

IPSA Review – Modernising Insurance Prudential Regulation

To	Hon Nicola Willis Minister of Finance	Date	17 December 2024
Authorised by	Christian Hawkesby Deputy Governor	Report no	#6247
Prepared by	Annette Crequer Manager, Policy and Regulatory Stewardship, Prudential Policy	Security	In-Confidence

Action Sought

Action sought	Deadline
<p>Agree in principle to progress amendments to IPSA (an Amendment Bill).</p> <p>Agree to the package of amendments set out in <i>Appendix 3: Proposed policy recommendations</i>.</p> <p>Agree to the drafting of a Cabinet paper seeking Cabinet approval of your policy decision and the release of an exposure draft for consultation giving effect to them.</p>	27 January 2025

Reserve Bank Contact for Telephone Discussion (if required)

Name	Position	Telephone
Benjamin Hammond	Senior Analyst, Prudential Policy	s 9(2)(a) [REDACTED]

Actions for the Minister's Office Staff

Include paper in the Minister's holiday reading pack.
Return the signed Report to the Reserve Bank.

Note any feedback on the quality of the report.

Attachments – *IPSA Omnibus Consultation - Summary of Submissions*

IPSA Review – Modernising Insurance Prudential Regulation

Purpose

1. This paper seeks your approval of policy proposals to amend the Insurance (Prudential Supervision) Act 2010 (**IPSA**).
2. Following your feedback and approval, we recommend that you seek Cabinet approval to release an exposure draft of a Bill in September 2025 for public feedback. We would then seek final agreement from yourself and Cabinet on the Bill in March 2026. The Bill would amend IPSA to support the efficient and effective operation of the prudential regime for licensed insurers.

Background

3. IPSA provides the legal framework for the Reserve Bank's regulation and supervision of the insurance sector.
4. The Reserve Bank has recently concluded a review of IPSA, which began in 2016 (**the IPSA review**). The Review was paused between 2018 and 2020 due to the COVID pandemic and reprioritising staff to the RBNZ Act review.

Regulation that supports a sound and efficient insurance market is necessary

5. Insurance provides significant benefits for individuals, society, and the Crown by transferring the cost of sudden and unexpected losses across time and the population. This risk transfer helps support a strong and resilient economy. As a result of these benefits, insurance has become a key component within the financial system, supporting access to mortgages (property insurance), health services (health insurance), the running of businesses (general insurance) and as an estate planning tool (life insurance).
6. The failure of an insurer can cause significant economic damage. Insurer failures can consequently impact the sectors that insurance supports (e.g. property) as well as directly impact policyholders and the communities those policyholders are based and serve in (recent examples include the 2022 Tairāwhiti flooding, which showed the significant local reliance on insurance).
7. The importance of insurance to financial markets and the wider economy means that the public net benefits of insurance outweigh private net benefits. This public benefit motivates the public policy case internationally for the insurance industry to be prudentially regulated. An approach that brings New Zealand's framework closer to international best practice supports industry by setting similar requirements seen in other jurisdictions. That is, a modern approach with the tools and clarity expected by an industry that operates internationally.
8. The statutory purposes for insurance prudential regulation are to promote the maintenance of a sound and efficient insurance sector, and to promote public confidence in the insurance sector.

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The IPSA review sought to modernise the regulation, promoting the soundness and efficiency of the insurance sector

9. There has been a shift in international expectations for what is considered international best practice. This evolution led to the need for a review of the regulation, with Cabinet agreeing to review IPSA in March 2016 [CAB-16-MIN-0072] and April 2023. The agreed objectives of the Review, were to:
- **Assess the performance of IPSA** in light of its purposes to ensure it provides for a cost-effective supervisory regime that promotes soundness and efficiency of the insurance sector.
 - Assess the consistency of the regime **with international guidance and other legislation administered by the Reserve Bank** and consider if further alignment would be appropriate given the nature of the New Zealand insurance sector.
 - Include consideration of the **statutory purposes and principles**.¹

The Review's findings

10. The Review has found that:
- New Zealand's insurance regulatory environment needs modernising.
 - The insurance market and industry-participants would benefit from closer alignment to international best practice, with industry supporting this direction of travel.
 - Confirmation of regulatory change, following a long review period, will create clarity for industry.

These findings are expanded on below.

Significant opportunities for improvement have been identified through independent reviews and operational experience

11. Since 2016, there have been a number of internal and external findings that have supported our recommendations (the full list of recommendations are contained in *Appendix 3*). Specific external reports include:
- a) The IMF's assessment against the Insurance Core Principles (**ICPs**) carried out during the New Zealand 2016 Financial Sector Assessment Programme (**FSAP**), where New Zealand received a 13 out of 26 pass rate for compliance against the ICPs.²

¹ The Terms of Reference were expanded in 2023 to include consideration of the statutory purposes and principles (RBNZ #6003 refers).

² See [New Zealand: Financial Sector Assessment Program: Detailed Assessment of Observance--Insurance Core Principles; IMF Country Report No. 17/121; May 2017](#).

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The IMF's FSAP report identified that our current requirements fall materially short of international standards. Without amendments to IPSA, we expect a similar pass rating when the IMF is next scheduled to assess New Zealand's financial sector regulatory frameworks in 2028. *Appendix 1* provides a summary of results from the assessment in 2016.

As a comparison, Australia in its most recent report, received a 20 out of 26 pass rate.

- b) The Trowbridge-Scholten report (**T-S report**) on the Reserve Bank's supervision of CBL Insurance Limited, dated 6 May 2019. The T-S report (an independent report commissioned by the Reserve Bank, by John Trowbridge and Mary Scholten QC) found legislative gaps in areas of risk management and governance, group-entities and supervision of solvency.
12. Our operational experience and thematic reviews³ have also found that IPSA currently lacks the tools to ensure good governance and risk management outcomes. Currently, IPSA's enforcement levers are limited, relying primarily on strict liability offences with large fines. It provides few options for addressing minor breaches that do not warrant, for example, a formal investigation or prosecution. The current regime often results in an inefficient "all or nothing" approach to enforcement.
13. Both the external reviews and operational experience suggest that the insurance prudential regulation would benefit from additional tools which would support the purpose of promoting the maintenance of a sound and efficient insurance sector.

Significant public consultation has been undertaken. Industry support the review and are preparing for regulatory change

14. Multiple rounds of public consultation have been carried out since 2017. Most recently, in September 2023, an Omnibus Consultation Paper was released seeking feedback on the full set of potential amendments. Submissions were received from a wide range of industry participants, professional advisers, and other interested stakeholders. We intend to release the attached summary of submissions from the Omnibus Consultation, in February 2025.
15. Industry and other stakeholders were broadly comfortable with the proposals made in the consultation and recognise that the legislation needs modernising to support the continued soundness and efficiency of the insurance sector. Concerns were largely in response to the details underpinning some of the proposals, rather than the overall intent of the proposals. Should you and Cabinet agree to progress an Amendment Bill, industry will have a further opportunity to provide feedback on an exposure draft.
16. Industry raised significant concerns on 12 of the 50 proposals that we had previously consulted on (*See Appendices 3 and 4*). In light of the feedback received we ultimately recommend only pursuing 2 of 12 proposals that industry strongly

³ Including an RBNZ and FMA review of Governance in 2023, Life Insurer Conduct and Culture in 2018, and an RBNZ review of the Appointed Actuary regime in 2020.

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opposed. A package of 40 proposals remain which are broadly outlined below, with further detail provided in *Appendix 3*.

Proposals

17. The proposals, by theme, are:
- a) **Adjusting the regulatory scope** – remove licensing requirements for (captive) insurers who only provide insurance to their parent company (e.g. power companies), and overseas reinsurers. Separately, we propose requiring licensing for New Zealand-incorporated insurers that only write overseas policies. These proposals would remove the need for eight captive insurers to be licensed, and separately, require one New Zealand-based entity to be licensed that currently exclusively operates overseas.
 - b) **New standards** – empowering a broader suite of prudential requirements in the form of standards (a form of secondary legislation), in addition to the current standards on *Solvency* and on *Fit and Proper (for directors or relevant officers)*. We recommend the ability for additional standards to be introduced that relate to corporate governance, risk management, data and disclosure, group structures, appointed actuarial advice, outsourcing and connected exposures. The proposed standards on governance and risk management are consistent with international best practice, including Australia, and were specifically highlighted by the IMF as a regulatory gap in New Zealand's regime. The proposed draft standards would be consulted on with industry and sequenced over a period of time.
 - c) **Fit and proper** – extending the current officers' regime to the Chief Risk Officer (CRO); requiring the Reserve Bank's pre-approval to appoint relevant officers; and notification requirements on insurers where they have concerns with directors or relevant officers.
 - d) **Regulatory approvals** – simplify the regulatory approvals regime and align the change of control threshold with that which insurers face under the financial market conduct regime administered by the Ministry of Business, Innovation and Employment (**MBIE**).
 - e) **Graduated supervision and enforcement powers** – additional information gathering powers, in part, to mitigate the risks of unlicensed insurers holding themselves out as licensed insurers. The additional powers would also include the ability to undertake on-site inspections of licensed insurers without notice. We also recommend introducing additional graduated enforcement powers, including infringement notices, to provide for a proportionate approach to sanctioning non-compliance against prudential requirements. These powers largely align with the new supervisory and enforcement tools in the Deposit Takers Act (**DTA**).
 - f) **Refined distress management provisions** – adjustments to improve insurers' moratorium rights (where creditors' debt collection rights are paused to allow an insolvent entity time to assess their financial position and obligations); and

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revising the threshold for statutory management⁴ of a licensed insurer to include insurers where the failure of the insurer may cause significant damage to a geographical area or group of people. We also recommend a Ministerial direction power in relation to any use of public funds in the event of entity failure (a power that is also available to you in the DTA).⁵

g) **Amendments to improve the Act** – update penalty levels (e.g. criminal and civil pecuniary fines) to align with comparable regulatory regimes while taking into account differences in the ability to pay the penalty, the potential impact and gain from the offence. We recommend amendments to improve the transparency of requirements within the solvency regime and recommend the power for the Reserve Bank to impose dividend restrictions on licensed insurers.

