



# NEW ZEALAND

## FINANCIAL SECTOR ASSESSMENT PROGRAM

May 2017

### DETAILED ASSESSMENT OF OBSERVANCE— INSURANCE CORE PRINCIPLES

This Detailed Assessment of Observance of the Insurance Core Principles on New Zealand was prepared by the staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information at the time it was completed in May 2017.

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## DETAILED ASSESSMENT OF OBSERVANCE

INSURANCE CORE PRINCIPLES

Prepared By  
**Monetary and Capital  
Markets Department**

This Detailed Assessment Report was prepared by Mimi Ho and Ian Tower (external experts) in the context of an IMF Financial Sector Assessment Program (FSAP) mission in New Zealand during August and September 2016, led by Alejandro López Mejía, IMF and overseen by the Monetary and Capital Markets Department, IMF. Further information on the FSAP program can be found at <http://www.imf.org/external/np/fsap/fssa.aspx>

# CONTENTS

Glossary	3
<b>EXECUTIVE SUMMARY</b>	<b>4</b>
<b>ASSESSMENT OF INSURANCE CORE PRINCIPLES</b>	<b>6</b>
A. Introduction and Scope	6
B. Information and Methodology Used for Assessment	7
C. Overview—Institutional and Macroprudential Setting	8
D. Preconditions for Effective Insurance Supervision	19
E. Authorities' Responses to the Assessment	37
<b>DETAILED ASSESSMENT</b>	<b>40</b>
<b>BOX</b>	
1. Earthquake Commission	16
<b>FIGURES</b>	
1. Breakdown of Gross Written Premium for Non-Life Business	11
2. Number of Private Direct Insurers by Country of Ownership	14
3. Gross Premiums of Private Direct Insurers by Country of Ownership	14
4. Assets of Private Direct Insurers by Country of Ownership	15
<b>TABLES</b>	
1. Insurance Penetration and Density: Comparison to World Average	9
2. Breakdown of Life Insurance Business	10
3. Number of Insurers	12
4. Gross Premium	12
5. Total Assets	13
6. Direct Insurers by Ownership	14
7. Industry Combined Ratios	15
8. Summary of Compliance with the ICPs	23
9. Summary of Observance Level	29
10. Recommendations to Improve Observance of the ICPs	30
11. Detailed Assessment of Observance of the ICPs	40

## Glossary

ACC	Accident Compensation Corporation
AFA	Authorized Financial Adviser
AML/CFT	Anti-Money Laundering and Countering Financing of Terrorism
APRA	Australian Prudential Regulation Authority
CAANZ	Chartered Accountants Australia and New Zealand
CoFR	Council of Financial Regulators
EQC	Earthquake Commission
ERM	Enterprise Risk Management
FA Act	Financial Advisers Act 2008
FMA	Financial Markets Authority
FMC Act	Financial Markets Conduct Act 2013
FSAP	Financial Sector Assessment Program
FTA	Fair Trading Act 1986
IAIS	International Association of Insurance Supervisors
ICNZ	Insurance Council of New Zealand
ICP	Insurance Core Principle
IFIAR	International Federation of Independent Audit Regulators
IFRS	International Financial Reporting Standards
IPSA	Insurance (Prudential Supervision) Act 2010
ISA	International Standards on Auditing
MBIE	Ministry of Business, Innovation and Employment
MMoU	Multilateral Memorandum of Understanding
MoU	Memorandum of Understanding
NZD	New Zealand Dollars
NZICA	New Zealand Institute of Chartered Accountants
NZSA	New Zealand Society of Actuaries
NZX	New Zealand Exchange
OiC	Order-in-Council
PRA	Prudential Regulation Authority (U.K.)
PTA	Policy Targets Agreement
QFE	Qualifying Financial Entity
RBNZ	Reserve Bank of New Zealand
RFA	Registered Financial Adviser
TTBC	Trans-Tasman Council on Banking Supervision

