

Cabinet paper: Modernising the Insurance (Prudential Supervision) Act 2010 (IPSA)

To	Hon Nicola Willis Minister of Finance	Date	2/7/2025
Authorised by	Jess Rowe, Director, Prudential Policy Directorate	Report no	#6294
Prepared by	Annette Crequer Manager, Policy and Regulatory Stewardship Prudential Policy Directorate	Security	In-Confidence

Action Sought

Action sought	Deadline
<p>Agree to the recommendations</p> <p>Approve and lodge (subject to any feedback or amendments) the attached Cabinet paper and accompanying Appendix with the Cabinet Office by Thursday 7 August 2025.</p>	21 July 2025

Reserve Bank Contact for Telephone Discussion (if required)

Name	Position	Telephone
Neesha Morar	Adviser, Prudential Policy Directorate	s 9(2)(a)

Actions for the Minister's Office Staff

Draft Cabinet paper, Appendix and Regulatory Impact Statement to be circulated for consultation

Return the signed report to the Reserve Bank

Note any feedback on the quality of the report.

Attachments – draft Cabinet paper: Modernising the Insurance (Prudential Supervision) Act 2010 (IPSA) and Appendix.

(draft) Regulatory Impact Statement – IPSA Review

Cabinet paper: Modernising the Insurance (Prudential Supervision) Insurance Act 2010 (IPSA)

Purpose

1. You have previously agreed to make a number of policy changes to the prudential regime for insurers and asked the Reserve Bank to prepare a Cabinet paper on those changes to seek Cabinet's approval (RBNZ#6247 and RBNZ#6259 refers).
2. This report seeks your agreement to:
 - a) lodge the attached draft Cabinet paper and accompanying attachments with the Cabinet Office by 7 August 2025 for consideration by the Cabinet Economic Policy Committee (ECO) on 13 August 2025.
 - b) make some minor (largely administrative) amendments to the policy items you have previously approved and include some additional minor policy items (which are included in the draft Cabinet paper).

Background

3. Following the Reserve Bank's review of IPSA (the IPSA Review), in December 2024 we recommended a package of reforms to modernise insurance prudential regulation in New Zealand (RBNZ#6247 refers). The Treasury provided you with advice alongside ours (T2024/3394 refers).
4. You agreed "in principle" to progress amendments to IPSA. However, before making any further decisions you asked for additional advice on on-site inspections and pre-approval of directors and officers, and to meet with us to discuss our advice. We provided an Aide Memoire with further information on these policy matters, to support the meeting(#RBNZ6255). At that meeting, you asked for further advice and options on how IPSA's purposes and principles could be amended to promote competition and reduce regulatory burden. This was provided in a further report (RBNZ#6259 refers).¹ You have consequently agreed (RBNZ#6259 refers) to the package of policy proposals outlined in the attached Cabinet paper to modernise insurance regulation by:
 - a) Adding additional principles of proportionality and having regard to international norms, as well as requiring the Reserve Bank to publish a framework for how proportionality will be applied to standards issued under IPSA.
 - b) Adjusting the regulatory scope, such as, remove licensing requirements for overseas insurers who only provide insurance to their parent company or a related company within the same corporate group (e.g. electricity companies), and overseas reinsurers.
 - c) Empowering a broader suite of standards (a form of secondary legislation) to clarify and make enforceable expectations on licensed insurers.

¹ Treasury followed up this advice with an email to your office to clarify its position.

- d) Strengthening the fit and proper regime, such as requiring the Reserve Bank's pre-approval to appoint relevant directors and officers.
 - e) Simplifying the regulatory approvals regime for transactions involving insurers.
 - f) Introducing additional supervision powers, including additional information powers and the ability to undertake on-site inspections of licensed insurers.
 - g) Introducing graduated enforcement powers, by introducing additional tools to apply depending on the type of breach of IPSA.
 - h) Refining the distress management provisions to deal with insurers in financial difficulty.
5. You have directed the Reserve Bank to draft a Cabinet paper on your behalf seeking Cabinet approval for your decisions and have agreed to seek Cabinet approval to release an exposure draft of an amendment Bill giving effect to the policy proposals. The exposure draft would be released in early 2026 for consultation.
6. The proposed additional minor amendments to the package are outlined below.

Further policy decisions sought

7. We seek your agreement to some minor additional policy items and minor (largely administrative) amendments to policy items to which you have previously agreed. The first item has been raised by industry and is an item not specifically considered previously as part of the IPSA Review. There are also two proposed modifications to the Reserve Bank's direction powers that we recommend. The remaining three items are minor amendments to better align IPSA with the DTA and other similar regulatory frameworks.

New issue: Ability for the Reserve Bank to adjust the regulatory scope to cover multi-cell captive insurers

8. Currently, captive insurers (insurers that only cover their parent company or other entities within the same corporate group), are not required to have a financial strength rating and have lower capital requirements (unlike other insurers). This recognises that they have a different risk profile from insurers that offer to the general public.
9. Some industry members have raised the treatment of multi-cell captive insurers - an emerging business model in New Zealand - with the Reserve Bank. Multi-cell captive insurers cover the risk of multiple corporate groups but keep separate the assets and liabilities of each group in individual "cells". They enable corporate entities to achieve the benefits of a captive insurer with lower start-up and operating costs. They are therefore not specifically addressed under IPSA.
10. We propose to include a power for the Reserve Bank to recommend a regulation to treat multi-cell captive insurers as "captive insurers" under IPSA. This would increase certainty and maintain competition and efficiency in the market and provide for consistent treatment with captive insurers.

Recommended change: Ability for Reserve Bank to impose dividend restrictions on licensed insurers

11. In our earlier report (RBNZ#6247 refers), we outlined that solvency standards issued under the IPISA would contain a proposal for the Reserve Bank to be able to impose dividend restrictions on licensed insurers through a solvency standard (policy item #7). However, standards are secondary legislation designed to set rules that insurers must meet and are not designed to provide additional powers to the Reserve Bank. We therefore recommend that the proposed power should not be contained in a standard and instead be included in the primary legislation (IPISA). This will also better align the recommended change with the equivalent power in respect of deposit takers.
12. We recommend that the restriction on dividend payments should be included within the scope of the Reserve Bank's existing direction powers under IPISA. The Reserve Bank has an existing ability to give directions to licensed insurers and associated persons in specified circumstances.

New issue: Alignment of IPISA with the DTA in relation to statutory prerequisites for standards

13. Under IPISA, the Reserve Bank is required to consult persons (including their representatives) whom it considers will be substantially affected by the issue of a standard unless the amendment is of a minor nature.
14. We recommend including a requirement for the Reserve Bank to notify you (the Minister of Finance) and consult with the other members of the Council of Financial Regulators (CoFR) before a standard may be issued. This is already done as a matter of practice, but we consider it is worth explicitly requiring this consultation in the legislation.
15. This will align with the process under the DTA, which we consider is particularly important given the proposed broadening of the matters on which the Reserve Bank can set standards (RBNZ#6247 refers, policy item #40).

Recommended change: Align with similar regulatory approvals processes by requiring notification to (rather than approval from) the Reserve Bank for certain transactions involving an overseas insurer

16. In our earlier report (RBNZ#6247), we recommended requiring notification to the Reserve Bank – rather than prior approval (policy item #20) - before a person acquires at least 25% of shares or the ability to appoint at least 50% of directors in an entity or completes an amalgamation, where the purchaser or acquired entity is an overseas insurer. This was on the basis that overseas insurers operating through branches in New Zealand are ultimately foreign-incorporated legal entities that are regulated overseas.
17. We recommend further refinement of this proposal to better align with equivalent regulatory approval provisions in the DTA and with amendments expected to be made to the conduct regime administered by the Ministry of Business, Innovation and Employment and included in the Financial Markets Conduct Amendment Bill (FMCAB) currently before the House.
18. For consistency with those regulatory approval provisions, we propose to require notification to the Reserve Bank by an overseas insurer licensed under IPISA when 25% or more shares or the ability to appoint 50% or more of directors of the

overseas insurer is obtained by another person or when the overseas insurer amalgamates with another person. The person who *obtains* those voting rights or ability to appoint directors and amalgamating New Zealand licensed insurers would still be required to receive approval from the Reserve Bank before giving effect to the relevant transaction, in accordance with existing provisions under IPSA.

New issue: Alignment of appeal rights under IPSA with appeal rights under the DTA

19. IPSA currently contains a right for a person to appeal a decision of the Reserve Bank relating to a removal as a director or relevant officer. The DTA, on the other hand, sets out broader rights of appeal against other decisions, such as declining to issue a licence to a person and declining to approve a director or senior manager, as well as decisions relating to conditions in a licence and decisions to decline approval for certain transactions under the regulatory approval process.
20. We recommend broadening appeal rights under IPSA to align with the treatment of deposit takers in the DTA, as the proposals for modernising IPSA include aligning with the DTA on such matters as requiring approval for senior officers and broadening requirements under the fit and proper tests (RBNZ#6247 refers, policy items #16 to #18).

New issue: Clarification of power to issue direction to an associate of a failed insurer

21. Under IPSA, the Reserve Bank can direct a person associated with a failed insurer (such as its parent company or a sister company) to take certain actions – like consulting with the Reserve Bank or addressing non-compliance with the Act. However, this can only happen if that person itself has already failed (or is likely to fail) to follow directions or other requirements under IPSA.
22. In 2017, when dealing with CBL (a failed insurer), a direction was not able to be validly issued to its parent company as it was the subsidiary insurer, not the holding entity, who had failed to meet requirements. This limited various preventative measures the Reserve Bank wished to put in place. The same issue has arisen with other insurers since.
23. We recommend an amendment to allow a direction to be issued to an associated person of a failed insurer where doing so will assist in dealing with the difficulties faced by the insurer, without the associated person being required to have failed or be likely to fail with complying with a direction or other requirement of IPSA. This will ensure the existing direction power works as intended and that issues relating to failed insurers can be more readily addressed.

Consultation

24. We have consulted with Treasury in the preparation of this report.
25. We have also consulted with Treasury, MBIE, the FMA, the Ministry for Regulation, the Ministry of Justice, DPMC, the Commerce Commission, the Legislative Design and Advisory Committee (LDAC) and PCO on the draft Cabinet paper and incorporated their feedback into the final version.
26. Most of the new or modified proposals outlined in this report have not yet been consulted on with industry (other than the change to the dividend restriction power and the broadening of appeal rights under IPSA). However, we do not expect

industry to have strong views on any of them. We note that industry will have the opportunity to make submissions on the exposure draft and additionally as part of the Select Committee process for the Bill.