18. As outlined, industry have been supportive of the Review and well-engaged throughout. Of the 40 proposals we recommend ultimately proceeding with, industry identified two proposals with high compliance costs or that they generally did not support. These are the pre-approval of officers (#17) and on-site inspection powers without notice (#24) proposals. We elaborate further on these below.

Proposals not supported by industry or which may have high compliance costs

Pre-approval of officers (#17)

19. As part of both the IPSA Review Omnibus Consultation in 2023 and the IPSA Review on Governance Consultation in 2022, we proposed introducing a requirement for licensed insurers to seek approval of the appointment of relevant officers (currently the CEO, CFO and the appointed actuary, and we propose the CRO would also be included) from the Reserve Bank before appointments are made. This would change the notification process from post-appointment to pre-appointment.
20. Industry had strong concerns, arguing that the Reserve Bank’s existing power to challenge an appointment is sufficient, while the costs and complexities of pre-approval would create significant uncertainties on the timing for when an officer can be appointed.
21. Notwithstanding industry feedback, we continue to recommend this policy, as the current post-appointment arrangement does not sufficiently promote engagement between the Reserve Bank and insurers on the appointment of key officers. The post-appointment regime results in the Reserve Bank having to take the very significant step of removing an officer if the Reserve Bank has reasonable grounds to believe the relevant officer is not a fit and proper person. A pre-approval regime would allow for a better working relationship with insurers to ensure relevant officers meet the standards expected.

⁴ Statutory management is a process designed to deal with complex insolvency scenarios that the ordinary law cannot adequately deal with. A ‘statutory manager’ is appointed to deal with an entity in distress, in order to preserve the value for shareholders and stakeholders. It is viewed as a remedy of last resort.

⁵ The recommendation is designed to allow the Crown to mitigate and manage taxpayer money if public funds are at risk. This policy does not change the probability or desire to use public funds when an insurer fails.

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22. A key feature of our prudential supervision of insurers is that we are 'risk-based'. Applying this to the approval process should mitigate industry's concerns somewhat, in practice this means smaller insurers will be scrutinised less than larger insurers.
23. A pre-approval regime is consistent with deposit taker requirements and as part of the international ICPs (*ICP 5: Suitability of persons*).⁶

On-site inspection powers (#24)

24. We proposed to introduce a power for the Reserve Bank to undertake on-site inspection powers without notice in both the IPSA Review Omnibus Consultation in 2023, and the IPSA Review Enforcement Consultation in March 2022. Consistent with the regulatory regime for deposit takers and the anti-money laundering (**AML**) regime, the power would extend the Reserve Bank's current on-site powers which allows a Reserve Bank appointed investigator to carry out on-site inspections on licensed insurers with either the consent of the licensed insurer or with a warrant to search, only when evidence of non-compliance is suspected.
25. Internationally on-site inspections are an important means of verifying compliance against prudential requirements, and the Reserve Bank received fail grades from the IMF during the 2016 FSAP for its reliance on desk-based or off-site supervisory monitoring in both the insurance and banking contexts. In practice an on-site inspection programme would be signalled well in advance and risk-based (with larger entities inspected at a higher frequency than smaller less systemically important insurers). The Reserve Bank would turn up to an insurer's premises without advance notice only in very rare and extraordinary circumstances.
26. As part of the government's extensive review of the Reserve Bank Act – the Phase 2 Review – Cabinet agreed that the Reserve Bank should be given the power to conduct on-site inspections at its regulated entities, including insurers.
27. Industry raised some concerns on the proposal arguing that the power was unnecessary and could prove complex. Industry did note that if a power was to be introduced, then the Reserve Bank should consider safeguards and an appropriate scope for the power to provide certainty to insurers.
28. As with similar powers in other New Zealand legislation (for example, the AML/CFT and deposit takers legislation) we propose that the power will contain certain safeguards for insurers, including:
 - Explicitly excluding access to private dwellings or marae.
 - That inspections could only be carried out at 'reasonable' times.
 - That inspections must be carried out by appropriately qualified persons (including Reserve Bank staff or other staff by delegation).

⁶ IAIS, [Insurance Core Principles and Common Framework for the Supervision of Internationally Active Insurance Groups](#), December 2024.

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Significant proposals discontinued

29. We do not recommend updating the purposes and principles of the Act. The current purposes of the Act are, to:
- promote the maintenance of a **sound and efficient insurance sector**; and
 - promote **public confidence** in the insurance sector.
30. In April 2023, on our recommendation, the Minister of Finance agreed to extend the IPSA Review's term of reference to include a review of the Act's purposes and principles (RBNZ #6003, refers). Following this change, we sought public feedback on whether the purposes and principles:
- Should continue to include the concept of **efficiency**.
 - Should be expanded to include **access to insurance** and **policyholder interests**.
 - Should better align with the Reserve Bank's **broader financial stability** objective in the RBNZ Act 2021 and other prudential legislation (e.g. the DTA) which includes a focus on the **soundness of individual regulated entities**.
31. Industry largely agreed that efficiency should be retained in IPSA's purposes as a counterweight to 'soundness', while maintaining that soundness should be focused on the sector rather than individual insurers or the financial system more broadly. Industry felt this better reflects the difference between the deposit taking and insurance sectors, as insurance failure is less likely to be as disruptive to the financial system. Industry suggested that the Reserve Bank primarily focus on the impacts on competition, costs and complexity.
32. Following analysis of the feedback received, we do not recommend changing the purposes and principles of the Act. The current purposes and principles are largely adequate and strike an appropriate balance between preventing disruption to the sector, policyholder protection, and other considerations such as the importance of maintaining competition. However, we do recommend adding specific objectives to the distress management subpart, which will provide useful principles for the Reserve Bank to consider when exercising powers under this subpart.

Competition

How are these changes likely to impact competition and efficiency

33. We do not expect the recommended amendments to have a material impact on the current level of competition within the insurance industry. We have taken into account competition when making these recommendations in terms of the overall impact on insurers from the suite of changes being proposed. Furthermore, insurance sector competition is already a statutory principle that the Reserve Bank must take into account when performing the functions, duties and powers conferred by IPSA.

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Insurance prudential regulation needs to weigh up efficiency and soundness

34. Eighty-four insurers in total are licensed by the Reserve Bank. Insurers that are foreign-controlled (overseas shareholding of greater than 50%) are a significant part of the insurance market in New Zealand, 46 by number, receiving 77% of the share of gross premiums received across the General, Life and Health insurance subsectors. *Appendix 2* provides descriptive statistics on the New Zealand insurance market and its sub-sectors.
35. Most of the largest insurers that operate in New Zealand are either domestically-owned (e.g. Southern Cross in the Health insurance sector) or are subsidiaries of foreign-owned insurers (e.g. Suncorp's ownership of AA Insurance and Vero Insurance). However, by quantity insurers incorporated overseas are a large portion of the market with 33 insurers operating as branches, that is, they are incorporated overseas rather than being locally incorporated. These branch insurers are generally smaller (by share of assets or gross premiums received) but nevertheless provide a range of insurance products and services and a degree of competition that might not otherwise occur. In the first instance, the home regulator (e.g. Australia) is relied upon to regulate branches that operate in New Zealand.
36. Reliance on overseas regulation for branches does come with risks. The risk presented by overseas insurers (branches) include where the overseas jurisdiction has inadequate prudential regulation, and where the overseas jurisdiction has creditor preference in favour of overseas policyholders over NZ-policyholders. Finally, ensuring regulation supports competitive neutrality is also important to eliminate any unfair competitive advantages branches might have over locally incorporated insurers.
37. Table 1 provides an outline of the proposals that we recommend and do not recommend that have the greatest impact on competition and our reasoning for these decisions. We note that recommended changes to the enforcement, supervision and distress management provisions do not impact insurers on a day-to-day basis nor have clear consequences on the barriers to enter the market.

Table 1: Proposes likely to impact competition

Proposal # and Description	Expected impact on competition	Explanation and mitigants (if applicable)
Proposals we recommend		
#1 and 2: Scope changes Removing licensing requirements for overseas captives and reinsurers. Requiring NZ-insurers that only write overseas policies to obtain a license.	Positive (minor)	Removing licensing requirements for captives may promote their appeal by NZ corporates, thereby increasing competition on insurers who currently service NZ corporates. There are currently seven captive licensed insurers.