## EXECUTIVE SUMMARY

**The insurance sector is small, increasingly focused on non-life business, and characterized by high concentration and extensive foreign, particularly Australian, participation.** The non-life sector has recovered strongly from heavy losses due to the Canterbury earthquakes in 2010–2011, but growth in life insurance is weak and product range limited, as savings have migrated from insurance to investment products. High rates of commission paid by insurers to intermediaries may also be hampering growth. The market is dominated by the branches and subsidiaries of Australian groups, the largest accounting for almost half of total non-life premium income. Natural catastrophe risks predominate, although losses on residential property insurance are shared, within limits, with the government-backed Earthquake Commission (EQC) under a system that has generally performed well through the Canterbury crisis. The risks are also mitigated by reinsurance programs. Another government body, the Accident Compensation Corporation (ACC), covers most personal accident losses, reducing the market for private cover.

**The regulation of insurance, both prudential and market conduct, has come recently to New Zealand and is still developing.** The Reserve Bank of New Zealand's (RBNZ) prudential supervision responsibilities were extended to insurance in 2010. It brought to the task its three pillar approach to regulation, which emphasizes self-discipline (by directors and senior management), market discipline (through disclosure) as well as regulatory intervention, to bolster the other two pillars and as otherwise required. The RBNZ seeks to limit as far as possible the moral hazard associated with regulation. Conduct regulation was enhanced in relation to financial advice, though mainly on investment products, in 2008 and the Financial Markets Authority (FMA) has since been given broader powers over financial products and markets, including insurance. Overall, regulation of insurance continues to develop, taking into account the lessons of licensing and the experience of conduct regulation of the wider market.

**The assessment has identified a significant number of shortfalls in observance of the Insurance Core Principles (ICP).** In some areas the implementation of initiatives that would improve observance is incomplete, including supervisory risk assessment and enhancement of regulatory reporting by insurers, the limitations of which compromise effective off-site supervision, macroprudential analysis and publication of aggregate information on the market. In other cases, the shortfall reflects the RBNZ's approach to regulation, including the limited scope of its on-site supervisory work and mainly self-imposed limits on the resources it devotes to insurance regulation. There are also shortfalls where enhanced regulation, as recommended in this assessment, would be supportive of the RBNZ's general approach, including extended disclosure obligations on insurers. The RBNZ should focus more, in regulation and supervisory work, on setting standards on corporate governance, risk management and internal controls and undertaking risk assessment in these areas to promote the effectiveness of insurers' governance in practice.

**The overall regulatory framework for prudential regulation is well-developed, though there is scope to extend the RBNZ's powers.** The RBNZ has extensive powers in relation to licensing, information-gathering, and sharing of information with other authorities, as well as supervision and

enforcement. Its powers are focused on legal entities, although the demands of group supervision are limited given the market structure. The RBNZ's effectiveness would be strengthened by supplementing its existing powers to impose binding standards in relation to insurer solvency and fit-and-proper requirements with powers to cover all areas of prudential regulation, and potentially also with powers to impose administrative sanctions. The framework for licensing of overseas insurers (branches) could be strengthened, to ensure the RBNZ takes a robust case-by-case view of the equivalence of foreign regulatory regimes.

**The authorities should consider a broadening of the RBNZ's mandate for policyholder protection.** The RBNZ is already mandated to take into account policyholders' interests in key parts of its work, including crisis management, although its objectives in law focus on stability and confidence in the sector. An explicit policyholder protection objective would provide underpinning for its peacetime supervision as well as crisis management, consistent with the emphasis on policyholder interests in its supervisory work in practice. It would also support the increased policyholder protection recommended in this assessment, which could include the extension of statutory fund protection to non-life policyholders and making policyholder preference explicit in insolvency. Policyholder compensation schemes are only one form of policyholder protection and are outside the scope of the assessment.