Next steps

27. To meet the timeframes in this report for an exposure draft, we recommend that the Cabinet paper be considered by the Cabinet Economic Policy Committee (ECO) at its meeting on 13 August 2025 (with Cabinet on 18 August 2025). If you agree to all the policy initiatives in this report, please refer the attached Cabinet paper to the Cabinet Office for lodgement by 10:00am, Thursday 7 August 2025. The table below sets out the proposed timeline:

Item	Date (due)
Ministerial consultation on draft Cabinet paper	4 July 2025 – 20 July 2025
Lodge Cabinet paper	7 August 2025
ECO Cabinet meeting	13 August 2025
MoF report releasing exposure draft	Xmas reading/ Mid-January
Release exposure draft	Early February 2026
Report back to MoF on exposure draft	Mid April
LEG Cabinet confirming final amendment Bill	11 May (TBC)
Introduction of Bill in the House	June-July 2026

Recommendation

28. It is recommended that you:
- Note** you have previously agreed to policy decisions to modernise the insurance prudential regulatory framework and have directed the Reserve Bank to draft a Cabinet paper on your behalf seeking Cabinet approval for your decisions and have agreed to seek Cabinet approval to release an exposure draft of an amendment Bill giving effect to the policy proposals. (RBNZ#6247 and RBNZ#6259 refers).
- Noted**
- Note**, subject to Cabinet approval, an exposure draft will be prepared with a planned release in early 2026 for consultation. We will report back to you with the exposure draft to agree to its release for consultation.
- Noted**
- Note** that there are six recommended modifications/additions to the agreed-upon proposals to modernise IPSA, which are outlined below for your approval.

Noted

- d) **Agree** to include a power for the Reserve Bank to recommend a regulation to treat multi-cell captive insurers as “captive insurers” under IPSA to increase certainty and provide for consistent treatment with single-cell captive insurers (*new proposal*).

Agreed / Not agreed

- e) **Agree** to amending the scope of the Reserve Bank’s direction powers under IPSA, to enable it to give a direction to impose dividend restrictions on licensed insurers to mitigate the risk of group financial difficulties being spread via intra-group transactions. This would mean implementing the policy proposal via primary legislation rather than the original proposal set out in RBNZ#6247 (policy item #7) to implement via secondary legislation (*change to existing proposal*).

Agreed / Not agreed

- f) **Agree** to including a requirement for the Reserve Bank to notify you (the Minister of Finance) and consult with the other members of the Council of Financial Regulators (CoFR) before a standard may be issued under IPSA (*new proposal*).

Agreed / Not agreed

- g) **Agree** to require notification to the Reserve Bank by a licensed overseas insurer when 25% or more of voting rights or ability to appoint 50% or more of directors is obtained by another person over the overseas insurer or where the overseas insurer amalgamates with another person. In our earlier report (RBNZ#6247), we included a proposal (policy item #20) to require notification to (rather than prior approval from) the Reserve Bank by *both the overseas insurer and the acquiring person* prior to voting rights or the ability to appoint directors being obtained by or over an overseas insurer. (*change to existing proposal*).

Agreed / Not agreed

- h) **Agree** to align appeal rights under IPSA with those available to deposit takers under the DTA, as appropriate in the insurance context (*new proposal*).

Agreed / Not agreed

- i) **Agree** to the Reserve Bank’s existing power to issue a direction to an associated person of a failed licensed insurer being clarified so that a direction can be issued to the associated person without the associated person itself necessarily having failed or being likely to fail to comply with a direction or requirement under IPSA (*new proposal*).

Agreed / Not agreed

- j) **Note** that the regulatory impact assessment for the amendments outlined in the draft Cabinet paper has been completed and is attached.

Noted

- k) **Approve** and **lodge** the attached Cabinet paper (subject to any feedback or amendments) with the Cabinet Office by Thursday 7 August 2025 for

consideration by the Cabinet Economic Policy Committee (ECO) on 13 August 2025.

Agree / Not agreed

A handwritten signature in blue ink, appearing to read 'Angus McGregor', is positioned above the printed name and title.

Hon Nicola Willis
Minister of Finance

Angus McGregor
Assistant Governor
Reserve Bank of New Zealand

2/07/2025

In Confidence

Office of the Minister of Finance

Chair, Cabinet Economic Policy Committee

Modernising the Insurance (Prudential Supervision) Act 2010 (IPSA)

Proposal

- 1 This paper seeks policy decisions to amend IPSA, with a view to releasing an exposure draft for public consultation in the first quarter of 2026 and the introduction of a Bill in mid-2026.

Relation to government priorities

- 2 The final policy proposals have been designed considering the Government's priorities. As contained in my Letter of Expectations to the Reserve Bank, I have been specifically cognisant of how these changes will improve competition within the financial system. The proposals are intended to also align the insurance regulatory framework more closely with the regulatory framework for deposit takers and with international best practice and should support insurance regulation promoting the right balance between a sound and efficient insurance sector.

Executive Summary

- 3 IPSA provides the legal framework for the Reserve Bank's regulation and supervision of the insurance sector. The Reserve Bank has recently concluded a review of IPSA (CAB-16-MIN-0072 and CAB-23-MIN-0397). The Review found that New Zealand's prudential regulatory framework for insurers needs modernising and that the insurance market and industry participants would benefit from closer alignment with international best practice.
- 4 The final package of proposals can be divided by theme into nine parts:
 - 4.1 ensuring the purposes and principles reflect the primary aims of prudential regulation, considering consistency across legislative frameworks and Government priorities;
 - 4.2 adjusting the regulatory scope of IPSA;
 - 4.3 empowering the Reserve Bank to impose a broader set of prudential requirements on insurers, by way of 'standards' (a form of secondary legislation);
 - 4.4 extending the current fit and proper regime that applies to directors and senior officers of insurers;
 - 4.5 simplifying the regulatory approvals regime in relation to transactions;

- 4.6 additional supervision powers to better support the monitoring and assessment of the financial health of insurers and their compliance with prudential requirements;
 - 4.7 more graduated enforcement powers depending on the type of breach of IPSA provisions by an insurer;
 - 4.8 refining the current distress management provisions; and
 - 4.9 additional miscellaneous amendments to improve IPSA.
- 5 Should Cabinet agree to the policy proposals recommended in this paper, I propose an exposure draft of legislation is released for consultation in the first quarter of 2026. It is then intended for the Bill to be considered for approval for introduction by Cabinet in mid-2026. A mid-2028 commencement date for any amendment Bill is targeted. Any new standards would be finalised and issued following the commencement date of the primary legislation.

Background

- 6 IPSA provides the legal framework for the Reserve Bank's prudential regulation and supervision of the insurance sector. Insurance provides significant benefits for individuals, society and the Crown by transferring the cost of sudden and unexpected losses across the population, overtime and across borders (via re-insurance). This risk transfer helps support a strong and resilient New Zealand economy and a stable financial system.
- 7 The Reserve Bank has recently concluded a review of IPSA, which began in 2016 (CAB-16-MIN-0072). The Review was paused between 2018 and 2020 as staff were reprioritised to review the RBNZ Act and develop a new legislative framework for regulating the deposit taking sector.
- 8 The Review found that:
- 8.1 New Zealand's insurance regulatory environment needs modernising; and
 - 8.2 The insurance market and industry participants would benefit from closer alignment to international best practice.
- 9 There have been a number of independent reviews that have supported the recommendations outlined in this paper, alongside the Reserve Bank's own findings, including:
- 9.1 The 2016 International Monetary Fund's (IMF) assessment against the International Association of Insurance Supervisors' Insurance Core Principles (ICPs). New Zealand received a 13 out of 26 pass rate for compliance against the ICPs. Without amendments to IPSA, a similar pass rate is expected when the IMF is next scheduled to assess New Zealand's financial sector regulatory frameworks in 2028.
 - 9.2 The Trowbridge-Scholten report (T-S report) on the Reserve Bank's supervision of a failed insurer, CBL Insurance Limited, from 2019. This report

found legislative gaps in areas of risk management and governance, group entities and supervision of solvency.

- 10 Significant public consultation has been undertaken as part of the Review. The current set of policy proposals reflects Reserve Bank consideration of stakeholder feedback from the consultations, as well as several new (largely administrative) proposals not previously consulted on.

Policy proposals

- 11 I am recommending the changes summarised below (additional details on these proposals are found in the Appendix).
- 12 In considering the proposals and the overall package, I have considered the appropriate balance between:
- 12.1 Promoting soundness: that is, promoting the resilience of New Zealand's insurance market to both external shocks insurers face, as well as to the negative impact on the sector that can arise from insurers' own risk-taking behaviour.
 - 12.2 Promoting efficiency: efficiency is a multi-faceted objective, including minimising regulatory burden, improving competition, improving the cost and quality of insurance products and ensuring allocative efficiency (resources are allocated to their most productive uses).
 - 12.3 Greater consistency with international best practice guidance and insurance requirements in comparable jurisdictions as well as comparable domestic legislation.
- 13 Overall, these changes as a package should:
- 13.1 promote a sound and efficient insurance sector by addressing existing inefficiencies and modernising the regulatory framework;
 - 13.2 ensure that there is better alignment of IPSA with international best practice, thereby reducing barriers to entry which could encourage competition, and also ensuring alignment with similar domestic prudential frameworks such as the Deposit Takers Act 2023 (the DTA) administered by the Reserve Bank.

Purpose and principles

- 14 IPSA currently contains a number of purposes and principles. Purposes signal the high-level policy approach intended by Parliament, whereas principles guide the exercise of powers and duties conferred on the Reserve Bank under IPSA. These have been considered as part of the Review to confirm that they continue to reflect the key outcomes the framework is expected to deliver, while ensuring a degree of consistency with other similar legislation and Government priorities. I consider that no change should be made to the existing purposes of promoting a sound and efficient insurance sector and to promote public confidence in the insurance sector.

- 15 However, it would be helpful to include additional principles relating to the desirability of taking a proportionate approach to regulation and supervision and maintaining awareness of international guidance or standards. These principles are both contained in the DTA. The Reserve Bank is also required under the DTA to prepare and publish a framework for how it will take the proportionality principle into account when developing standards. I consider there should be a similar requirement for the Reserve Bank to prepare and publish a proportionality framework under IPSA. Further details are set out in the Appendix, proposals 1 and 2.