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<p>#3: Ability to regulate certain transactions</p> <p>Ability for the Reserve Bank to recommend that certain transactions are within the regulatory boundary.</p>	<p>Positive (minor)</p>	<p>Creating a level playing field promotes current licensed insurers (in addition, to prospective insurers) to innovate and expand their offered products, in the knowledge these products will be regulated equally.</p>
Proposals previously consulted that we do not recommend progressing		
<p>#41 Purposes and principles</p> <p>Whether to update the purposes and principles of the Act.</p>	<p>Status quo positively impacts competition</p>	<p>The Act currently includes 'Efficiency' as a purpose, and 'maintenance of competition' as a principle.</p>
<p>#44 Assets in New Zealand</p> <p>The proposal would require overseas insurers who are of certain size and importance to hold assets in a NZ-based entity or trust. The proposal is designed to protect NZ-policyholders.</p>	<p>Status quo positively impacts competition</p>	<p>We do not recommend the proposal as other current powers (including licensing and statutory fund provisions for Life insurers) appear adequate.</p> <p>However, we do recommend (#4) a power to require overseas insurers to locally incorporate, but only where the insurer meets a material 'size and importance' threshold.</p>
<p>#51 and 52 Due Diligence</p> <p>Whether IPSA should impose a duty on directors to exercise due diligence to ensure that the insurer complies with certain prudential obligations and appointed actuaries to exercise due diligence in performing actuarial advice duties.</p>	<p>Status quo positively impacts competition</p>	<p>The ability for insurers to attract and maintain suitable and high-quality directors and appointed actuaries is often cited as a key component to the ongoing success of insurers.⁷ Additional requirements on these positions could negatively impact the number of persons willing to accept an appointment. A smaller pool of possible directors and actuaries could significantly raise the barrier for new entities to incorporate and compete.</p>

Consultation

38. A reference group for the IPSA review is in place, including representatives from the Treasury, MBIE, FMA, and Commerce Commission. The group have identified and supported amending key regulatory overlaps throughout the process, in particular, aligning the insurance conduct regime with the prudential regime, where possible (e.g. approvals for significant transactions). This reference group will continue to be consulted throughout the policy development and drafting process.

⁷ RBNZ and FMA, Governance Thematic Review, September 2023.

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39. The IPSA review was discussed with the Ministry for Regulation who commented on the Government's commitment to reducing regulation and recommended we identify and add proposals that would reduce regulatory costs. We have decided to 'discontinue' several proposals outlined in the Omnibus Consultation, which we judge to be high complexity and/or where the marginal benefit is low.
40. **Treasury provided comment:** The Treasury has had limited time to review this advice. The Treasury is broadly supportive of the Reserve Bank's policy proposals, including changes to address issues raised in the IMF's FSAP report and the T-S report, and its stated approach to align with the approach taken in the recent DTA reforms (where considered appropriate in an insurance context).
41. The Treasury considers that there would be value in further consideration of changes to IPSA's purposes and principles as there may be other fruitful areas for change particularly with a view to alignment with the DTA (where that makes sense) from an overall regulatory coherency and consistency perspective. The Treasury also notes that it understands stakeholders indicated that there were certain issues where their views on the merits of proposals were conditional on seeing further detail from the Reserve Bank in due course.

Timeframes

42. We are in the process of submitting an updated Legislation Programme bid ('Leg Bid') for 2025. If you agree to progress amendments to IPSA, we have recommended targeting the timeframe outlined below (these are broadly consistent with the previous 2024 bid):
- **January 2025:** Your feedback and approval to progress amendments to IPSA (this report).
 - **February 2025:** Your feedback and approval of a draft Cabinet paper (to be provided to you following your agreement and feedback on this report).
 - **March 2025:** Seek Cabinet approval on policy amendments to IPSA.
 - **September – December 2025:** Publicly release an exposure draft of the Bill for feedback.
 - **March 2026:** Bill before LEG and Cabinet for approval for introduction.
 - **April 2026:** Target date for Bill introduction.
 - **March 2028:** Recommended date of commencement.
43. The intent of the exposure draft planned for release in the fourth quarter of 2025, is to resolve and clarify many of the definitions, safeguards and thresholds of the proposals. This is especially important for the new supervisory and enforcement powers to provide certainty to industry of the scope of these powers and minimise any unforeseen consequences.

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Recommendation

44. It is recommended that you:

- a) **Note** that the Reserve Bank has been carrying out a review of IPSA under Cabinet-approved Terms of Reference, since 2016 [CAB-16-MIN-0072 refers].
- b) **Note** that the Reserve Bank has undertaken the Review and through operational experience and independent reports has identified opportunity for significant improvements that can be made to the Act.
- c) **Note** that the Reserve Bank has carried out a series of public consultations over 2021-2023, including an 'Omnibus Consultation' covering a full set of Reserve Bank recommendations for amendments to IPSA and plan to release the Summary of Submissions in early February.
- d) **Indicate** whether you require additional advice on any of the recommended policies in *Appendix 3: Proposed policy recommendations*.

Proposal #

- e) **Agree in principle** to progress amendments to IPSA (an Amendment Bill).

Agreed in principle / Not Agreed

- f) **Agree** to the package of amendments set out in *Appendix 3: Proposed policy recommendations*.


Agreed / Not Agreed

- g) **Note** the planned timeframe, contained in paragraph 42, which includes an exposure draft for public release in the final quarter of 2025. Subsequently, in March 2026, we will seek final approvals from yourself and Cabinet, on progressing the introduction of an IPSA Amendment Bill.

- h) **Agree**, subject to your feedback, to the drafting of a Cabinet paper seeking Cabinet approval of your policy decision and the release of an exposure draft for consultation giving effect to them, to be released later in 2025.

Agreed / Not Agreed

Hon Nicola Willis
Minister of Finance


Christian Hawkesby
Deputy Governor
Reserve Bank of New Zealand

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Appendix 1: IMF's Insurance Core Principles assessment 2017

Table 3
ICP assessment - summary of results

Core principle	Observed	Largely observed	Partly observed	Not observed	Not applicable
✓ = FSAP assessment;					
ICP 1: Objectives, powers and responsibilities of the supervisor		✓			
ICP 2: Supervisor		✓			
ICP 3: Information exchange and confidentiality requirements	✓				
ICP 4: Licensing		✓			
ICP 5: Suitability of persons		✓			
ICP 6: Changes in control and portfolio transfers			✓		
ICP 7: Corporate governance			✓		
ICP 8: Risk management and internal controls			✓		
ICP 9: Supervisory review and reporting			✓		
ICP 10: Preventive and corrective measures		✓			
ICP 11: Enforcement		✓			
ICP 12: Winding-up and exit from the market		✓			
ICP 13: Reinsurance and other forms of risk transfer			✓		
ICP 14: Valuation		✓			
ICP 15: Investment			✓		
ICP 16: Enterprise risk management for solvency purposes			✓		

(continued overleaf)

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Table 3
ICP assessment - summary of results (continued)

Core principle	Observed	Largely observed	Partly observed	Not observed	Not applicable
ICP 17: Capital adequacy		✓			
ICP 18: Intermediaries			✓		
ICP 19: Conduct of business			✓		
ICP 20: Public disclosure			✓		
ICP 21: Countering fraud in insurance	✓				
ICP 22: Anti-Money laundering and combating the financing of terrorism	✓				
ICP 23: Group-wide supervisor			✓		
ICP 24: Macro-prudential surveillance and insurance supervision			✓		
ICP 25: Supervisory cooperation and coordination		✓			
ICP 26: Cross-border cooperation and coordination on crisis management			✓		
Totals	3	10	13		

Notes: For a principle to be considered partly observed, the IMF observes that there are sufficient shortcomings to raise doubts about the supervisor's ability to achieve observance. We therefore treat a 'Partly observed' grade as constituting a fail grade. ICPs 18 and 19 refer primarily to FMA's responsibilities under market conduct legislation.

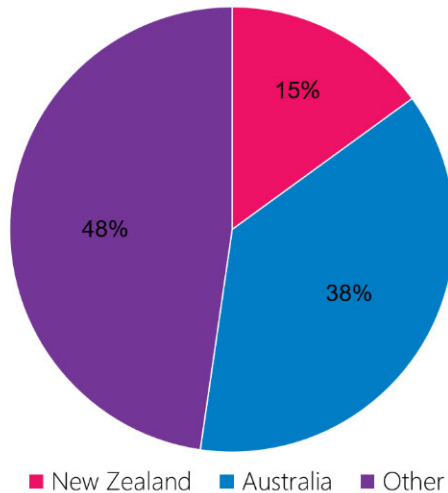
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Appendix 2: Background on New Zealand's insurance market

Background on the insurance market

Total licensed insurers: 84, as at 2024. All other data is for the calendar year ending 2022.⁸

Figure 1: Insurer assets by ultimate ownership



- Approximately, 55% of licensed insurers, by number, are foreign-owned.
 - The private insurance sector has revenue of about \$12 billion, which represents 3% of New Zealand's Gross Domestic Product (GDP). By contrast, deposit taking total interest income was roughly \$24b, 6% of GDP.
 - Foreign-owned insurers account for about 85% of total insurer assets (Figure 1).⁹
 - Foreign-owned insurers account for 77% of gross premiums written.
- Source: Insurers' private reporting.