**The RBNZ's approach to licensing, supervision, and enforcement in practice could be further developed, building on the experience since 2010.** The RBNZ has taken a thorough approach to licensing and has since been ready to intervene in cases where it has identified shortcomings, including in relation to the risks from Canterbury earthquake exposure. It has required some insurers to hold solvency margin above the minimum. It has built sound supervisory processes (and strong expectations on management) around insurers' financial condition reporting supported by the role of the Appointed Actuary. There is scope for the RBNZ to increase transparency over how it uses powers, including where it requires additional solvency margin, and clarity regarding its approach to enforcement. It should also develop an internal policy setting out its approach to supervisory action and use of powers in relation to two solvency control levels, in particular its approach to taking the strongest actions when an insurer fails to maintain the lower solvency control level, so as to constrain supervisory discretion as appropriate. Supervisory engagement with insurers is developing and needs to move even further, especially with larger insurers, towards communicating supervisory expectations, and requiring appropriate action.

**There are challenges as well as benefits from the high degree of exposure to Australia and the RBNZ should keep the risks and appropriate responses under review.** The Australian presence has been a source of strength, for example, parental support following the Canterbury earthquakes. However, it also exposes New Zealand to shocks originating in Australia and particularly to a common shock or simultaneous separate shocks. There is a particular exposure in the case of life insurance because of the significant Australian presence in branch form, the disapplication to branches of many RBNZ prudential requirements and the direct dependence on Australian insolvency law and practice in case of failure. The RBNZ needs to keep the risks under review, for example, in considering the scope and nature of statutory fund requirements. It already cooperates

and has an open relationship with the Australian authorities, which is being significantly deepened through the extension of trans-Tasman cooperation arrangements from banking to insurance and the inclusion within their scope of insurer resolution issues. This should be accorded a high priority in the RBNZ's work plan.

**The RBNZ benefits from a high degree of formal and operational independence, although it should clarify day-to-day cooperation with government and it should be free to increase its supervisory resources appropriately.** There are clear accountability mechanisms in relation to determining RBNZ priorities and to the spending of its resources. Cooperation with government on individual insurers in distress has worked effectively in crisis in the past. It would be appropriate now to clarify and constrain the circumstances in which information on individual supervisory issues is reported by the RBNZ, avoiding the risks to independence of increased government engagement in supervisory issues. It would also be timely to clarify the limits of government involvement in the development of insurance regulation. The RBNZ needs to increase its supervisory resources, taking into account the extent of existing challenges and the need to develop its regime in the future.

**There is a need for more focus on the regulation of insurance intermediaries and insurance conduct, which is likely to require increased resources.** The government and the FMA have been moving in this direction under recent legislation and in the FMA's supervisory initiatives, including on high life insurance commissions. The current approach takes account of the relatively limited conduct risks in insurance, given the product range, while self-regulation by industry bodies is developing and there is a well-established system for disputes resolution. However, there is a need, which the government is addressing, to enhance the deliberately low intensity regime currently applying to most independent insurance advisers and brokers, which does not include even basic competence and disclosure requirements; to extend the range of conduct of business requirements specific to insurance beyond the current focus on advice; and to ensure that the appropriate requirements apply to all insurance activity, including sales without advice and ancillary sales. The FMA functions with clear objectives within a generally sound framework of powers and processes and its responsibilities relative to those of government are clearly differentiated. The FMA would benefit from enhanced enforcement powers and would need to add insurance-specific expertise and maybe greater overall resources.

## ASSESSMENT OF INSURANCE CORE PRINCIPLES

### A. Introduction and Scope

- 1. This assessment of insurance regulation and supervision in New Zealand was carried out as part of the 2016 New Zealand Financial Sector Assessment Program (FSAP).** It was conducted by Ian Tower and Mimi Ho (both external experts engaged by the IMF) from August 16 to September 7, 2016.
- 2. The assessment is benchmarked against the ICPs issued by the International Association of Insurance Supervisors (IAIS) in October 2011, as revised in November 2015.** The

ICPs apply to all insurers, whether private or government-controlled. Specific principles apply to the supervision of intermediaries.