Adjusting the regulatory scope

- 16 Practical experience administering IPSA has suggested that improvements could be made to how the Reserve Bank manages the regulatory perimeter – that is, which entities are in (and out of) scope of prudential regulation and supervision. I propose a range of measures to adjust the regulatory scope of IPSA (refer Appendix, proposals 3-8):
- 16.1 Require all New Zealand-incorporated insurers to be licensed, whether or not they have New Zealand policyholders.
 - 16.2 Remove the requirement to be licensed for overseas captive insurers (i.e. overseas insurers which serve only their parent entity or related parties) and overseas entities that only act as reinsurers in New Zealand.
 - 16.3 Include a power for the Reserve Bank to recommend that a regulation is made to deem certain transactions as insurance contracts under IPSA.
 - 16.4 Include a power for the Reserve Bank to recommend that a regulation is made to treat multi-cell captive insurers (i.e. insurers that cover the risk of multiple corporate groups) as captive insurers under IPSA.
 - 16.5 Require overseas insurers operating through a New Zealand branch to locally incorporate if they meet a specified size and importance threshold (set by secondary legislation).
 - 16.6 Introduce a licensing regime for non-operating holding companies (NOHCs) of insurers headquartered in New Zealand to enable ‘group supervision’ by the Reserve Bank rather than supervision of the individual New Zealand insurer only.

Solvency

- 17 Solvency requirements specify how insurers calculate the minimum amount of capital they must hold to meet their policyholder obligations, even after adverse events. Currently, IPSA refers to a single control level - whether the insurer is maintaining a solvency margin (the solvency margin is a key measure of an insurer’s financial position).¹ I propose a more graduated approach to the solvency requirements. This would allow earlier intervention when insurers run into problems and allow for

¹ The solvency margin is defined in the applicable solvency standards and represents the value of eligible assets in excess of the value of liabilities determined in accordance with the methodologies set out in the solvency standards.

proportionate intervention as problems become more serious. The specific proposals are (refer Appendix, proposals 9-11):

- 17.1 Allowing for more than one control level and for the release of powers at different solvency levels, with the levels set by the solvency standards.
 - 17.2 Introducing the power for the Reserve Bank to impose dividend restrictions on licensed insurers, to mitigate the risk of group financial difficulties being spread via intra-group transactions.
 - 17.3 Introducing a default solvency margin (\$0) in IPSA to apply to licensed insurers, unless otherwise specified.
- 18 The details of the solvency regime for insurers will be designed to work with the framework set up under IPSA.

New standards

- 19 Standards are a form of secondary legislation drafted by the Reserve Bank, defined under the Legislation Act 2019. Currently, there are standards for solvency and fit and proper requirements. I propose that the Reserve Bank be empowered to issue new standards covering a broader range of prudential requirements which are currently addressed largely through non-enforceable guidance. This would allow the Reserve Bank to clarify its obligations on insurers, improve the framework for supervisory engagement, and allow the Reserve Bank to sanction insurers in the event of non-compliance. It also provides insurers with greater certainty, thereby promoting efficiency in the sector and aligns with international best practice. Standards are relatively easier to update than statute, making standards more appropriate for addressing newly emerging risks.
- 20 I recommend that the Reserve Bank be able to issue standards relating to (refer Appendix, proposals 12-20):
- 20.1 governance, including board composition and responsibilities;
 - 20.2 risk management, including policies and processes for specific risks;
 - 20.3 data and disclosure of information;
 - 20.4 licensed insurers' outsourcing arrangements;
 - 20.5 connected exposures (related party transactions);
 - 20.6 actuarial advice;
 - 20.7 distress management preparedness; and
 - 20.8 other matters as considered necessary or desirable to achieve the purposes of IPSA – this requires a Regulation made by the Governor-General to expand on the scope of the Reserve Bank's standard-making powers.

- 21 As a pre-requisite, I propose the Reserve Bank should notify the Minister of Finance the prudential policy that is intended to be implemented via standards and to consult with the other members of the Council of Financial Regulators (CoFR). The Reserve Bank is already required to consult those substantially affected by the issuance of standards under IPSA.
- 22 The above standards would be developed once the empowering amendments to IPSA are enacted, through a separate process with extensive consultation with stakeholders.
- 23 The issuance of these new standards would be staggered. The Reserve Bank would coordinate with the Ministry of Business, Innovation and Employment (MBIE) and the Financial Markets Authority (FMA) to ensure the standards do not conflict with market conduct requirements and to minimise reporting or compliance burdens imposed under New Zealand's 'twin peaks' financial regulatory system.

Fit and proper

- 24 Under IPSA, licensed insurers are required to develop and comply with their own fit and proper policy (also known as 'suitability' assessments). The current requirements do not sufficiently promote engagement between the Reserve Bank and insurers about the insurer's choice of appropriate key officers. I recommend that IPSA be amended to (refer Appendix, proposals 21-23):
- 24.1 extend fit and proper requirements to chief risk officers of licensed insurers;
- 24.2 require licensed insurers to obtain the Reserve Bank's approval prior to appointment of directors and relevant officers (chief executive officer, chief financial officer, chief risk officer, and appointed actuaries). This will require the Reserve Bank to provide notice of its decision within 20 working days of receiving all relevant information; and
- 24.3 require licensed insurers to notify the Reserve Bank of fit and proper concerns in relation to directors or relevant officers.

Regulatory approvals

- 25 I propose to simplify the regulatory approvals process for transactions involving insurance businesses and to align more closely with similar regulatory frameworks. More specifically, I recommend that IPSA be amended to (refer Appendix, proposals 24-27):
- 25.1 replace the existing separate approval processes for specific types of transactions into one set of provisions to apply to all significant transactions;
- 25.2 require notification to (rather than approval from) the Reserve Bank by an overseas insurer licensed under IPSA when at least 25% of voting rights or the ability to appoint 50% of directors is obtained by another person over the overseas licensed insurer;
- 25.3 lower the current threshold for Reserve Bank approval or notification from directly or indirectly obtaining 50% or more of voting rights in a licensed

insurer to a threshold of 25% or more of voting rights, or the ability to appoint at least 50% of directors; and

- 25.4 require approval where a licensed insurer acquires business from a non-licensed insurer.

Graduated supervisory powers

26 I propose to provide the Reserve Bank with a broader set of tools for monitoring the financial health of an insurer and to verify insurer compliance with prudential obligations. This will better reflect both the Reserve Bank's current approach to supervision of other sectors (e.g. deposit takers) as well as international best practice. These are (refer Appendix, proposals 28-34):

- 26.1 extending the Reserve Bank's information-gathering and investigation powers to unlicensed insurers to align with the equivalent powers under the DTA.
- 26.2 introduce a power for the Reserve Bank to conduct on-site inspections of business premises of licensed insurers without notice.
- 26.3 enable an investigator to require directors or employees to answer questions under oath as part of a formal investigation.
- 26.4 introduce a breach reporting regime for licensed insurers to monitor compliance with prudential obligations and report material contraventions.
- 26.5 introduce an express power to require licensed insurers to publish Reserve Bank's warnings to policyholders.
- 26.6 clarify the Reserve Bank's power to issue a direction to an associated person (e.g. a parent entity) of a failed licensed insurer so that a direction can be issued to help manage the failed insurer's situation without the associated person itself being in difficulties nor non-compliant.

Enforcement powers

27 I propose to introduce additional enforcement powers to provide the Reserve Bank with the ability to respond proportionately to varying degrees of non-compliance. These powers would be broadly aligned with the new enforcement tools in the DTA and would support the Reserve Bank's ability to take a more risk-based, proportionate and transparent approach to enforcement. I recommend that IPSA be amended to (refer Appendix, proposals 35-39):

- 27.1 introduce a power for the Reserve Bank to issue remediation notices for breaches;
- 27.2 introduce a power for the Reserve Bank to issue infringement notices for low-level breaches;
- 27.3 introduce a power for the Reserve Bank to accept enforceable undertakings from licensed insurers and other persons;
- 27.4 introduce civil pecuniary penalties to replace lower tier criminal penalties; and

- 27.5 update the maximum penalties for criminal offences under the IPSA.

Refined distress management provisions

- 28 Distress management is a key component of insurance regulation, alongside regulation, supervision and enforcement. IPSA currently provides the Reserve Bank with significant powers relating to the recovery and resolution of distressed insurers (which largely take the form of direction powers and a statutory management regime for distressed insurers – in the discussion that follows, “resolution” means statutory management when referring to the resolution regime in IPSA at present). That said, I recommend adjustments be made to IPSA to improve the working of the regime and to better align with the distress management provisions in the DTA and the FMI Act (refer Appendix, proposals 40-45):
- 28.1 adding additional statutory purposes that would apply to the distress management of a licensed insurer or an associated person under IPSA. This change is designed to clarify the intended outcomes for distress management, while aligning with both the DTA and the FMI Act.
- 28.2 designating the Reserve Bank as the resolution authority and making a variety of consequential changes resulting from this. These changes aim to clarify that the Reserve Bank is ultimately accountable for resolution outcomes and to provide an enhanced governance regime around the conduct of insurer resolution.
- 28.3 extending the scope of direction powers to enable the Reserve Bank to direct licensed insurers not to renew existing contracts of insurance. This will support the soundness of the sector by requiring at-risk insurers to reduce their exposure, therefore safeguarding policyholder interests.
- 28.4 introducing two provisions to support the ability to resolve a failed insurer. Firstly, a provision that prevents the exercise of certain contractual rights against the insurer solely on the basis that the insurer has entered resolution or been subject to powers in resolution (other grounds for exercising these contractual rights would be unaffected). This provision will help ensure that critical services to the distressed insurer remain in place, which will help to facilitate the resolution process. Secondly, a provision that temporarily stays the ability to close out derivatives positions against an insurer in resolution. This stay would be consistent with international practice (and similar provisions in the DTA and FMI Act) and would help to temporarily avoid action that might result in a further deterioration of a distressed insurer’s financial position while it is being resolved.
- 28.5 broadening the threshold for resolution of a licensed insurer to include situations where the failure of a licensed insurer may cause significant damage to the availability of insurance or the interests of policyholders in a geographical area (e.g. in the event of an earthquake) or to a particular group of persons. The market for insurance is relatively fragmented with many insurers specialising in specific risks. One of the current grounds for statutory management (significant damage to the financial system or broader economy) is difficult to meet in some otherwise appropriate circumstances. This change

will enable the use of resolution in appropriate circumstances (while ensuring that it can still only be used where the situation cannot be adequately addressed through other means – e.g. insolvency procedures like liquidation).

- 28.6 introduce a Ministerial direction power in relation to any use of public money in the event of entity failure, to manage fiscal risk (e.g. where the Minister of Finance weights the needs to protect public funds differently than the Reserve Bank, once a resolution/statutory management has been initiated). Public money may be made available to support the resolution under the Public Finance Act 1989 (the RBNZ does not have access to public money over and above for its operating expenses). If the Minister chooses to make public money available, it is reasonable that the Minister has some controls on its use. This power would align with the scope of the equivalent direction power for the Minister in the DTA.