Based on insurance premiums earned in the December quarter of 2021, large private insurer business in New Zealand is made up of the following types:

- General insurance (59%)
- Life insurance (around 28%)
- Health insurance (around 13%).

New Zealand's life insurance share of total insurance business is low compared to what is seen overseas. This is partly due to our well-developed welfare system, and the use of life insurance as a tax-efficient way to save money elsewhere in the world.

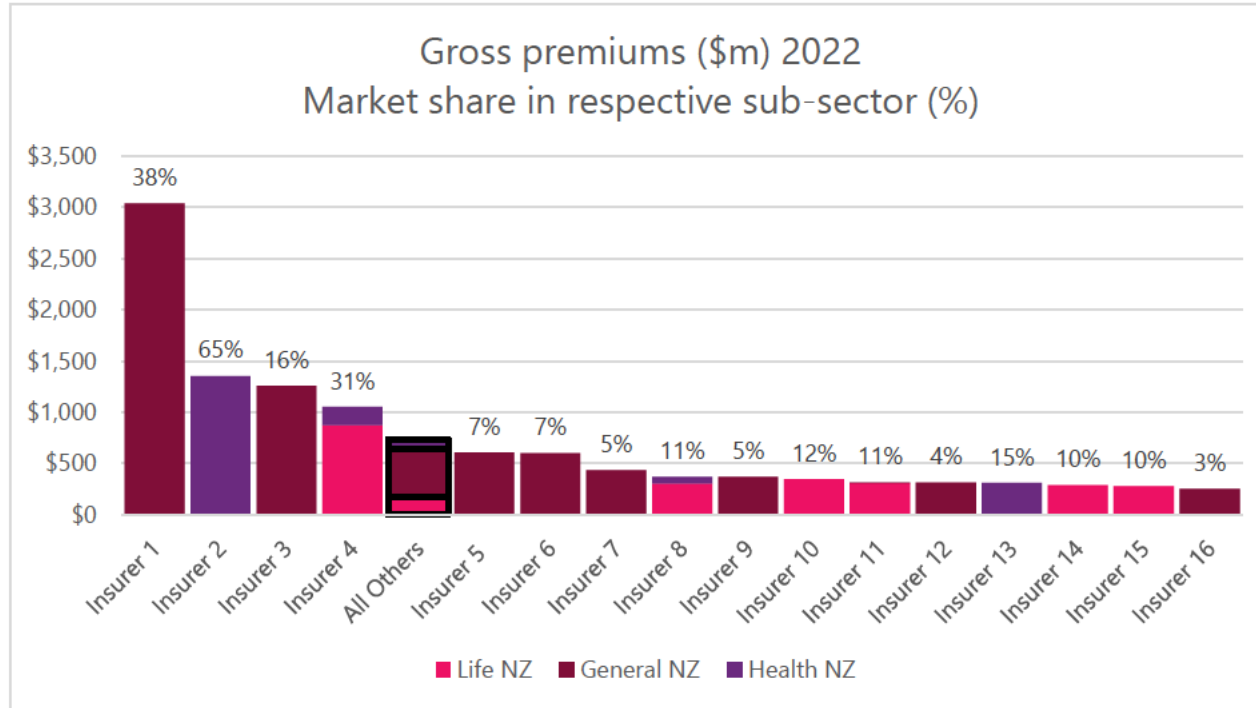
⁸ The Reserve Bank is currently refreshing the Insurance survey following an accounting standards update, up-to-date data should be available for use in 2025.

⁹ The total asset value comes from the insurers' financial statements, which may account for asset values differently across the sector.

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Competition, compliance costs and efficiency gains

Figure 2: Market sectors, by gross premium:



The insurance sector, on most metrics, is moderately or highly concentrated with a lack of product innovation, which could suggest the market suffers from a lack of competition. “Concentration ratios” which is the market share of the three (CR3) and five (CR5) largest insurers are provided in Table 2. For comparison, the four major banks (~ “CR4”) currently hold 85-90% of total assets within New Zealand’s deposit taking sector.

Table 2: Life insurance market concentration (as at 1 September 2021)



Metric	Life	General	Health
CR3	54%	63%	89%
CR5	74%	75%	96%
Concentration ¹⁰	Moderate	Moderate to high	High

¹⁰ Based on HHI analysis, HHI =Herfindahl-Hirschman Index, which is the sum of the squares of market shares for each insurer.

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Appendix 3: Proposed policy recommendations

This appendix sets out proposals from the Omnibus Consultation (by theme) that we recommend proceeding with.

Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
Scope	1	Require licensing for NZ-incorporated insurers that only write overseas policies	<p>Currently, an insurer will only require licensing if it has at least one New Zealand policyholder. This proposal removes this requirement, meaning NZ-incorporated insurers (without any NZ policyholders) will fall within the regulatory perimeter. The proposal would require amendment to the definition of 'carrying on insurance business in NZ' (s 8 IPSA).</p> <p>The current approach is inconsistent with the approach of overseas regulators, which often focus on the insurer's jurisdiction of incorporation. There is a risk that some NZ-incorporated insurers escape any regulatory oversight, creating reputational risk for NZ. This risk was also raised in the T-S report.</p> <p>This proposal may incentivise (at least some) insurers to cease carrying on business in NZ (e.g. where the insurer has chosen to incorporate in NZ to avoid regulation).</p>	 Broadly supportive
	2	Remove licensing requirements for overseas captive insurers and overseas reinsurers	<p>This proposal explicitly excludes overseas captive insurers and overseas entities that only act as reinsurers in NZ from the regulatory scope. These entities pose a low risk in the NZ insurance context because they only provide insurance services to associates, or otherwise do not provide primary insurance at all (reinsurers).</p> <p>Currently, whether a specific overseas captive or reinsurer falls within the regulatory scope depends on a Companies Act 1993 test that some entities find difficult to apply. Explicitly excluding those entities from the regulatory scope will provide them certainty.</p> <p>The NZ insurance market benefits from the provision of reinsurance, and we understand that overseas reinsurers would reconsider withdrawing from NZ if required to comply with IPISA. In the case of captive insurers, they only provide cover (often akin to reinsurance) to their parent or other subsidiaries in the group (which are often NZ-incorporated).</p> <p>Removing these entities from the regulatory scope is an example of a recommendation that reduces regulation, without a significant risk or cost.</p>	 Broadly supportive

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
	3	Introduce a power for the Reserve Bank to recommend that certain types of transactions are 'contracts of insurance' under IPSA	<p>The proposal enables the Reserve Bank to recommend the Government makes regulations that declare certain types of transactions are 'contracts of insurance' under IPSA, meaning entities that issue those contracts will require licensing. The rationale is to confirm the position of contracts where it is uncertain whether they fit within the IPSA definition, and it would tend to undermine the effectiveness of IPSA if those contracts were not regulated.</p> <p>The current definition of 'contract of insurance' is broad and flexible. However, some insurers have raised concerns that it is uncertain whether new forms of insurance that utilise technology (InsurTech) fall within the definition. A declaration power will provide certainty to industry and ensure that the Bank has appropriate oversight.</p>	 Strongly supportive
	4	Introduce a requirement for overseas insurers to locally incorporate, where they meet a specified 'size and importance' threshold	<p>This proposal enables the Reserve Bank to prohibit an overseas insurer from carrying on business in NZ, unless it incorporates in NZ. The Reserve Bank would be permitted to exercise this power where the insurer is of sufficient size and importance in the NZ insurance market. We envisage that the exact threshold will be set via secondary legislation.</p> <p>Branches of overseas insurers help to support an efficient market, often providing New Zealanders access to unique insurance products or otherwise supporting competition in the market. However, branches do create some regulatory challenges, particularly in supervising the compliance with prudential obligation and the Reserve Bank's practical ability to influence or compel insurers.</p> <p>During the Omnibus Consultation, we did not outline a preferred option on whether branches exceeding a specified size should be required to locally incorporate. We noted that the Bank has some existing powers to require a large branch to incorporate (i.e. via condition of licence). The power to require local incorporation was seen as an alternative to a power to require an overseas insurer to hold assets in NZ, to achieve a similar outcome. The assets in NZ proposals was subject to very strong, negative feedback from some stakeholders and would be complex to operationalise. Accordingly, as outlined in proposal 44, we recommend against an 'assets in NZ' proposal in favour of this recommendation. We consider that specifying a 'size and importance threshold', via standard, is more transparent and provides certainty to the market, than applying individual licence conditions.</p>	Did not directly consult on. Raised as a potential alternative to the 'assets in NZ' proposal (#44).

