to be completed under section 59 of the AML/CFT Act.

The Bank requires this information by 31 July 2013. For any insurers that are now fully licensed but have not provided this information, this deadline still stands.

PUBLICATION OF POLICIES

In accordance with section 54 of the Act, the Bank recently issued a [Conditions of licence and licensing policies](#) document outlining its policies in relation to how it acts or proposes to act in determining applications for licences, conditions of licence and in determining requests for transfer and amalgamation approvals.

INSURANCE (PRUDENTIAL SUPERVISION) AMENDMENT BILL

In the last update we provided a brief summary of the Insurance (Prudential Supervision) Amendment Bill (the Bill). The Bill had its first reading on 8 May 2013 and has been referred to the Finance and Expenditure Select Committee. The requirement that this Bill be passed by 7 September 2013 is known in Parliament. However, this matter is outside of the direct control of the Bank. See the attached [link](#) for details of the Bill.

APPOINTED ACTUARY ROLE

Appointed actuaries will be getting to know the Bank's actuarial team as solvency reviews progress. Follow-up questions in relation to solvency returns and other financial information are the norm, particularly at this early stage in the regime and should not be taken as criticism or concerns about solvency in themselves (if we are concerned about solvency positions we will let you know). In some instances, insurers have seemed surprised by our queries. The Bank has identified some errors in the application of the relevant solvency standard whilst in other cases there has been some ambiguity in the application of a standard which feedback has helped to resolve. The Bank acknowledges the work of appointed actuaries and encourages continued open discussion and feedback in the spirit intended by IPSA.

STATUTORY FUNDS

On 3 May 2013 the Bank issued the [Statutory funds guideline](#). This guideline only provides clarification in respect of the Act and the Insurance (Prudential Supervision) Regulations 2010 (the Regulations) where the Bank feels further explanation is required.

Depending on where an insurer is up to in the process of establishing a statutory fund, the information available to demonstrate the ability to comply will vary. Insurers should be aware that the more robust and comprehensive the information supplied to their supervisor, the easier it will be to satisfy the licensing test for statutory funds.

In the December 2012 *Industry Update* the Bank provided examples of the sorts of information an insurer could provide to demonstrate their ability to comply, such as:

- Legal analysis and supplementary information showing the insurer's compliance or planned path to compliance, considering each section of subpart 3 and the Regulations;
- Evidence that the insurer has analysed its products to ensure the correct business is/will be referable to the relevant statutory fund;
- Reports on how assets of the insurer are to be allocated to the statutory fund and funds outside the statutory fund;
- Information about how the accounting is/will be set up for the statutory fund, both from a reporting perspective, and from the point of view of day-to-day transactional processing;

- Actuarial analysis relevant to the set-up or establishment of the statutory fund, including information on the actual or planned solvency position of the funds once established;
- Evidence of changes (planned, or already implemented) to policyholder documentation; and
- Any Board reports, minutes or resolutions relevant to the set-up or establishment of a statutory fund.

If a statutory fund has already been established at the time the application is processed, and a notice of establishment provided to the Bank, then this will also be considered as part of the licensing process. The new guideline provides some detail on what is expected in the way of business projections to be submitted with the notice of establishment. For insurers that have already submitted a notice of establishment we would expect revised projections to be supplied, should the original projections fall short of the level of detail described in the guideline.

Also, any reporting available on an already established statutory fund would help to clearly demonstrate the ability to comply with subpart 3 and the Regulations.

FINANCIAL STRENGTH RATING DISCLOSURES

We provided some feedback on the section 60-71 requirements relating to the disclosure of financial strength ratings in the December 2012 *Industry Update*. Since then, a number of insurers have revised their disclosure of ratings on websites and in policy documentation. It is apparent, particularly from websites, that there is

some disparity in the interpretation of disclosure requirements, particularly in regard to the requirement that disclosure is “clear and prominent”. As well as considering this for full licence assessments, the Bank will continue to review disclosures after full licensing. In the meantime, insurers are encouraged to review their disclosures, even if they have already been issued a full licence. Examples of key criteria are that website disclosure should be through obvious links to the rating disclosure from the homepage. The Act requires agency, rating and scale to be disclosed together, the test of “clear and prominent” applies at the point at which all three elements are present. Printed material should contain disclosures that are in the same font size as the main text.

QUALITY OF CAPITAL AND REGULATORY TREATMENT OF FINANCIAL REINSURANCE

As advised in previous updates, the Bank is considering its policy position in respect of financial reinsurance contracts and the Bank’s criteria for and approach to determining the quality of insurance capital for regulatory purposes.

Industry has made submissions on the Bank’s [consultation paper](#) regarding financial reinsurance and the quality of capital, and work is ongoing to evaluate the points made in these submissions. Given the complexity of some issues in this area, it is likely that a second consultation document will be issued by the Bank to further clarify the requirements that could apply. We will advise Industry of the likely timing of this once it is known.

S78 REPORTS

The Bank again wishes to draw insurers' attention to s79 of the Act. This section requires the appointed actuary's report under s78 to accompany the auditor's report on the financial statements when the auditor's report is registered with the Companies Office or included within a company's annual report. The appointed actuary's report is therefore a publicly available document similar in concept to the auditor's report.

UPDATES

The [Insurance sector](#) section of the Bank's website contains information relating to regulations, standards, licensing and publications etc.

An insurance email service is also available that allows you to get the latest insurance news releases and other public statements from the Bank regarding any significant matters or changes. [Sign up](#) to receive email notification.

This newsletter is intended to provide an update on licensing and related matters. It is not policy or legal advice in itself and should not be interpreted in isolation.

If you are an insurer and have any questions, please call your assigned supervisor or send an email to insurance@rbnz.govt.nz.