Minor amendments to improve operation of the Act

- 29 I propose other miscellaneous amendments intended to modernise insurance regulation and align with similar legislation (refer Appendix, proposals 46-48). These would include requiring the Reserve Bank to consult with the FMA before issuing or cancelling a licence and in making decisions for approving transactions under IPSA. It is also proposed to align appeal rights under IPSA with the broader appeal rights under the DTA, as appropriate for insurance.

Implementation

- 30 I propose releasing an exposure draft of the amendment Bill for public consultation on the drafting of the proposals in the first quarter of 2026. I propose to take the finalised Bill to Cabinet Legislation Committee (LEG) around May 2026, for introduction in mid-2026. If any further substantive policy decisions or changes are needed, I propose to report back to this Cabinet committee before seeking LEG approval. I intend for the Bill to come into effect in mid-2028.
- 31 The Reserve Bank would implement the changes, including preparing the new standards, progressing the necessary regulations, publicly issuing a proportionality framework and guidance on the revised approach to supervision and enforcement and supporting insurers to meet the new requirements.

Cost-of-living Implications

- 32 No significant direct cost-of living implications are expected from the proposals.

Financial Implications

- 33 Any administrative costs for the Reserve Bank are expected to be covered within existing baselines.

Legislative Implications

- 34 Subject to Cabinet approval of the recommendations in this paper, the proposals will be given effect through an Amendment Bill, which holds a category six priority on the 2025 Legislation Programme (to be passed by March 2027 if possible).

Impact Analysis

Regulatory Impact Statement

- 35 A Regulatory Impact Statement (RIS) has been prepared and is attached. An internal panel has reviewed the RIS and assessed that it meets the quality assurance criteria, and comment on any issues that have been identified in relation to any of the dimensions of quality set out in the quality assurance guidance.

Climate Implications of Policy Assessment

- 36 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as the threshold for significance is not met.

Population Implications

- 37 The proposals in this paper are not expected to have population implications.

Human Rights

- 38 The proposals in this paper are not expected to have significant human rights implications.
- 39 The Ministry of Justice will assess the amendment Bill for consistency with the New Zealand Bill of Rights Act 1990 (the BORA) and will provide advice to the Attorney-General. Advice provided to the Attorney-General by MOJ is generally expected to be made available on the Ministry of Justice website on introduction of a Bill, at [Compliance reports | New Zealand Ministry of Justice](#)

Consultation

- 40 The Treasury, MBIE, the FMA, the Ministry for Regulation, the Ministry of Justice, DPMC, the Commerce Commission, the Legislative Design and Advisory Committee (LDAC) and PCO have been consulted on this paper.
- 41 As noted earlier in this paper, significant public consultation has been undertaken since 2017 as part of the Review. Further consultation will be undertaken when the proposed exposure draft of the amendment bill is publicly released.

Communications

- 42 A press release will be published announcing the decisions in this paper. The Reserve Bank will publish the exposure draft on its website, with any supporting documents, for consultation. It will also hold a webinar to discuss the proposed amendments.

Proactive Release

- 43 I intend to proactively release this paper in full within 30 business days of decisions being confirmed by Cabinet.

Recommendations

- 44 The Minister for Finance recommends that the Committee:
- 1 **note** that the Reserve Bank has been carrying out a review of the Insurance (Prudential Supervision) Act 2010 (IPSA) under Cabinet-approved Terms of Reference [CAB-16-MIN-0072 and CAB-23-MIN-0397 refers].
 - 2 **agree** to a target date of 1 July 2028 for the recommendations to commence.
 - 3 **agree** that, subject to recommendations below being agreed to, an exposure draft of an amendment Bill giving effect to the recommendations is prepared.
 - 4 **agree** to delegate to the Minister the ability to approve the exposure draft and its public release for consultation when ready.

Purposes and principles

- 5 **agree** that the following additional principles should be required to be taken into account by the Reserve Bank when it performs its powers and exercises its functions under IPSA:
 - 5.1 the desirability of taking a proportionate approach to regulation and supervision.
 - 5.2 maintaining awareness of guidance or standards of international organisations.
- 6 **agree** that the Reserve Bank should be required to prepare and publish a framework for taking the proportionality principle referred to in para 5.1 into account when developing regulatory standards.

Adjusting the regulatory scope

- 7 **agree** that all New Zealand-incorporated or formed persons carrying on insurance business must be licensed under IPSA, whether they issue insurance contracts to New Zealand persons or not.
- 8 **agree** that overseas incorporated captive insurers (i.e. overseas insurers which provide insurance cover only to their parent company or sister companies) and overseas incorporated reinsurers will cease to be required to be licensed.
- 9 **agree** that for the purposes of IPSA regulations may be made to treat certain types of transactions that may not meet the definition of an insurance contract in IPSA as an insurance contract subject to appropriate safeguards (requiring persons who issue those contracts in New Zealand to be licensed as insurers).
- 10 **agree** that IPSA will provide for the making of a regulation to treat multi-cell captive insurers (i.e. an insurer that insures risks of corporate entities and ring-fences the assets, liabilities and cash-flows referable to each group of related entities) as captive insurers under IPSA.

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- 11 **agree** to empower the Reserve Bank to prohibit overseas incorporated insurers from carrying on insurance business in New Zealand as a branch, where they meet a specified size and importance threshold specified in secondary legislation, and for amendments to be made for any mechanisms to facilitate transfer of New Zealand branch policies to locally incorporated insurers.
- 12 **agree** that non-operating holding companies (NOHCs) of insurers that are headquartered in New Zealand may be required to be licensed by the Reserve Bank, with a commencement date for licensing to be set by Order in Council.

Solvency

- 13 **agree** to an amendment to IPSA to allow more than one solvency control level.
- 14 **agree** that the Reserve Bank may, in defined circumstances of insurer distress or breach of regulatory requirements, restrict the payment by licensed insurers of dividends to their shareholders.
- 15 **agree** to introduce a default solvency margin (\$0) in IPSA which applies to licensed insurers without needing to be included as a condition in an insurer's licence unless otherwise specified in the insurer's condition of licence.

Standards

- 16 **agree** that the Reserve Bank may issue additional prudential standards on the following matters (noting the standards are a form of secondary legislation and would be developed after the amending legislation is enacted and would entail a separate consultation process with stakeholders):
- 16.1 governance, incorporation structure and ownership of licensed insurers.
 - 16.2 risk management and business continuity requirements for licensed insurers.
 - 16.3 the disclosure and publication of information by licensed insurers.
 - 16.4 licensed insurers' outsourcing arrangements.
 - 16.5 licensed insurers' related party transactions.
 - 16.6 an appointed actuary's duties under IPSA and when actuarial advice is required for internal decisions.
 - 16.7 licensed insurers' distress management preparedness.
- 17 **agree** to a regulation making power to extend the scope of matters on which the Reserve Bank can set standards, to align with the DTA.
- 18 **agree** to a requirement for the Reserve Bank to notify the Minister and consult with the other members of the Council of Financial Regulators and any other reasonably necessary safeguards before a standard may be issued.

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Fit and proper requirements upon directors and senior officers of insurers

- 19 **agree** to extend the fit and proper requirements to apply to licensed insurers' chief risk officers.
- 20 **agree** that licensed insurers and/or their shareholders will be required to obtain the Reserve Bank's prior approval for the appointment of directors and relevant officers, with a requirement for the Reserve Bank to provide notice of its decision within 20 working days after receiving all reasonably required information.
- 21 **agree** that licensed insurers be required 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 person to hold their position.

Regulatory approvals

- 22 **agree** that a common process for approval (based on the regulatory approvals processes in the DTA and the FMCAB) by the Reserve Bank will apply to the following transactions - change in ownership, changes in corporate form, transfers of insurance portfolios and amalgamations.
- 23 **agree** to lower the threshold for when approval from the Reserve Bank must be obtained for a change of ownership from 50% or more to 25% or more of voting rights or ability to appoint 50% or more of directors of a licensed insurer, except as specified in paragraph 24.
- 24 **agree** notification to (rather than approval from) the Reserve Bank is required by an overseas incorporated licensed insurer when a person acquires 25% or more of the voting rights or the ability to appoint 50% or more of directors of the insurer or upon the insurer's amalgamation with another person.
- 25 **agree** that the existing requirement for non-licensed insurers to obtain approval from the Reserve Bank on the transfer of their insurance business to another insurer be amended to ensure that approval must be obtained where a licensed insurer acquires insurance business irrespective of whether the vendor is licensed or not.

Graduated supervisory powers

- 26 **agree** to extend the Reserve Bank's information gathering and investigation powers under IPSA to align with the corresponding powers under the DTA allowing it to investigate persons who are suspected to be carrying on insurance business without a licence.
- 27 **agree** that the Reserve Bank may conduct on-site inspections of licensed insurers without notice subject to appropriate safeguards consistent with the DTA.
- 28 **agree** that where the Reserve Bank has appointed an investigator to investigate a suspected breach of IPSA, the investigator is able to require a director or employee of the insurer to answer questions on oath.

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- 29 **agree** that licensed insurers must have systems to monitor ongoing compliance with prudential requirements and report suspected material contraventions to the Reserve Bank.
- 30 **agree** that the Reserve Bank may require licensed insurers to publish the Reserve Bank's warnings (in response to suspected contraventions of the IPSA).
- 31 **agree** that the Reserve Bank's existing power to issue a direction to an associated person of a failed licensed insurer is clarified so that a direction can be issued to the associated person where the licensed insurer has failed or is likely to fail to comply with its obligations under IPSA without the associated person itself necessarily having failed or be likely to fail to comply with a direction or requirement under IPSA.

Enforcement powers

- 32 **agree** that the Reserve Bank may issue remediation notices to persons in breach of obligations under the IPSA, which would require these persons to take specified action to remedy the suspected breaches or to prepare a plan setting out how they intend to remedy suspected breaches.
- 33 **agree** that the Reserve Bank may issue infringement notices for low-level breaches of prudential obligations.
- 34 **agree** that Reserve Bank may accept voluntary undertakings to undertake remedial action and/or pay compensation for non-compliance from licensed insurers and other persons, enforceable in Court.
- 35 **agree** to introduce civil pecuniary penalties to allow the Reserve Bank to apply to the High Court for a finding of a contravention or involvement in a contravention (including of an applicable standard) and a civil pecuniary penalty to replace lower tier criminal convictions and fines. Civil pecuniary penalties are expected to be set at roughly half that of the DTA.
- 36 **agree** to update the maximum criminal penalties under IPSA to better align with penalties for other regulated entities under similar legislation.