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
	5	Amend the IPSA to empower a licensing regime for non-operating holding companies (NOHCs) of insurers, that are headquartered in NZ. The Reserve Bank will be empowered to 'call in' NOHCs for licensing.	<p>This proposal involves creating a licensing regime for NOHCs headquartered in NZ. The Reserve Bank will have the option to 'call in' a NOHC for licensing. Our current policy intention is that the NOHC would need to meet minimum statutory licensing criteria (in order to continue as a holding entity of the licensed insurer) and may be required to comply with relevant prudential standards (e.g. governance, risk management). They may also be subject to supervisory and enforcement tools, to monitor compliance and address issues of non-compliance.</p> <p>The proposal will facilitate a 'group supervision' approach to insurers, where currently the IPSA only enables supervision of an individual insurer. The prudential goal of group supervision is to ensure that the group is financially sound. This approach will better enable supervisors to understand and assess contagion risk between the licensed NOHC and the activities in other parts of the group.</p> <p>At present there is only one NZ-based group that a NOHC licensing regime would likely apply to. Therefore, in the short term the need for the regime is relatively low. However, a group licensing regime is recommended on the basis of NZ's international role in the regulation of insurers. International supervision is currently organised on the basis that host countries expect subsidiaries' home country supervisors to be carrying out group level supervision.</p> <p>Both the IMF FSAP and the T-S Report recommend changes to how insurance groups are regulated.</p>	<p style="text-align: center;">Mixed</p> <p>Those impacted thought information collection requirements could achieve the same outcome</p>
Solvency	6	Allowing the solvency standard to set a ladder of intervention and for powers to be released at different solvency levels	<p>Currently, IPSA is based upon one solvency 'control level' – whether the insurer is maintaining a solvency margin (\$0 being the standard margin). In broad terms, if the insurer is failing, or likely to fail, to maintain a solvency margin, then the Reserve Bank may exercise certain powers in response. While solvency standards (secondary legislation issued by the Reserve Bank) specify multiple 'control levels', IPSA powers are linked to breaches of the solvency margin only (actual or likely). The proposal is to amend IPSA to allow the solvency standard to be able to set multiple control levels (e.g. the 'prescribed capital requirement' and the 'minimum capital requirement'). This would enable the Reserve Bank to exercise certain powers at different control levels, depending on where an insurer's financial position stands relative to the solvency control levels.</p>	<p style="color: green;">✔ Supported the general principle, requested clearer definitions.</p>

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			<p>Note that the calibration of these control levels is a subject of a separate review of the solvency standards.</p> <p>We committed to introducing capital buffers (a 'ladder of intervention') in response to both the IMF's 2016 assessment of New Zealand's financial system and the T-S Report.</p>	
	7	Introduce the power for the Reserve Bank to impose dividend restrictions on licensed insurers, as a solvency standard matter	<p>The Reserve Bank may issue solvency standards under <u>s 55 IPSA</u>. The permitted scope of these standards includes (for example) minimum capital requirements and calculation methodology but does not expressly include the ability for the Reserve Bank to impose dividend restrictions on licensed insurers. We believe a dividend restriction power is justified in certain circumstances.</p> <p>The main potential concern with subsidiaries is that their relationship with their parent group may create risks. The primary risk is that intra-group transactions might facilitate contagion where the group runs into financial difficulties.</p> <p>One way to mitigate this risk is by imposing dividend restrictions on subsidiaries as part of the 'ladder of intervention' approach to solvency discussed above. Dividend policy must take into account solvency requirements in any case, but dividend restrictions where an insurer's capital position is weak provides additional safeguards when an insurer or its group are under stress.</p>	Mixed Mostly supportive, however, some outlined safeguards and transparency was needed
	8	Introduce a default solvency margin (\$0) which applies to licensed insurers unless otherwise specified	<p>Currently, the solvency margin(s) for each licensed insurer is set out in its conditions of licence. The solvency margin is the amount of 'solvency capital' an insurer holds above the 'prescribed capital requirement'.¹¹ In most cases, the required 'solvency margin' for insurers is \$0 – i.e. licence conditions require insurers to hold the prescribed capital requirement.</p> <p>We propose that the prescribed capital requirement should be specified in IPSA and apply to non-exempt insurers automatically, without the use of a licence condition. It would make it clearer that the prudential capital requirement is the 'default' solvency requirement and that any departure from that default reflects particular circumstances.</p>	✓ Comfortable with proposal.

¹¹ The prescribed capital requirement is specified by the solvency standard and is designed to be sufficient surplus capital for an insurer to hold so that it can meet its obligations to policyholders, even under adverse circumstances

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
New standards			<p>Proposals 9-15 below outline the ability for the Reserve Bank to introduce a range of prudential standards. Although the Reserve Bank has existing powers to impose obligations relating to the subject matter of some standards (e.g. via setting conditions of licence under s 21 IPSA), standards are a clearer and more transparent mechanism for setting rules.</p> <p>We propose these standards will be set using a risk-based proportional approach, similar to that used for deposit takers. That is, taking into account differences in the size, sectoral importance and business models of different types or classes of insurers. The proposed draft standards will be consulted on with industry and sequenced over a period of time to reduce regulatory costs, where possible.</p>	
	9	Empower the Reserve Bank to issue a governance standard	<p>Currently, IPSA requires the Reserve Bank to assess incorporation and ownership structure, ownership, governance structure, and other matters as part of the insurer licensing process. Supervisors may continue to assess such matters as part of BAU supervision. An inappropriate change in governance structure may also be grounds to issue a direction to a licensed insurer (s 143 IPSA).</p> <p>However, the IPSA lacks any ability to prescribe an appropriate governance and impose new governance standards on licensed insurer. The Reserve Bank's <u>Governance Guidelines</u> are not legally binding. The current approach is suboptimal, given the importance of good governance and an adequate governance structure in the prudential management of an insurer. Setting governance requirements via standard provides clarity and transparency and enables the Reserve Bank to effectively regulate an insurer's governance.</p> <p>The lack of ability to regulate governance is unusual compared to international counterparts.</p>	<p>✓ Industry were broadly comfortable with introducing a wider range of standards, although noted a clear desire to review the proposed scope of standards set out in an exposure draft, with long lead times for implementation</p>
	10	Empower the Reserve Bank to issue a risk management standard	<p>Currently risk management is regulated by a requirement upon licensed insurers to have a risk management programme and seek the RBNZ's approval of any material change to the programme.</p> <p>Suitable risk management is needed to ensure insurers have appropriate procedures and controls in place to assess and manage risk and a robust risk culture. Reliance on an insurer's risk</p>	

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
			<p>management programme has been found to be inadequate to lift standards of risk management.</p> <p>The IMF FSAP recommended the strengthening of risk management requirements.</p>	
	11	Empower the Reserve Bank to issue a data and disclosure standard	<p>This standard will regulate the disclosure and publication of information by insurers. This will enhance market discipline and potentially provide for comparability of insurers by the public. It will enhance efficiency compared to current practice.</p> <p>While the Reserve Bank has some powers to collect and publish information obtained from licensed insurers (<u>ss 121</u> and <u>135 IPSA</u>), a data and disclosure standard may facilitate a simpler approach to setting out reporting requirements and provide for greater transparency about which information is likely to be published.</p>	<p>✓ Respondents were generally comfortable. Several respondents wanted careful safeguards to ensure restraint in data requirements</p>
	12	Empower the Reserve Bank to issue an outsourcing standard	<p>The standard will provide a mechanism for the Reserve Bank to assess and regulate the appropriateness of licensed insurers' outsourcing arrangements. The T-S Report noted issues where failed insurer CBL outsourced fundamental insurance functions (underwriting, pricing, claims management). The outsourcing of core functions can create material risks to the insurer. The T-S report recommended that the Reserve Bank consider introducing rules on outsourcing.</p>	<p>Mixed Mostly supportive, but wanted the standard to reflect certain deposit taker/ insurance differences</p>
	13	Empower the Reserve Bank to issue a connected exposures standard	<p>While connected exposures can be regulated by condition of licence, a standard is preferred for reasons discussed above. Related party transactions are a well-known source of risk in group structures (e.g. to finance weaker members of a group on non-commercial terms).</p>	<p>Mixed Generally supportive of the tighter restrictions</p>
	14	Empower the Reserve Bank to issue an	<p>All licensed insurers are required to have an appointed actuary.</p> <p>Currently, the responsibilities of the appointed actuary are set out in regulations and relevant solvency standards. However, there is no single, comprehensive statement of the Reserve Bank's</p>	<p>✓ Industry were broadly in favour, helping to set out clear and</p>

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
		actuarial advice standard	wider expectations of the appointed actuary's role, the role of actuarial advice more generally, and what the corresponding reporting arrangements should be from the appointed actuary to the board. A standard would be a mechanism for achieving this. A thematic review of the appointed actuary role was undertaken in 2018 and highlighted the lack of clarity and guidance around what the Reserve Bank expects of the appointed actuary role and the risk that the role's impartiality could be affected. The review provides the groundwork for an actuarial advice standard. The standard of actuarial advice was a feature of the CBL case, where the appointed actuary maintained CBL was solvent up until the point of its interim liquidation. CBL was subsequently shown to be insolvent since 2014.	transparent expectations.
	15	Empower the Reserve Bank to issue a distress management preparedness standard	The failure of most New Zealand insurers is likely to be less time-critical than that of financial market infrastructures (FMIs) or deposit-takers who have liquid liabilities and present a contagion risk. Nonetheless, pre-planning has become a key tool for businesses to ensure that they are prepared if a stress does arise. Given the potential impact on policyholders and the financial system, a distress management preparedness requirement appears prudent. Following industry feedback, we recommend empowering a resolution preparedness standard, but deferring the standard-making process to the medium term. This will enable insurers to embed changes gradually.	✓ Broadly support if imposed over the medium to long term
Fit and proper	16	Extend the definition of 'relevant officers' to include Chief Risk Officers	We recommend extending the definition of 'relevant officers' (<u>s 6 IPSA</u>) to include the chief risk officer but not any other senior managers. As prudential regulator, our interest is in senior officers or employees that are central to enabling compliance with prudential requirements. The chief risk officer has a core role in terms of insurers' compliance and risk management activity.	✓ Generally comfortable with the inclusion of the CRO.
	17	Introduce a requirement for licensed insurers to obtain the Reserve Bank's prior approval to	We recommend requiring licensed insurers to obtain approval of the appointment of relevant officers from the Reserve Bank before appointments are made. This would align IPSA with provisions in the DTA, where deposit takers are required to seek Reserve Bank approval before	✗ Industry had strong concerns. Arguing that the Reserve Bank's existing power to