**3. The assessment excludes personal accident and earthquake schemes provided by government entities.** There are two bodies (with the status of “Crown agents” under the New Zealand Crown Entities Act 2004<sup>1</sup>) responsible for damages due to natural disasters and accidental injuries:

- The EQC, established under the Earthquake Commission Act 1993, provides natural disaster coverage in relation to residential property and associated land up to specified limits.
- The ACC, established under the Accident Compensation Act 1972, provides no-fault personal injury coverage for all New Zealand residents and visitors.

Both have been excluded from the scope of this assessment due to the nature of their functions which is similar to social insurance schemes: both are funded by a range of compulsory levies, which can include levies on individuals, employers, insurance policies, trade licenses, etc.; and both are backed by the government (with EQC having an explicit guarantee that the government will make up any deficiency in its assets). These public schemes are, however, included in the market statistics in this report because they form an integral part of financial protection in New Zealand and excluding them would understate overall available insurance and hamper international comparison.

## B. Information and Methodology Used for Assessment

**4. The level of observance for each ICP reflects the assessment of its standards.** Each ICP is rated in terms of the level of observance as follows:

- Observed:** where all the standards are observed except for those that are considered not applicable. For a standard to be considered observed, the supervisor must have the legal authority to perform its tasks and exercise this authority to a satisfactory level.
- Largely observed:** where only *minor* shortcomings exist, which do not raise any concerns about the authorities’ ability to achieve full observance.
- Partly observed:** where, despite progress, the shortcomings are sufficient to raise doubts about the authorities’ ability to *achieve* observance.
- Not observed:** where *no* substantive progress toward observance has been achieved.

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<sup>1</sup> The Crown Entities Act 2004 established a statutory framework that applies to many state sector organizations that are legally distinct from the Crown (government). The Act establishes three categories of Crown Entity, with differing levels of independence from government: “Crown agents,” which can be directed to give effect to government policy; “Autonomous Crown entities,” which can be directed to have regard to government policies but not directed to give effect to government policies, and “Independent Crown entities” that can neither be directed to give effect to nor have regard to a government policy, unless specifically provided for in another Act.

**5. The assessment is based solely on the laws, regulations and other supervisory requirements and practices that are in place at the time of the assessment in August 2016.**

While this assessment does not reflect new and ongoing regulatory and supervisory initiatives, key proposals for reforms are summarized by way of additional comments in this report. The authorities provided a comprehensive self-assessment, supported by examples of actual supervisory practices and assessments, greatly enhancing the robustness of the assessment.

**6. The assessors are grateful to the authorities and private sector participants for their cooperation.** The assessors benefitted from valuable input and insightful views from meetings with the relevant authorities, insurance companies and industry and professional organizations.

## C. Overview—Institutional and Macroprudential Setting

### Institutional Framework and Arrangements

**7. The RBNZ commenced prudential supervision of the insurance sector in 2010 after the passage of the Insurance (Prudential Supervision) Act (IPSA).** The decision to regulate the insurance sector was based on the work of a working group established in 2005 to review the regulatory frameworks for nonbank financial institutions, financial intermediaries and financial products. The working group was established partly in response to one of the recommendations from the 2003–2004 New Zealand FSAP.<sup>2</sup> Insurance activities conducted by Crown entities are exempted from IPSA. Therefore, ACC, EQC and Southern Response Earthquake Services,<sup>3</sup> which collectively represent 45 percent of the non-life insurance market, are not supervised by the RBNZ (refer to ICP 4 for more details on exempted insurers).

**8. The RBNZ adopts a principles-based, low-intensity supervisory philosophy.** The emphasis is on the board's accountability and the consumer's responsibility in selecting financial products and providers. Consistent with this philosophy and with its powers under IPSA, the RBNZ has issued standards on solvency and fit-and-proper requirements; guidelines on governance and carrying on insurance in a prudent manner; and it has consciously refrained from conducting in-depth on-site supervision, in order to encourage self-discipline on the part of insurers' boards and management.