Distress management provisions

- 37 **agree** to include a statutory purpose clause for the distress management provisions in IPSA which would align with a similar clause in the DTA.
- 38 **agree** to designate the Reserve Bank the resolution authority for licensed insurers and their associated persons.
- 39 **agree** that as a consequence of the Reserve Bank being designated as the resolution authority:
- 39.1 the Reserve Bank is responsible for how the resolution of a distressed insurer is carried out;
- 39.2 certain functions and powers in the existing statutory management regime for licensed insurers will be vested in the Reserve Bank (e.g. the power to sell or

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transfer the business of a licensed insurer) and others vested in a resolution manager appointed by the Reserve Bank (e.g. the power to carry on the business of a licensed insurer);

39.3 the Reserve Bank is responsible for supervising the resolution manager (if a third party has been appointed to the role); and

39.4 the Reserve Bank may appoint itself as resolution manager.

40 **authorise** the Minister to approve any amendments consistent with recommendations 38 to 39, [Error! Reference source not found.](#) to align the resolution regime for licensed insurers with the resolution regime for licensed deposit takers under the DTA.

41 **agree** that directions by the Reserve Bank to cease entering into contracts of insurance may also apply to renewals of existing policies.

42 **agree** to include the following additional provisions for resolution of a distressed insurer:

42.1 a provision that certain contractual rights (such as a right to terminate the provision of services) cannot be exercised against the insurer solely because it has been placed into resolution or been subject to powers under the resolution regime; and

42.2 a provision that a short term “stay” apply to the ability to exercise close-out rights under derivatives contracts against the insurer.

43 **agree** to amend the threshold that must be met before a licensed insurer is placed into resolution to include a ground for where an insurer’s failure may cause significant damage to the availability of insurance (either in a particular geographical area or of a significant type).

44 **agree** that if public money is made available to support the resolution of an insurer, the Minister may direct the Reserve Bank on the management of risks to public funds in a resolution (with the scope of this power intended to be consistent with the equivalent direction power of the Minister under the DTA).

Other issues

45 **agree** that the Reserve Bank must consult with the FMA when making decisions under the proposed statutory approval process for significant transactions in recommendation 22.

46 **agree** that the Reserve Bank must consult with the FMA before issuing or cancelling a licence under IPSA.

47 **agree** to provide persons the right to appeal to the court against the Reserve Bank’s decisions on licensing and fit and proper matters, and otherwise on questions of law, consistent with appeal rights set out in the DTA.

48 **authorise** the Minister to take further decisions on minor and technical matters that are consistent with the recommendations in this paper.

Authorised for lodgement

Hon Nicola Willis

Minister of Finance

Appendix: Proposals for amendments to IPSA

Purposes and principles				
Proposal	Current position	Reason for proposal	Key impacts	Industry feedback
<p>1. <i>Introduce the following principles into IPSA:</i></p> <ul style="list-style-type: none"> ◦ <i>the desirability of taking a proportionate approach to regulation and supervision.</i> ◦ <i>maintaining awareness of guidance or standards of international organisations.</i> 	<p>Currently, IPSA contains a number of principles which govern how the Reserve Bank may exercise its powers and achieve the purposes of the Act.</p> <p>The purposes of IPSA are to promote the maintenance of a sound and efficient insurance sector and promote public confidence in the sector.</p> <p>The principles include:</p> <ul style="list-style-type: none"> ◦ maintaining the sustainability of the insurance market; ◦ protecting the interests of policyholders in dealing with a distressed insurer and ensuring that any failure does not significantly damage the financial system or economy; ◦ recognising the purpose of the Act is not to eliminate all risk of insurer failure and that the public is responsible 	<p>I have considered whether IPSA’s current purposes and principles are fit for purpose, taking into account the practical effectiveness of the existing purposes and principles, consistency with other relevant legislation (the RBNZ Act, the FMI Act and the DTA), and with international norms and Government priorities, including my Letter of Expectations and the Financial Policy Remit.</p> <p>No change is proposed to the purposes.</p> <p>The addition of principles relating to proportionality and international norms provides clearer expectations as to the matters the Reserve Bank should take into account in exercising its powers under IPSA and better aligns IPSA’s principles with the DTA.</p>	<p>Aligns with equivalent principles in the DTA.</p> <p>Proportionality is a principle reflected in international norms and its inclusion could increase efficiency by requiring consideration of differences in size, complexity and riskiness of insurers when setting standards. The Reserve Bank already applies principles of proportionality and international norms in practice in exercising its supervision powers under IPSA.</p> <p>May increase complexity of the legislation.</p>	<p>Industry was not in favour of changes to the purposes and principles of IPSA. However, the proposed additions to the principles were not specifically consulted on. It is considered unlikely that industry would have strong views, although smaller insurers may welcome the addition of the proportionality principle.</p>

Purposes and principles

for their own insurance decisions;

- maintaining competition within the sector;
- avoiding unnecessary compliance costs.

2. *The Reserve Bank should be required to prepare and publish a framework for taking the proportionality principle into account when developing standards.*

In addition to a proportionality principle, the DTA also includes a requirement for the Reserve Bank to prepare and publish a *proportionality framework* for developing standards under the Act, having regard to the size and nature of different deposit takers, the extent to which different requirements are necessary or desirable to promote the safety and soundness of each deposit taker and the relative risk different deposit takers pose to financial stability.

The DTA proportionality framework is available on the Reserve Bank's website.

In light of the proposal to align with the DTA in including a proportionality principle, it is also logical to also align with the DTA in requiring the Reserve Bank to publish a framework for how it will take into account proportionality in developing standards for insurers.

Better alignment with the DTA and enhanced transparency on how the Reserve Bank will apply proportionality in the insurance context.

Industry was not consulted on this proposal. It is considered unlikely that industry would have strong views, although smaller insurers may welcome the specific focus that a proportionality framework would give to their specific business models and role in the sector.

Adjusting regulatory scope				
Proposal	Current position	Reason for proposal	Key impacts	Industry feedback
3. <i>Requirement for licensing for all New Zealand-incorporated insurers</i>	Currently, New Zealand-incorporated insurers that only offer insurance policies to overseas persons do not require licensing under IPISA.	The current regulatory perimeter is inconsistent with the approach of overseas regulators, which often focus on place of incorporation. There is a reputational risk from the current approach as some New Zealand-incorporated insurers may escape any regulatory oversight.	Aligns with international best practice, the DTA and with the Companies Act 1993. Reduces reputational risk. May incentivise (at least some) insurers to cease carrying on business in New Zealand (e.g. where the insurer has chosen to incorporate in New Zealand to avoid regulation).	Industry is broadly supportive of this proposal.
4. <i>Removing licensing requirements for overseas captive insurers and overseas reinsurers</i>	Currently, whether an overseas captive insurer or an overseas reinsurer falls within the regulatory scope depends on whether they are “carrying on business in New Zealand” under the Companies Act.	This test can be difficult to apply in the insurance context. These entities pose a low risk in the New Zealand insurance market	Increase certainty without a significant increase in risk or cost (because they only provide insurance to associates (who are often New Zealand-incorporated) or do not provide insurance to the public (in the case of reinsurers)).	Industry is broadly supportive of this proposal and have noted the possibility that overseas reinsurers may be encouraged to conduct business in New Zealand if the licensing requirement is removed.
5. <i>Introduction of power for the Reserve Bank to recommend certain</i>	There is an existing power to declare by regulation that certain transactions are not by way of insurance.	The proposed additional power would provide clarity that certain “boundary” products are insurance and that entities issuing those contracts will require	Increases certainty in relation to regulatory coverage of emerging	Industry is strongly supportive of this proposal.

Adjusting regulatory scope

transactions are deemed to be insurance contracts.

licensing, providing certainty to the market and ensuring the Reserve Bank has appropriate oversight.

models and aligns with international best practice.

6. *Introduce a power for the Reserve Bank to recommend that a regulation is made to treat multi-cell captive insurers (i.e. insurers that cover the risk of multiple corporate groups but keeps separate the assets and liabilities of each corporate group) as captive insurers under IPSA.*

Multi-cell captive insurers are an emerging insurance model in New Zealand and are therefore not addressed under IPSA. They enable corporate entities to achieve the benefits of a captive insurer with lower start-up and operating costs.

Captive insurers are within the current scope of IPSA. Unlike other insurers, they are not required to have a financial strength rating and have lower capital requirements. They do not accept risks from the public or from unrelated corporate entities.

The proposed power provides the Reserve Bank with the ability to provide clarity as to the regulation of an emerging insurance business model in the New Zealand market.

Treating multi-cell captive insurers as “captive insurers” under IPSA would exempt these insurers from being required to have a financial strength rating and enable them to have lower capital requirements. I propose to introduce a regulation-making power rather than an amendment to IPSA to enable the Reserve Bank to consider what restrictions (if any) are required for multi-cell captive insurers to be treated as captive insurers and to allow for consultation with the sector.

This proposal would increase certainty in relation to regulatory coverage of emerging models, and potentially reduce compliance costs and provide for consistent treatment with other captive insurers, thereby maintaining a sound, efficient and competitive insurance sector.

Industry has not been formally consulted on this proposal. However, the Reserve Bank would consult with industry as part of the regulation-making process.

Captive insurers are insurers that only insure the risks of a parent entity or related entities with the same parent.

7. *Require overseas insurers operating through branches to locally incorporate,*

Overseas insurers are essential for the sustainable and efficient operation of the New Zealand insurance market and support competition in the market, with

The operation of insurers in New Zealand through branches – which is more prevalent than in the deposit taking sector – creates risks as there are limitations over the Reserve Bank’s

Protection of market soundness. Requiring incorporation is also a way of ensuring consistent treatment of insurers of certain size and importance. That said,

Industry was not consulted on this proposal, which has been developed as a more

Adjusting regulatory scope

where they meet a specified size and importance threshold, to ensure they are more substantively regulated under IPSA.

foreign-owned insurers accounting for around 85% and 77% of total insurer assets and gross written premiums (GWP), respectively. There are 33 overseas insurers that operate in New Zealand as branches (out of the 84 total licensed insurer population) accounting for around 13% of insurer assets and GWPs.

ability to regulate and supervise a branch of an overseas insurer. Reliance is placed on regulation by the insurer's 'home' jurisdiction. These risks increase with the size of the branch.

branches will remain important for the effective and efficient operation of the New Zealand insurance market.

proportionate and lower cost alternative to an earlier proposal to require branches to hold assets in New Zealand equivalent to the New Zealand solvency standard prudential capital requirement. This was strongly opposed during consultation with insurers raising concerns regarding shifting assets into New Zealand.