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
		appointment of relevant officers	<p>appointments are made, and the Reserve Bank will have power to impose conditions of approval on appointments.</p> <p>Practical concerns were raised during consultation regarding unnecessarily delaying the appointment process and the Reserve Bank inappropriately being involved in a decision, which should be ultimately up to the insurer or its shareholders.</p> <p>Operational experience since IPSA was enacted has found a number of cases where problematic appointments have been made. While the Reserve Bank could have taken steps under the Act to remove a director who is not fit and proper, a pre-approval process would ensure the matter is dealt with before appointment.</p>	challenge an appointment is sufficient, while the costs and complexities of pre-approval would outweigh the benefits.
	18	Introduce a requirement for licensed insurers to notify the Reserve Bank where they have fit and proper concerns of directors or relevant officers	<p>We recommend introducing a requirement for licensed insurers to notify the Reserve Bank if they obtain information that could reasonably lead them to form the opinion that a relevant officer is not a fit and proper (F&P) person to hold their position.</p> <p>There is currently no ongoing legal requirement for insurers to notify the Reserve Bank if a director or relevant officer's (DRO) fitness and propriety are called into question. Under IPSA, F&P obligations primarily arise at the point of licensing, when new DROs are appointed, if the Reserve Bank issues a written notice to the insurer, and F&P reassessments that insurers are required to undertake at least once every 3 years. A more immediate requirement to identify issues and notify RBNZ is appropriate.</p>	Mixed Some concerns were raised between this requirement and their human resource relationship with employees, including privacy issues.
Regulatory approvals	19	Consolidate the statutory approval process into one set of 'significant transaction' provisions, to replace the existing approval processes for change of control, changes in corporate form, and for	<p>Currently, IPSA requires regulatory approval for any of the following transactions: confirmation that an insurer should keep its licence following a change in control, change of corporate form (e.g. a mutual firm becoming a company), policy portfolio transfers between insurers, and amalgamations of insurers.</p> <p>We propose that the Reserve Bank's approval continue to be required for these transactions, but that there be streamlined approval provisions and a common decision-making process applying to approval of each transaction (similar to sections 46-52 of the DTA).</p>	✓

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
		transfers and amalgamations.		
	20	Require notification to (rather than approval from) the Reserve Bank prior to significant influence being obtained or giving effect to amalgamation, where transaction relates to an overseas insurer.	<p>Where these transactions involve overseas insurers, we recommend that notification to the Reserve Bank is sufficient (rather than obtaining prior approval from the Reserve Bank). This is because overseas insurers operate as branches in NZ, but are ultimately a foreign-incorporated legal entity regulated overseas.</p> <p>The current provisions capture transactions which involve corporate reorganisations (e.g. new holding entity inserted above NZ licensed insurer) which already receive oversight from an overseas regulator. These transactions are low risk from a NZ perspective. However, the Reserve Bank is required to go through a full assessment process which adds comparatively little additional value, beyond the home regulator's assessment.</p>	Was not consulted on.
	21	Replace the current 'change of control' threshold with a 'obtaining significant influence' threshold, which lowers the threshold for requiring Reserve Bank approval or notification.	<p>The current 'change of control' threshold is based on a person becoming a holding entity of a licensed insurer or (directly or indirectly, by itself or in concert with another person(s)) obtaining 50% or more of the voting rights in a licensed insurer (s 26 IPSA).</p> <p>We recommend setting the threshold so that approval is required where a person would obtain 25% or more of voting rights or the ability to appoint 50% or more of directors. This threshold aligns with the comparable DTA threshold, and amendments expected to be made for the conduct regime administrated by the FMA.</p>	✔
	22	Require approval where a licensed insurer acquires business from a non-licensed insurer	We recommend that the regulatory approvals process apply to situations where a licensed insurer acquires business from a non-licensed insurer. Significant growth, especially through expansion, can create soundness and efficiency concerns for the insurance market. The proposal will be added to the current transfers and amalgamations approval regime (s 41) and have similar threshold requirements.	MIXED Respondents relatively quiet on the proposal
Supervisory powers	23	Extending the Reserve Bank's current	We recommend extending the Reserve Bank's information gathering and investigation powers to cover unlicensed insurers and entities falsely holding themselves out as licensed insurers. This	MIXED

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
		information-gathering powers and investigation powers to unlicensed insurers	would address a regulatory gap, where the Reserve Bank has not been able to effectively investigate entities who are suspected of unlicensed insurance activity. Licensed insurers also raised this as an issue in consultation.	Generally supportive, some concerns raised around scope and safeguards
	24	Introduce a power for Reserve Bank to conduct on-site inspections of licensed insurers without notice	As part of the Reserve Banks supervisory strategy and consistency with the practice of overseas regulators, we propose IPSA should be amended to require licensed insurers to allow onsite inspection. Onsite inspections have been a useful facet of AML supervision, including the interaction with regulated entity staff, the ability to request information in the course of inspection and discuss it with regulated entity staff. It adds to the insights available to the supervisor.	✗ Raised concerns, arguing that the power was unnecessary and could prove complex.
	25	Introduce a power for the investigator to require directors or employees to answer questions on notice as part of a formal investigation	<p>Currently, the Reserve Bank may appoint an investigator where it suspects that the insurer is in breach of the IPSA and other defined circumstances of breach or distress (s 130 IPSA). The investigator is permitted to compel information for inspection and take copies of those documents. This proposal would provide a further power to enable the investigator to require a director or employee of the insurer to answer questions under oath in connection with the insurer.</p> <p>This power would align with that contained in the DTA. As part of the introduction of the DTA, the Attorney-General noted that, in the context of deposit takers, that the provisions were necessary for the effective operation of the regulatory regime by which the stability of New Zealand's financial system is protected. A Bill of Rights assessment will be completed following the exposure draft, if a Bill is progressed.</p>	MIXED Some concerns raised around scope and safeguards.
	26	Introduce a breach reporting regime, whereby licensed insurers must report material contraventions	We propose expressly empowering a breach reporting regime. This would require insurers to monitor ongoing compliance with prudential obligations and notify the Reserve Bank where it believes it has or is likely to breach a prudential obligation in a material respect. Breach reporting regimes can be important in reducing the information asymmetry between regulators and regulated entities. In addition, it complements two proposals discussed below (remediation notices and enforceable undertakings regime). Collectively, these proposals incentivise the	MIXED Some concerns the power was unnecessary or sought greater information on materiality.

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
		of prudential obligations to the Reserve Bank	insurer to proactively identify and remedy a breach. Often insurers are in the best place to identify and remedy regulatory breaches, especially where the breach is an isolated issue. A similar power is included within the DTA.	
Enforcement powers	27	Introduce an express power for the Reserve Bank to require licensed insurers to publish Reserve Bank's warnings to policyholders	<p>While the Reserve Bank has the ability to issue and publish warnings to insurers in response to non-compliance, we consider it more appropriate to set out a statutory framework for warnings. In particular, it provides an ability to require the insurer to publish a warning it has received.</p> <p>Written warnings are appropriate where there is strong evidence of non-compliance but it is not in the interest to take a prosecution or other stronger action.</p> <p>In appropriate circumstances, the impact of a written warning could be increased by requiring the insurer being warned to publicise the fact that it had received a warning. This sends a wider message to industry and promotes compliance. Warning powers are an enforcement tool which is included in the Financial Markets Conduct Act (FMC Act) and the DTA.</p>	✓ Generally supportive but reiterated the seriousness of the requirement.
	28	Introduce a power for the Reserve Bank to issue remediation notices to persons in breach of prudential obligations	Remediation notices would allow the Reserve Bank to require regulated entities to take specific action to remedy breaches of their prudential obligations or to prepare a plan setting out how they intend to remedy breaches. It would supplement existing direction powers, in a way that is seen as less serious than a direction. A similar power is included within the DTA.	✓ Broadly supportive, no strong views.
	29	Introduce a power for the Reserve Bank to issue infringement notices for low-level breaches of prudential obligations	Infringement notices would allow the Reserve Bank to impose low-level penalties for relatively minor breaches. This remedy for breaches is in the DTA, the Reserve Bank Act and the FMC Act. The scope for infringement notices would be relatively narrow and include failing to provide data or notices to the Reserve Bank or the public in a timely manner. The maximum quantum of the fine would be set out in legislation.	MIXED Some concerns raised, requested more information.
	30	Introduce a power for the Reserve Bank to	Enforceable undertakings are a tool for requiring binding commitments from regulated entities that typically specify remedial actions as well as a commitment by the entity to pay compensation	✓ Broadly supportive, no strong views.

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
		accept enforceable undertakings from licensed insurers and other persons	to a person, take a specific action to address a contravention or pay an amount to the Bank in lieu of a pecuniary penalty. A similar power is included within the DTA. They provide a flexible enforcement tool.	
	31	Introduce civil pecuniary penalties for breach of prudential standards and replace lower tier criminal penalties with civil penalties	<p>Civil pecuniary penalties allow the Reserve Bank to apply to the court for a finding of breach and a civil penalty to an entity's suspected breach. The burden of proof is on the balance of probabilities rather than beyond reasonable doubt, and civil proceedings do not result in a conviction. They therefore can be easier to pursue than criminal prosecution.</p> <p>Analysis as part of the 2020 review of the deposit taker's regime found net benefit in using civil pecuniary penalties as the main tool for enforcing standards, instead of difficult-to-use criminal penalties. The use of civil pecuniary penalties also allows for a more proportionate approach to breaches.</p> <p>Civil pecuniary penalties are expected to be set at roughly half that of the DTA (which are set at a maximum of \$1,000,000 for individuals and \$5,000,000 for businesses).</p>	MIXED No strong view provided.
Penalties	32	Update the maximum criminal penalties under the IPSA	<p>IPSA relies entirely on criminal prosecution and fines for its sanctions and compliance regime (separate to supervisory tools, such as directions). This means a range of strict liability offences with a maximum fine of \$1,000,000 for the most serious offences.</p> <p>The penalty regime has not been updated since IPSA was enacted.</p> <p>This means that penalties are disproportionately lower under the IPSA regime than for other regulated entities (noting that penalty levels were recently reviewed and updated for FMIs, deposit takers and under the FMA's conduct regime).</p> <p>In determining appropriate new criminal penalties, we have considered the potential financial impact on the offender, the ability for the offender to pay penalties, the potential gain by offending and the potential impact on trust of breaches. This suggests maximum penalty levels should fall between that of FMIs and deposit takers. We suggest that maximum penalties be revised to no greater than \$2.5m (increasing from \$1m) for bodies corporate, and \$300,000 (increasing from \$200,000) and/or a prison sentence up to 18 months for individuals. These</p>	<p>✓ Broadly comfortable, some felt that the proposed increases were too high.</p>

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
			changes are in excess of inflation but are set relative to similar legislation, that is, they are set lower than the DTA but comparable with the FMI Act.	
Distress management	33	Designate the Reserve Bank as the resolution authority and include additional distress management objectives	<p>IPSA provides a range of resolution tools, such as the ability to apply to the High Court for an insurer to be placed into liquidation or voluntary liquidation. The Act ensures the Bank has the ability to participate throughout these processes. The Bank can also seek an Order in Council placing a licensed insurer into statutory management if the relevant threshold is met.</p> <p>We propose that the IPSA formally describe the Reserve Bank as the 'resolution authority'. This provides no substantive changes to the powers provided to the Reserve Bank, however it signals, especially to outside parties, the considerable role the Reserve Bank has when a licensed insurer is in distress management. It is also consistent with the DTA language.</p> <p>Given this, we recommend additional objectives to apply to the distress management provisions (Part 4 of IPSA). Currently the IPSA's aims when dealing with an insurer in financial distress are: adequately protecting policyholders and the public interest, and ensure that any failure does not have the potential to significant damage the financial system.</p> <p>We recommend amending and elaborating on what is meant by significant damage to the financial system, to include: maintaining the continuity of systemically important activities carried out by licensed insurers; and mitigating or otherwise managing any loss of confidence in the financial system. We also recommend adding a subordinate purpose to minimise, and otherwise manage the costs of dealing with a licensed insurer in distress, with 'costs' including those imposed on creditors, the Crown and on the insurer (or the owners of the insurer).</p> <p>Whether the policy is achieved through new sub-part purposes or amendments to the principles in the IPSA will be decided during the drafting stage.</p>	<p>✓ Supportive, a concern that the 'public interest' was not sufficiently well defined.</p>
	34	Extend the scope of direction powers to enable the Reserve Bank to direct licensed insurers not to renew	The Reserve Bank has the power to give directions to licensed insurers in defined breach and distress management scenarios (<u>ss 143 and 144 IPSA</u>). This includes the power to direct insurers to cease entering new contracts of insurance. However, the Reserve Bank is explicitly prohibited from directing an insurer not to <i>renew</i> existing contracts (<u>s 144(2) IPSA</u>).	MIXED – Industry recognised why this power is being proposed but recommended

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
		existing contracts of insurance	<p>A policy rationale for this prohibition may be because non-renewal can create significant problems for some types of policyholders, particularly in life or health insurance where policyholders have pre-existing conditions.</p> <p>Our view is that this limitation unduly restricts the Reserve Bank’s ability to require at-risk insurers to reduce their exposure. Both the T-S Report and the IMF FSAP expressed similar concerns. We believe that harm to policyholders can be mitigated, through the requirement for the Reserve Bank to consider distress management objectives (discussed above) before issuing a direction to cease renewals, or other drafting to require the Reserve Bank to take into account policyholder interests when issuing directions to insurers.</p>	an explicit requirement to consider policyholders.
	35	<p>Introduce two provisions to support moratorium rights which apply during statutory management:</p> <ul style="list-style-type: none"> - ‘Ipsa facto’ provision - Short term stay 	<p>When an insurer is placed into statutory management under IPSA, certain provisions of the Corporations (Investigation and Management Act) 1989 (CIMA) apply to the statutory management (<u>s 180 IPSA</u>). This includes moratorium provisions. Moratorium rights help support the orderly wind-down of businesses by temporarily suspending a business’ requirement to repay creditors, thereby, attempting to alleviate short-term financial hardship and support the fair treatment of creditors.</p> <p>‘Ipsa facto’ provision: Overall, the moratorium regime works as intended. However, two amendments would further support the benefits of a moratorium. We recommend the inclusion of an ‘ipsa facto’ provisions that provide that other contractual rights (such as terminating the provision of services) cannot be enforced against the entity in resolution solely because it has been placed into resolution/statutory management (even where the contract includes a clause that would contain these rights). Ipsa facto provisions are already contained within the distress management regime (via the CIMA), but the scope of these rights is very limited focusing on essential services for all businesses, including water and electricity. We recommend broadening these rights to include insurer-specific essential services including policyholder contact services. The proposal builds on policy development when preparing the FMI Act and the DTA, which have similar provisions.</p> <p>Short term stay: We also recommend introducing provisions which impose a short term “stay” on the exercise of close rights under derivatives contracts against the entity in resolution. This would</p>	MIXED Broadly comfortable but some concerns about how the IPSA Facto provision would interact with reinsurance contracts.

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
			align these rights with provisions included for FMI and deposit takers and is consistent with international principles.	
	36	Revise the threshold for statutory management of a licensed insurer	<p>The current trigger conditions for statutory management are limited to situations where the Reserve Bank is satisfied on reasonable grounds that (s 173 IPSA):</p> <ul style="list-style-type: none"> the conditions for issuing directions are met and the failure of the licensed insurer may cause damage to the financial system or the NZ economy (or both); or a licensed insurer is, or may be, operating fraudulently or recklessly and statutory management is desirable for specified purposes. <p>The market for insurance is fragmented with many insurers specialising in specific risks or regions. This poses a risk that an insurer's failure would cause significant damage, but only to a local geographical area or group of persons and not to the financial system or NZ economy. These impacts may nevertheless affect public confidence and be contrary to public interest (as per sections 3 and 4). Accordingly, we propose including an additional ground that clarifies that significant damage could also be localised or to a specific group (akin to the systemically important activities test in the DTA). As statutory management is a very significant power, the test would still require this to be a tool of last resort, when no other tool could achieve the same or a better outcome.</p>	<p>✓ Supportive, noting the importance that resolution was available for 'niche' insurers.</p>
	37	Introduce a Ministerial direction power in relation to any use of public funds in event of entity failure	The Minister will be able to commit public funds under the Public Finance Act in the event of an entity failure (s 491 DTA). If this commitment was to occur, then the Minister should have statutory powers to direct the statutory manager to manage any risk to the financial position and interests of the Crown. The mitigation and management of Crown costs are also reflected in proposal #33, to introduce additional distress management objectives. This power would align with the DTA.	Was not consulted on.

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
Other issues	38	Introduce an obligation for the Reserve Bank to consult with the FMA before issuing or cancelling a licence under IPISA	<p>This proposal creates a formal consultation obligation upon the Reserve Bank. The policy intention is that the Reserve Bank would have reciprocal statutory obligations to consult with the FMA, matching current obligations of the FMA to consult with the Reserve Bank in respect of licensed insurers. For example, the FMA is legally required to consult with the Reserve Bank before issuing a licence (<u>s 397(1)(d) FMC Act</u>). In contrast, the Reserve Bank may informally consult the FMA (with operational detail set out in a bilateral MOU).</p> <p>Reciprocal consultation requirements would tend to support a 'joined up' approach between the prudential and conduct regulators, and perhaps enhance information-sharing between the two.</p>	<p>✓ Comfortable with the proposal.</p>
	39	Introduce an obligation for the Reserve Bank to consult with the FMA when making decisions under the proposed statutory approval process for significant transactions	<p>In the Omnibus Consultation, we had indicated that the Reserve Bank would not proceed with this proposal. Since then, MBIE has advised that the FMA will likely gain the power to approve certain transactions as part of the <u>2024 Financial Services Reform package</u>. MBIE is at the stage of issuing drafting instructions, and no approval powers have been enacted.</p>	<p>No strong views</p>
	40	Providing a regulation-making power to enable the Minister of Finance to extend the scope of matters on which the Reserve Bank could set standards	<p>Providing flexibility in the scope of the Reserve Bank's standard-setting powers will ultimately help to provide improved transparency and legitimacy. This is because when risks emerge on insurers, empowering the Reserve Bank (via regulations) to set standards that govern those risks, instead of having to update insurer's conditions of license, ensures the requirements will be public and will have gone through a public consultation process.</p> <p>The Reserve Bank's use of legislative instruments was reviewed thoroughly in 2021 (regarding deposit takers), transparency and accountability benefits outlined as part of that process also apply here.</p>	<p>Was not consulted on</p>

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Appendix 4: Policy proposals that are not recommended

This appendix sets out proposals from the Omnibus Consultation (by theme) that we do not recommend proceeding with.

Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
Purposes and principles	41	Update the statutory purpose and principles (to include access and policyholder security)	<p>The original IPSA Review Terms of Reference specified that IPSA’s purposes and principles were not under review. However, in 2023 (and on recommendation of the Reserve Bank), Cabinet agreed to amend the Terms of Reference to permit review of the purposes and principles. The Reserve Bank made the recommendation in light of significant changes to its governing legislation, the Reserve Bank Act Review and the introduction of the DTA. Furthermore, the current purposes and principles are to some degree out of step with overseas regimes that include policyholder security and access to insurance products as statutory principles.</p> <p>Following review, our assessment is that the current purposes and principles remain adequate. Further, there is some risk that amending the purposes and principles will create uncertainty on how existing provisions will be interpreted. Therefore, we believe a high bar for change needs to be met.</p> <p>The Treasury notes that there are other potential changes possible within the scope of the expanded terms of reference, including other possibilities of aligning with the DTA.</p>	<p style="text-align: center;">×</p> <p>Broadly against the additions of ‘access’ and ‘policyholder protections’, indifferent on reference to RBNZ’s broader purposes.</p>
Solvency	42	Introduce a power for the Reserve Bank to impose supervisory adjustments to licensed insurer’s solvency calculations	<p>We have had past supervisory difficulties when insurers, more specifically insurer’s appointed actuary, take an aggressive approach to measuring the underwriting risks on the insurer, that is the risk and quantum of claims being made. The power to impose supervisory adjustments, which would assist in addressing these issues, was recommended in the T-S Report.</p> <p>On balance, we recommend not progressing with this proposal. The Reserve Bank has existing powers to increase the solvency margin that the insurer must hold though licence conditions. In addition, the proposal to empower an actuarial advice standard (proposal 24) may enable the Reserve Bank to apply greater scrutiny to the appointed actuary. We also have some concerns that introduction of the power may, in practice, result in insurers or their appointed actuaries shifting risk management responsibility to the Reserve Bank. We consider these costs to outweigh the benefits of the proposal.</p>	<p style="text-align: center;">×</p> <p>Industry had strong concerns, arguing calculations were the responsibility of the insurer and an over-ride power was too discretionary and potentially arbitrary.</p>

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
	43	Reconsider the appropriate legislative instrument for outlining requirements for the insurer's financial condition report (FCR)	<p>Currently, requirements relating to the FCR are set out in solvency standards (s 56 IPSA). The FCR reports on a range of issues related to insurers, including financial matters not directly related to solvency (e.g. claims experience, risk management procedures, and a review of capital management procedures). We considered whether FCR requirements should be housed in a separate prudential standard empowered under IPSA.</p> <p>We recommend discontinuing this proposal. There were no strong views internally or by industry on where requirements should be 'housed'. Therefore, the status quo is preferred.</p>	<p align="center">✓</p> <p>Some questioned the need for an FCR, but most did not feel strongly on where the requirements are housed.</p>
	44	Introduce a requirement for overseas insurers (branches) to hold assets in New Zealand	<p>This proposal would require overseas general insurers to hold assets in NZ equivalent to NZ solvency capital requirements. The rationale is that an 'assets in NZ' requirement may reduce risks associated with cross border insolvency. As added protection, the IPSA would outline these assets should be applied to meet New Zealand liabilities before those to other creditors.</p> <p>In light of the potential impacts on branches of overseas insurers, on balance, we recommend against introducing this requirement. Concerns do remain regarding the effectiveness of the solvency regime, however, requiring branches to incorporate in New Zealand may in selected cases mitigate some of these ongoing concerns.</p>	<p align="center">✗</p> <p>Branches suggested this may deter entry or cause overseas insurers to leave the market.</p>
Policy holder provisions	45	Remove the requirement for life insurers to operate a statutory fund in relation to yearly renewal term (YRT) life policies	<p>Life insurers are required to ring-fence life insurance assets from the rest of the insurer's business as a way to protect the long-term interest of life insurance policyholders. IPSA requires all life insurers to have at least one statutory fund and requires that new premiums and the returns on investment assets to stay inside the statutory fund.</p> <p>Stakeholders indicated that removal of YRT policies from the statutory fund regime would create costs and compliance burden, as they would need to restructure existing statutory funds. On further review, our assessment is that the statutory fund regime is adequate, and the costs of change outweigh the benefits.</p>	<p align="center">✗</p> <p>Industry did not support the change, noting it would not provide the expected benefits.</p>

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
	46	Introduce protection of the underwriting asset involved in YRT and health policies	On further review, our assessment is that developing a statutory definition of 'underwriting asset' will be complex. Further, this proposal has some linkages to proposal 45 above (removing YRT policies from statutory fund regime) which we are proposing to discontinue. Our assessment is that the costs of change outweigh the benefits.	✗ Industry felt the proposal was extremely difficult to operationalise and not very realistic.
	47	Introduce policyholder preference in insolvency of the licensed insurer	The IMF FSAP invited the Reserve Bank to consider this element. At this stage, we consider the complexities in developing this proposal further and understanding potential impacts outweigh the benefits of the proposal.	✓ Supportive, but questioned the practical consequences.
	48	Require civil pecuniary penalties to be payable to policyholders as a group.	This proposal would introduce an ability for the Court to order that some of a civil pecuniary penalty imposed on duty holders (director or appointed actuary, depending on the duty) be paid to policyholders as a group. We recommend discontinuing this proposal, on the basis that we no longer recommend introducing the relevant duties (see comments at proposals 50 and 51 below). Even if we did recommend the duties be introduced, on further review we consider that the appropriate function of civil pecuniary penalties is deterrence, not compensation.	✗ Concerned that this could allow the courts to infer a direct personal duty owed by directors to policyholders.
	49	Require licensed insurers to disclose overseas policyholder preference, not limited to preference when the insurer is in insolvency.	This proposal would extend the current requirements on disclosing overseas policyholder preference, so that disclosure requirements are not confined to preference in insolvency but also cover any other situation in which overseas policyholders may be given preference (e.g. in allocating bonuses to relevant life policies). On further review, we do not consider there to be a significant regulatory gap that requires addressing.	✗ Widespread support for keeping disclosure requirements generally unchanged.
	50	Introduce a requirement for licensed insurers to	This proposal requires policyholders' contractual rights to be documented, where these rights are affected as result of a transfer of insurance business (subject to approval by the Reserve Bank under	MIXED Agreed in principle, but did

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Key theme	#	Proposal (Omnibus consultation)	Description	Industry views
		document policyholder contractual rights, where these rights are affected as a result of a transfer of business	<p><u>s 44 IPSA</u>). The proposed requirement would be incorporated into the novation rules set out in <u>s 53 IPSA</u>.</p> <p>On further review, we are not convinced that there is a regulatory gap that requires addressing. Disclosure to policyholders can be achieved via the Reserve Bank imposing a condition of approval for the s 44 transfer, and we do not see a strong need for prescriptive requirement.</p>	not think any regulatory gap existed.
Due diligence duties	51	Impose a due diligence duty on directors and NZ CEOs	<p>This proposal would impose a duty on directors of NZ-incorporated insurers (or the NZ CEO of an overseas insurer) to carry out due diligence to ensure that the insurer complies with its prudential obligations under IPSA. This is similar to the requirement under the DTA.</p> <p>We recommend discontinuing the proposal on the basis that the likely negative impact on industry would outweigh the benefits.</p>	<p style="text-align: center;">×</p> <p style="text-align: center;">Industry suggested the proposal would be unnecessary due to regulatory measures already in place</p>
	52	Introduce a due diligence duty, to apply to appointed actuaries	<p>This proposal would impose a duty on appointed actuaries to exercise due diligence in the performance of any duties set out in the actuarial advice standard (proposal 14 above).</p> <p>We recommend discontinuing the proposal on the basis that the likely negative impact on industry would outweigh the benefits.</p>	<p style="text-align: center;">×</p> <p style="text-align: center;">Opposed, considered the duty would be unnecessary given existing professional requirements</p>
Guarantee scheme	53	Policyholder guarantee scheme	<p>We did not recommend implementing a policyholder guarantee scheme in the Omnibus Consultation. An assessment of the case for a scheme was not strong enough to justify the costs of implementation and ongoing administration at the present time, however we did not rule out reconsidering this issue in the future.</p>	<p style="text-align: center;">×</p> <p style="text-align: center;">Industry agreed with our conclusion</p>