8. Amend IPSA to empower a licensing regime for non-operating holding companies (NOHCs) of insurers that are headquartered in New Zealand. This is intended to cover both an international group with a New Zealand parent as well as a group

Currently, IPSA only permits supervision of an individual insurer. It is relatively common for a group to be headed by an NOHC. At present, there is only one New Zealand-based group that a NOHC licensing regime would likely apply to. However, complex group structures pose risks to market soundness.

A licensing regime would ensure that the Reserve Bank is able to use standards to place obligations on a head of group to identify, manage and report intra-group risk. The proposal will facilitate a 'group supervision' approach to insurers.

A NOHC would need to meet minimum statutory licensing criteria and may (along with the wider group) be required to comply with relevant prudential standards (e.g. governance, risk management). The details of these requirements will need to be worked out through the consultation process on

A 'group supervision' approach would improve market soundness and align with international best practice.

Industry had mixed views on this proposal, with those impacted considering that information collection requirements could achieve the same outcome.

Adjusting regulatory scope

where the entire group is in New Zealand.

developing new standards. They may also be subject to supervisory and enforcement.

Solvency				
Proposal	Current position	Reason for proposal	Key impacts	Industry feedback
9. <i>Allow for more than one control level and for powers to be released at different solvency levels, with the levels set by solvency standards.</i>	<p>The solvency standards issued under IPSA have two (defined) control levels – the prescribed capital requirement (PCR) (the solvency margin, which marks the boundary above which there are no particular capital-related concerns about insurers) and the minimum capital requirement (MCR) (which marks the point of non-viability for an insurer).</p> <p>Currently, IPSA refers to one control level i.e. the PCR.</p>	An amendment to reflect multiple control levels will enable a more graduated and risk-based approach to supervision. This was a key recommendation of the IMF's 2016 assessment of New Zealand's financial system and the T-S Report.	<p>Alignment with international best practice.</p> <p>The general principle is that information, investigation and corrective powers would be available for likely or actual breaches of the PCR level and liquidation powers would be available for likely or actual breaches of the MCR.</p>	Industry supports this proposal in principle.
10. <i>Introduce a power for the Reserve Bank to impose dividend restrictions on licensed insurers to mitigate the risk of financial difficulties through intra-group transactions.</i>	The Reserve Bank has existing defined direction powers under IPSA.	To mitigate the risk that intra-group transactions might facilitate contagion for a licensed insurer where the group runs into financial difficulties. While under company law solvency is required to be taken into account by a company in setting dividend policy, the proposed dividend restriction provides an additional safeguard.	Mitigate risks to market soundness.	Industry views were mostly supportive but sought further safeguards and transparency around when the dividend restrictions would apply.
11. <i>Introduce a default solvency margin (\$0) to apply to licensed</i>	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	Specifying the PCR in IPSA rather than through individual licence conditions will make it clearer that the prudential capital requirement is the 'default' solvency requirement and that any	Improves clarity.	Industry is comfortable with the proposal.

Solvency

*insurers unless
otherwise specified.*

PCR. In most cases, the required
'solvency margin' for insurers is \$0 –
i.e. licence conditions require insurers
to hold the PCR.

departure from that default reflects
particular circumstances.

Standards				
Proposal	Current position	Reason for proposal	Key impacts	Industry feedback
<p>12. <i>Empower the Reserve Bank to issue a governance standard.</i></p> <p><i>This would address Board composition, governance and the establishment of Board responsibilities to oversee risk management.</i></p>	<p>The Reserve Bank has published guidelines on governance requirements for licensed insurers. These have no legal standing.</p>	<p>Given the importance of good governance to an insurer's soundness, it is appropriate to set out enforceable rules in a standard (refer also to Proposal 37).</p>	<p>Provides clarity and transparency and enables the Reserve Bank to effectively regulate an insurer's governance, promoting soundness.</p> <p>Aligns with international best practice.</p>	<p>No specific concerns.</p>
<p>13. <i>Empower the Reserve Bank to issue a risk management standard.</i></p> <ul style="list-style-type: none"> ◦ <i>The proposed standard may cover:</i> ◦ <i>Management of specific risks (e.g. outsourcing, reinsurance, and intra-group transaction risks).</i> ◦ <i>Policies and processes to identify, measure, evaluate, monitor, report on, control, and mitigate these risks.</i> 	<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>The only mechanism available to the Reserve Bank to require insurers to update their plans in response to new types of risk or developments in best practice is by adding an additional 'class of risk' by passing regulations. There is also no provision for the Reserve Bank to review or approve incremental (those that fall short of material) changes in risk management programmes over time.</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 management programme has been found to be inadequate to lift standards of risk management. The proposal will allow better monitoring and assessment of insurers' risk management</p>	<p>Provides more clarity, soundness and consistency with international best practice and IMF FSAP recommendations.</p>	<p>No specific concerns.</p>
<p>14. <i>Empower the Reserve Bank to issue a data</i></p>	<p>IPSA already includes powers for obtaining information from licensed</p>	<p>The current approach is administratively burdensome and</p>	<p>Increase comparability of insurers by the public (e.g. by providing for</p>	<p>Industry was generally</p>

Standards				
<i>and disclosure standard.</i>	insurers. However, this applies to individual insurers.	requires individual notices to specific insurers.	key financial metrics to be published). It will enhance efficiency and simplicity.	comfortable with this proposal.
15. <i>Empower the Reserve Bank to issue an outsourcing standard to assess and mitigate risks from insurers' outsourcing (contracting out specific business functions or processes) arrangements.</i>	There is no outsourcing guidance currently.	The T-S Report noted issues where failed insurer CBL outsourced fundamental insurance functions (underwriting, pricing, claims management). The T-S report recommended that the Reserve Bank consider introducing rules on outsourcing.	Increase clarity and promote market soundness by requiring insurers to monitor and mitigate risks from outsourcing. Could increase compliance costs.	No specific concerns.
16. <i>Empower the Reserve Bank to issue a connected exposures standard.</i>	Connected exposures (related party transactions) can be regulated by condition of licence currently.	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). A standard is preferred to limit investments in related parties and ensure that those investments take place on market terms.	Increase clarity and promote soundness.	No specific concerns.
17. <i>Empower the Reserve Bank to issue an actuarial advice standard.</i>	All licensed insurers are required to have an appointed actuary appointed. 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	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.	Aligns with international best practice, should increase clarity and promote soundness.	Industry was generally supportive of an actuarial advice framework.

Standards				
18. <i>This would require insurers to develop their own framework for when actuarial advice is required for internal decisions and set out the appointed actuaries duties under IPSA.</i>	interim liquidation in February 2018. CBL was subsequently shown to be insolvent since 2014.	The review provides the groundwork for an actuarial advice standard.		
19. <i>Empower the Reserve Bank to issue a distress management preparedness standard. The standard would introduce a resolution planning/preparedness requirement for insurers.</i>	IPSA allows the Reserve Bank to require an insurer to prepare a recovery plan when it is already in distress. However, there is no requirement to undertake proactive pre-planning.	The IMF FSAP highlighted pre-planning as a key tool to ensure insurers are prepared for a stress event given New Zealand's high catastrophe risk. FMI's and deposit takers are required to prepare 'contingency' plans.	Aligns with international best practice and requirements under other prudential legislation, promoting soundness. Could increase compliance costs.	Industry agreed in principle but raised concerns regarding potential burden of requirements.
20. <i>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</i>	The Reserve Bank can issue standards in relation to fit and proper and solvency requirements under IPSA, in contrast with its broader powers to set standards under the DTA.	The Reserve Bank's use of legislative instruments was reviewed in 2021 (for deposit takers). It was found that transparency and legitimacy would be improved by allowing new risks to be addressed through standards rather than updating conditions of licence as standards require a public consultation process. The same logic applies for insurers.	Aligns with the DTA. Should promote efficiency through providing more flexibility to respond to emerging risks.	Industry has not been consulted to date.

Standards

21. *Align IPSA with the DTA in relation to statutory prerequisites for notification to the Minister and consultation with CoFR before issuing standards*

The Reserve Bank is required to consult with persons who may be substantially impacted by a standard.

Amending IPSA to broaden consultation requirements will improve transparency and legitimacy, given the proposed broader standard setting power.

Aligns with the DTA.

Industry has not been consulted to date.

Fit and proper requirements				
Proposal	Current position	Reasons for proposal	Key impacts	Industry feedback
22. <i>Extend the definition of 'relevant officers' to include Chief Risk Officers (CROs).</i>	Under IPISA, a fit and proper policy must govern the qualifications, requirements and other criteria that a person must satisfy in order to be appointed (and remain) a director or relevant officer. A 'relevant officer' includes the Chief Executive Officer (CEO), the Chief Financial Officer (CFO), and the appointed actuary.	The CRO has a core role in terms of insurers' compliance with prudential requirements.	Should promote soundness given the CRO's risk management responsibilities but may increase compliance costs. Aligns with the DTA.	Industry is comfortable with this proposal.
23. <i>Introduce a requirement for licensed insurers to obtain the Reserve Bank's prior approval to appointment of directors and relevant officers.</i> <i>The Reserve Bank would be obliged to decide whether to approve within 20 working days of receiving all required information.</i>	The Reserve Bank can take steps under IPISA to remove a director or officer where there are fit and proper concerns.	Operational experience since IPISA was enacted has found a number of cases where problematic appointments have been made. A pre-approval process would ensure the matter is dealt with before appointment.	Should promote soundness and efficiency but may increase compliance costs. Aligns with the DTA.	Industry had strong concerns regarding this proposal, considering that the costs and complexities of pre-approval would outweigh the benefits and pre-approval blurs the boundary between the Reserve Bank's and the Board's responsibilities.

Fit and proper requirements

<p>24. <i>Introduce 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 person to hold their position.</i></p>	<p>There is currently no ongoing legal requirement for insurers to notify the Reserve Bank if a director or relevant officer's fitness and propriety are called into question.</p>	<p>A more immediate requirement to identify issues and notify the Reserve Bank is appropriate.</p>	<p>Aligns with international best practice and the DTA. Promotes soundness and efficiency of risk management but may increase compliance costs.</p>	<p>Industry had some concerns regarding potential conflicting duties between this requirement and human resource relationship with employees, including privacy issues.</p>
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Regulatory approvals				
Proposal	Current position	Reason for proposal	Key impacts	Industry feedback
<p>25. <i>Consolidate the statutory approval process into one set of 'significant transaction' provisions, to replace the existing separate approval processes for different transactions.</i></p> <p><i>In making its decisions, the Reserve Bank may consider:</i></p> <ul style="list-style-type: none"> ◦ <i>whether, after the transaction, all insurers involved will continue to meet licensing conditions;</i> ◦ <i>policyholder interests; and</i> ◦ <i>any other relevant matters.</i> 	<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>Streamlined approval provisions and a common decision-making process is intended to reduce the current legislation's rigidity and lack of proportionality. Without change, the approvals process would be inconsistent with the approach under the DTA and the FMCAB.</p>	<p>Alignment with similar legislation.</p>	<p>Industry was supportive of this proposal.</p>
<p>26. <i>Lower the current 'change of control' threshold for obtaining Reserve Bank approval or notification from 50% of voting rights to 25% of voting rights or</i></p>	<p>IPSA provides an approval process for changes of control of an insurer.</p> <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</p>	<p>It may be possible for a person to have significant influence over an insurer in situations where they hold less than 50% of the voting rights.</p>	<p>Aligns with approval and notification thresholds in the DTA and FMCAB.</p>	<p>Industry is supportive of this proposal.</p>

Regulatory approvals

the ability to appoint at least 50% of directors (a "significant influence" threshold).

another person(s) obtaining 50% or more of the voting rights in a licensed insurer.

27. *Require notification (rather than approval from) the Reserve Bank by a licensed overseas insurer where another party obtains significant influence over the overseas insurer or where the overseas insurer amalgamates with another party.*

IPSA's current approval process captures transactions involving corporate reorganisations (e.g. new holding entity inserted above New Zealand licensed insurer) which already receive oversight from an overseas regulator.

A person who obtains significant influence over an insurance business and amalgamating New Zealand licensed insurers would still be required to obtain approval from the Reserve Bank before giving effect to the transaction, in accordance with existing provisions.

These transactions are low risk from a New Zealand perspective. However, the Reserve Bank is required to go through a full assessment process which adds comparatively little additional value. There is also inconsistency with other similar regulatory frameworks.

Alignment with the DTA and amendments in the FMCAB.

This proposal was not consulted on but industry is expected to be supportive.

28. *Require approval where a licensed insurer acquires business from a licensed or non-licensed insurer*

IPSA currently requires a non-licensed insurer to obtain approval before transferring its business to another person. It does not address acquisitions. Significant growth, especially through expansion, can create soundness and efficiency concerns for the insurance market.

Clarifies that approval is required when a licensed insurer acquires insurance business, irrespective of whether the vendor is licensed.

Improve market soundness and efficiency.

Alignment with an equivalent provision in the FMCAB.

Industry was not consulted on this proposal.

Graduated supervisory powers				
Proposal	Current position	Reason for proposal	Key impacts	Industry feedback
<p>29. <i>Extending the Reserve Bank's current information-gathering powers and investigation powers to unlicensed insurers.</i></p> <p><i>The information-gathering power would be subject to an appropriate threshold (such as, the Reserve Bank forming the view that it is necessary or desirable for the purposes of performing or exercising its functions, powers, or duties under IPSA).</i></p>	<p>Currently, IPSA contains broad information gathering powers in relation to licensed insurers and related persons but this does not extend to entities suspected of unlicensed insurance activity.</p>	<p>This would address a regulatory gap, where the Reserve Bank has not been able to effectively investigate entities who are suspected of unlicensed insurance activity.</p>	<p>Promotes soundness, efficiency and alignment with similar powers in the DTA and the Financial Markets Authority Act 2011.</p>	<p>Industry is supportive with some concerns regarding scope of the power. The proposal has been refined to address these concerns.</p>
<p>30. <i>Introduce a power for Reserve Bank to conduct on-site inspections of licensed insurers without notice</i></p> <p><i>The power would be used where it is reasonable and proportionate to do so. It is</i></p>	<p>At present, the Reserve Bank assesses insurer compliance primarily through desk-based monitoring (off-site inspections) and may carry out on-site inspections only with the consent of the regulated entity.</p> <p>Further, an on-site inspection power is not as extensive as the</p>	<p>Internationally, on-site inspection is a primary insurance supervision tool.</p> <p>On-site inspections have proven to be a useful facet of AML supervision.</p>	<p>Aligns with international best practice and the DTA and Health and Safety at Work Act and proposed amendments under the FMCA.</p>	<p>Industry raised concerns that this power was unnecessary and could prove complex. The proposal has been refined to address these concerns.</p>

Graduated supervisory powers

proposed to align with two safeguards contained in the DTA - that the Reserve Bank can only carry out inspections at reasonable times and at a regulated entity's place of business.

investigations (i.e. search) powers that are available to the Reserve Bank with a warrant (or consent) under IPSA i.e. there is no power to seize documents or obtain entry by force.

31. *Introduce a power for the investigator to require directors or employees to answer questions under oath as part of a formal investigation*

Currently, the Reserve Bank may appoint an investigator where it suspects that a licensed insurer or associated person is in breach of IPSA. The investigator is permitted to compel information for inspection and take copies of those documents.

Provides additional power to obtain information as part of an investigation, to align with powers to obtain information from deposit takers.

Promotes soundness, efficiency (reducing information asymmetry between the Reserve Bank and insurers) and aligns with prudential requirements for deposit takers.

Some concerns were raised around scope and safeguards.

As with the DTA, a Bill of Rights assessment will be completed following the exposure draft, if a Bill is progressed.

32. *Introduce a breach reporting regime, for licensed insurers to report material contraventions of prudential obligations to the Reserve Bank*

This would require insurers to monitor ongoing compliance with prudential obligations and notify the Reserve Bank where it believes there has been a breach of a prudential obligation in a material respect.

Along with proposals for remediation notices and enforceable undertakings, should incentivise the insurer to proactively identify and remedy a breach.

Promotes soundness, efficiency (reducing information asymmetry between the Reserve Bank and insurers) and aligns with the DTA.

Some concerns power is unnecessary.

Graduated supervisory powers

<p>33. <i>Introduce a power for the Reserve Bank to require licensed insurers to publish Reserve Bank’s warnings to policyholders</i></p>	<p>The Reserve Bank currently has the ability to issue and publish non-statutory warnings to insurers in response to non-compliance. Publication might take the form of a notice on the entity’s website or the requirement to include the warning in all published literature of particular kinds.</p>	<p>Written warnings are appropriate where there is strong evidence of non-compliance but it is not necessary to take a prosecution or other stronger action.</p>	<p>Improve soundness and align with other similar regulatory frameworks.</p>	<p>Industry is generally supportive of this proposal.</p>
<p>34. <i>Clarify that the Reserve Bank’s existing power to issue a direction to an associated person of a failed licensed insurer can also be used without the associated person itself necessarily having failed or be likely to fail to comply with a direction or requirement under IPSA.</i></p>	<p>Under IPSA, the Reserve Bank can direct a person associated with a failed insurer to take certain actions – like consulting with the Reserve Bank or addressing non-compliance with the Act. But this can only happen if that person itself has already failed (or is likely to fail) to follow directions or other requirements under IPSA.</p>	<p>In 2017, when dealing with CBL (a failed insurer), a direction was not able to be validly issued to its holding company as the Reserve Bank did not have the as it was the subsidiary insurer, not the holding entity, who had failed to meet requirements. This limited various preventative measures the Reserve Bank wished to put in place. The same issue has arisen with other insurers since.</p> <p>We consider it is appropriate to make an amendment so that a direction can be issued to an associated person of a failed insurer where doing so will assist deal with the difficulties faced by the licensed insurer, without the associated person being required to have failed or be likely to fail with complying with a direction or other requirement of IPSA. This will ensure the existing direction power works as intended and that issues relating to</p>	<p>Improves clarity, market soundness and efficiency.</p>	<p>Industry has not yet been consulted on this proposal.</p>

Graduated supervisory powers

failed insurers can be more readily
addressed.

Enforcement powers				
Proposal	Current position	Reason for change	Key impacts	Industry feedback
<p>35. <i>Introduce a power for the Reserve Bank to issue remediation notices to persons in breach of prudential obligations, requiring 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.</i></p>	<p>The Reserve Bank can currently:</p> <ul style="list-style-type: none"> ◦ issue a direction to impose an enforceable requirement on an entity to perform or not perform a particular action under specified conditions; and ◦ require an insurer to produce a “recovery plan” to remedy any actual or likely non-compliance ◦ the proposed power would be narrower in scope in dealing only with specific breaches of prudential obligations and would not be used to require insurers to pay any compensation for breaches. <p>This existing recovery plan power would be combined with the remediation notice power in a single section of the legislation.</p>	<p>Combining the power with the current power to require a “recovery plan” is intended to make it clear that remediation notices are not limited to situations of insurer financial distress.</p>	<p>Improve market soundness, efficiency and align with the DTA.</p>	<p>Industry was broadly supportive.</p>
<p>36. <i>Introduce a power for the Reserve Bank to issue infringement notices for low-level breaches of prudential obligations.</i></p>	<p>The Reserve Bank Act 2021 contains two infringement offences, one to do with maintenance of bank note handling machines and one for failing to supply information requested by the Reserve Bank. The</p>	<p>There can be persistent problems in obtaining information from a small number of insurers which creates flow-on effects for the Reserve Bank’s data integrity.</p>	<p>Improve efficiency of information collection and align with the DTA, FMCA</p>	<p>Industry had mixed views on this proposal, noting it should be used sparingly.</p>

Enforcement powers					
	<i>The scope would include failing to provide data or respond to notices in a timely manner. The maximum fine would be prescribed in IPSA.</i>	infringement fees are \$1000 for an individual, \$3,000 otherwise (with potential fines of \$3,000 and \$9,000 respectively if the matter goes to court).		and the RBNZ Act.	
37.	<i>Introduce a power for the Reserve Bank to accept voluntary enforceable undertakings from licensed insurers and other persons.</i> <i>This involves a binding commitment to take remedial action and may include payment of compensation.</i>	Currently, IPSA’s enforcement options are limited to written warnings or serious criminal penalties imposed by the courts.	The IMF FSAP recommended the introduction of broader enforcement measures, including voluntary undertakings.	Promotes market soundness and efficiency by allowing for more flexibility and reducing costs associated with prosecution. Aligns with the DTA and international best practice.	Industry is broadly supportive of this measure.
38.	<i>Introduce civil pecuniary penalties for breaches of prudential standards to replace lower tier criminal convictions and fines.</i> <i>These may be appropriate for less blameworthy breaches of financial and solvency reporting requirements and standards.</i>	There are currently no civil penalties. The 2018 LDAC legislation guidelines say that pecuniary penalties: “may be an appropriate alternative to criminal offences when a monetary penalty would deter breaches of a regulatory regime and the nature of the offending conduct does not warrant the denunciatory and stigmatising effects of a criminal conviction or imprisonment.”	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, which is consistent with the Reserve Bank’s Enforcement Framework.	Alignment with penalties for breaches of standards for FMIs and deposit takers.	There were no strong views.

Enforcement powers

In terms of process, penalties are imposed by a court but the court operates on civil procedures with lower evidentiary requirements and burden of proof. The burden of proof is on the balance of probabilities rather than beyond reasonable doubt, and civil proceedings do not result in a criminal conviction.

Civil pecuniary penalties are expected to be set at roughly half that of the DTA i.e. \$500,000 for individuals and \$2.5m for businesses.

39. *Update the maximum criminal penalties under the IPSA.*

Maximum penalties should 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.

IPSA relies entirely on criminal prosecution and fines for its sanctions and compliance regime. This means a range of strict liability offences with a maximum fine of \$1,000,000 for the most serious offences.

The penalty regime has not been updated since IPSA was enacted.

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).

After considering 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, it is proposed that the maximum penalty levels fall between that of FMIs and deposit takers:

The changes are in excess of inflation but are set relative to similar legislation, i.e. they are set lower than the DTA but comparable with the FMI Act.

Industry was comfortable, although some felt the proposed increases were too high.

Enforcement powers

	Existing IPSA	DTA	FMI	Proposed penalties
Max fine for business	\$1m (some) \$500k (most) \$100k (some)	\$5m \$2.5m \$500k	\$2m \$1m \$500k \$200k	\$2.5m \$1.5m \$250k
Maximum fines for individual	\$200,000 (most) \$50,000 (some)	\$500k \$100k \$50k	\$200k \$100k \$50k \$20k	\$300k \$100k \$30k
Accompanying Maximum prison	3 months (most) none (some)	2 years 1 year (most) none	18 months 1 year 3 months none	18 months 1 year none

Refined distress management provisions				
Proposal	Current position	Reason for change	Key impacts	Industry feedback
<p>40. <i>Add additional distress management statutory purposes to apply to the distress management provisions of IPSA under Part 4:</i></p> <ul style="list-style-type: none"> ◦ <i>Extend the current test for ‘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.</i> ◦ <i>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).</i> 	<p>IPSA contains relatively comprehensive distress management provisions. Currently, IPSA’s stated aims when dealing with an insurer in financial distress are framed as ‘principles to be taken into account’ under section 4:</p> <ul style="list-style-type: none"> ◦ to adequately protect policyholders and the public interest; and ◦ to ensure that any failure does not have the potential to “significantly damage the financial system”. 	<p>The regime prioritises financial system soundness and efficiency over policyholder interests currently (soundness and efficiency are purposes of IPSA).</p> <p>The proposed changes could support policyholders’ interests without being detrimental to the purposes of IPSA or otherwise could improve public confidence in the insurance sector (a purpose of IPSA).</p>	<p>Improve clarity and accountability and align with the DTA and FMI Act.</p>	<p>Industry is supportive of this proposal.</p>
<p>41. <i>Designate the Reserve Bank as the resolution authority and make any consequential</i></p>	<p>IPSA contains a regime for statutory management that is a modification of the generic regime</p>	<p>Unlike the DTA, the Reserve Bank is not directly vested with resolution powers under IPSA. Instead, a</p>	<p>Increases soundness, clarity and aligns with the DTA.</p>	<p>Some preference was expressed for placing reliance on</p>

Refined distress management provisions

<p><i>changes to distress management powers, such as providing that:</i></p>	<p>contained in the Corporations (Investigation and Management) Act 1989 (CIMA).</p>	<p>statutory manager is vested with powers under IPSA.</p>	<p>a statutory manager's technical expertise.</p>	
<ul style="list-style-type: none"> ◦ <i>The Reserve Bank may, once resolution has been initiated, appoint a resolution manager;</i> ◦ <i>The same general division of powers between the Reserve Bank and the resolution manager as exists under the DTA applies; and</i> ◦ <i>The Reserve Bank has clear obligations to oversee the resolution manager.</i> 	<p>It 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 Reserve Bank can participate throughout these processes. The Reserve Bank can also seek an Order in Council placing a licensed insurer into statutory management if the relevant threshold is met.</p>	<p>Vesting resolution powers directly in the Reserve Bank (with the power to delegate these to a statutory manager) would create clarity that the Reserve Bank is ultimately responsible for resolution.</p>		
<p>42. <i>Extend the scope of direction powers to enable the Reserve Bank to direct licensed insurers not to renew existing contracts of insurance, having regard to policyholder interests.</i></p>	<p>The Reserve Bank has the power to give directions to licensed insurers in defined breach and distress management scenarios. This includes the power to direct insurers to cease entering new contracts of insurance. However, the Reserve Bank is prohibited from directing an insurer not to renew existing contracts.</p>	<p>The Reserve Bank has found that this limitation restricts its ability to require at-risk insurers to reduce their exposure. External reviews have expressed similar concerns.</p>	<p>Increase soundness.</p>	<p>Industry feedback was mixed on this proposal with a recommendation for an explicit requirement to consider policyholders.</p> <p>This concern relating to policyholders is proposed to be addressed by requiring consideration of policyholder</p>

Refined distress management provisions

interests in making a direction.

43. *Introduce two provisions to support moratorium rights which apply during the resolution process:*

- *An ‘ipso facto’ provision that provides that other contractual rights (such as terminating the provision of services) cannot be enforced against an 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).*
- *A short term “stay” on the exercise of close rights under derivatives contracts against the entity in resolution. The stay would prevent the counterparty to a financial agreement from exercising a right to terminate (or close out) the financial position. For example, if a life insurer has entered into an interest-rate swap and subsequently goes into resolution the counterparty to the swap*

When an insurer is placed into statutory management under IPISA, certain provisions of the Corporations (Investigation and Management Act) 1989 (CIMA) apply to the statutory management (section 180 IPISA). 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. Overall, the moratorium regime works as intended. However, two amendments would further support the benefits of a moratorium.

Ipsso facto provisions are already contained within the distress management regime but the scope of these rights is very limited focusing on essential services such as water and electricity. I propose broadening these rights to include insurer-specific essential services including policyholder contact services. This helps to reduce the ability of a third party to cease to provide critical services to an entity in resolution.

The short term stay is intended to help reduce the entity’s financial distress once placed in resolution.

This would increase soundness and align these rights with provisions included for FMI and deposit takers as well as international best practice.

Industry was broadly comfortable but had some concerns with the interaction of the ‘ipso facto’ provision with reinsurance contracts.

Refined distress management provisions

would not be able to close-out or settle the transaction (that is, demand payment of any outstanding amount) for a specified period of time.

44. *Revise the threshold for resolution of a licensed insurer to clarify that significant damage to the availability of insurance or the interests of a group of persons in a geographical area is included.*

The current trigger conditions for statutory management are limited to situations where the Reserve Bank is satisfied on reasonable grounds that:

- the conditions for issuing directions are met and the failure of the licensed insurer may cause **damage to the financial system or the New Zealand economy (or both)**; or
- a licensed insurer is, or may be, operating fraudulently or recklessly and statutory management is desirable for specified purposes; and

The public interest, the financial system or economy of New Zealand or any policyholders cannot otherwise be protected under IPSA or the Companies Act 1993.

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

The bolded threshold is very difficult to meet. The market for insurance is fragmented with many insurers specialising in specific risks or regions. This poses a risk that an insurer's failure could cause significant damage, but only to a local geographical area or group of persons and not to the financial system or New Zealand economy. These impacts may nevertheless affect public confidence and be contrary to public interest.

Increases soundness and aligns with CIMA and the DTA (which do not contain a requirement for systemic significance).

No significant concerns were raised.

Refined distress management provisions

achieve the same or a better outcome.

45. *Introduce a Ministerial direction power in relation to any use of public funds in event of entity failure*

The Minister is able to commit public funds under the Public Finance Act in the event of an entity failure.

If a commitment of public funds was to occur, the Minister should have statutory powers to direct the statutory manager to manage any risk to the financial position and interests of the Crown.

As in the DTA, this power is intended as a residual power for the Minister to manage the risks to public funds once a resolution/statutory management has been initiated and not used for day-to-day intervention in a resolution.

Promotes efficiency and aligns with the DTA.

Other issues				
Proposal	Current position	Reason for change	Key impacts	Industry feedback
46. <i>Introduce an obligation for the Reserve Bank to consult with the FMA when making decisions under the proposed statutory approval process for significant transactions.</i>	<p>The FMA does not have a direct power to approve transactions through a conduct lens. However, licensed firms are required to notify the FMA of transactions. The Reserve Bank consults with the FMA in practice but there is no formal consultation requirement.</p> <p>In the Omnibus IPSA consultation paper, the Reserve Bank indicated it would not proceed with this proposal.</p>	<p>The FMCAB now contains a requirement for FMA approval prior to certain transactions. The Bill does not contain a provision to allow the FMA to rely on an assessment made by the Reserve Bank on the basis that existing law already enables this to occur. In light of this overlap in approvals for transactions, a consultation requirement should limit the need for insurers to provide information to both regulators.</p>	<p>Improve efficiency through reducing compliance costs and aligning legislative requirements.</p>	<p>Industry did not have strong views on this proposal.</p>
47. <i>Introduce an obligation for the Reserve Bank to consult with the FMA before issuing or cancelling a licence under IPSA.</i>	<p>The Reserve Bank consults with the FMA in practice but there is currently no formal requirement to consult with the FMA before issuing or cancelling an insurer's licence.</p>	<p>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 under the conduct legislation.</p>	<p>Would support a 'joined up' approach between the prudential and conduct regulators and enhance information-sharing between the two, also supporting soundness and efficiency.</p>	<p>Not consulted on.</p>
48. <i>Alignment of appeal rights in IPSA with the DTA, as appropriate in the insurance context.</i>	<p>IPSA currently contains a right for a person to appeal a decision of the Reserve Bank relating to their removal as a director or relevant officer.</p> <p>However, the DTA sets out broader rights of appeal against licensing and fit and proper decisions, and otherwise on points of law.</p>	<p>The proposed expanded supervisory and enforcement powers outlined in the amendment package supports greater appeal rights for insurers.</p>	<p>Provides additional property right protections, commensurate with the proposed expansion in Reserve Bank powers.</p>	<p>Industry supports this proposal.</p>