**9. The responsibility for insurance market conduct supervision lies with the FMA.** The FMA administers three laws: (a) The Financial Markets Conduct Act 2013; (b) The Financial Advisers Act 2008 (FA Act); and (c) The Financial Markets Authority Act 2011. While these laws are not specific to the insurance sector, the FMA's oversight of insurers and insurance intermediaries is embedded in

<sup>2</sup> For a historical overview of prudential regulation and supervision at the RBNZ, including the evolution of the three pillars, see: Chris Hunt, "A short history of prudential regulation and supervision at the Reserve Bank", Reserve Bank of New Zealand *Bulletin*, 79(14), August 2016.

<sup>3</sup> Southern Response Earthquake Services is a government-owned company responsible for settling claims by AMI policyholders for Canterbury earthquake damages which occurred before April 5, 2012, the date AMI was sold to IAG. As a result of the cost of earthquake claims, in April 2011 AMI had received capital support from the New Zealand Government.

its general oversight of financial advisers and financial products. Established in 2011, the FMA took over the functions of the former Securities Commission of New Zealand and the Government Actuary. The responsible ministry for the FMA is the Ministry of Business, Innovation, and Employment (MBIE).

## Market Structure and Industry Performance

**10. The RBNZ is in the process of refining its data collection from insurers.** Data prior to 2012 is not available because insurers were not required to be licensed until March 7, 2012. Aiming to reduce insurers' compliance burden, the RBNZ has collected supervisory information from 2012 based on published financial data, which lack the necessary granularity and consistency to facilitate in-depth analysis for supervision purposes. As a result, there are limitations to the data presented in this report. For example, classification of insurers is by their predominant types of business, rather than by actual business lines. The breakdown between life and non-life business is not precise. The RBNZ is undertaking a project to improve the quality and consistency of routine data collection.

### Industry Structure and Recent Trends

**11. The New Zealand insurance industry is relatively small.** In terms of assets in its domestic financial system, the banking sector is the largest, with total assets equivalent to 200.9 percent of GDP as at March 2016, followed by the managed funds and trusts sector at 49.7 percent of GDP. By contrast, the private insurance sector is small at 11.9 percent of GDP. The market is, however, developed as measured by insurance penetration (premium as percentage of GDP) and density (premium per capita), particularly in the non-life sector (Table 1). Comparison of the life insurance sector to other countries is complicated by the absence of savings elements in currently-sold life products, as discussed in the paragraph below.

**Table 1. New Zealand: Insurance Penetration and Density: Comparison to World Average (2015)**

	Penetration (in percent)	Density (NZD)
New Zealand Life	1.0	502
World average	3.5	474*
New Zealand Non-life (private)	2.9*	1,500**
New Zealand Non-life (public)***	1.9	999
New Zealand Non-life (total)	4.8	2,499
World average	2.8	378*
* Converted from USD at USD 1= NZD 1.3707.		
** Including health insurance		
*** Mainly ACC and EQC: see paragraph 3 above.		
Source: RBNZ and Swiss Re World Insurance publications.		

**12. New sales of life insurance are for protection only, without savings elements** (Table 2).

This accounts for the low level of new life insurance premiums relative to non-life premiums in New Zealand. Traditional life insurance with savings elements has been discontinued.<sup>4</sup> Most life insurers have established fund management subsidiaries and now manage their insurance and fund management business out of separate entities. Although there is an inforce block of participating whole life and endowment policies (and some investment-linked business), new-life business is mostly confined to pure protection. Group business is relatively limited. KiwiSaver,<sup>5</sup> a tax efficient (non-insurance) work-based retirement savings product with some early withdrawal flexibility, has attracted savings that might have otherwise gone into insurance.

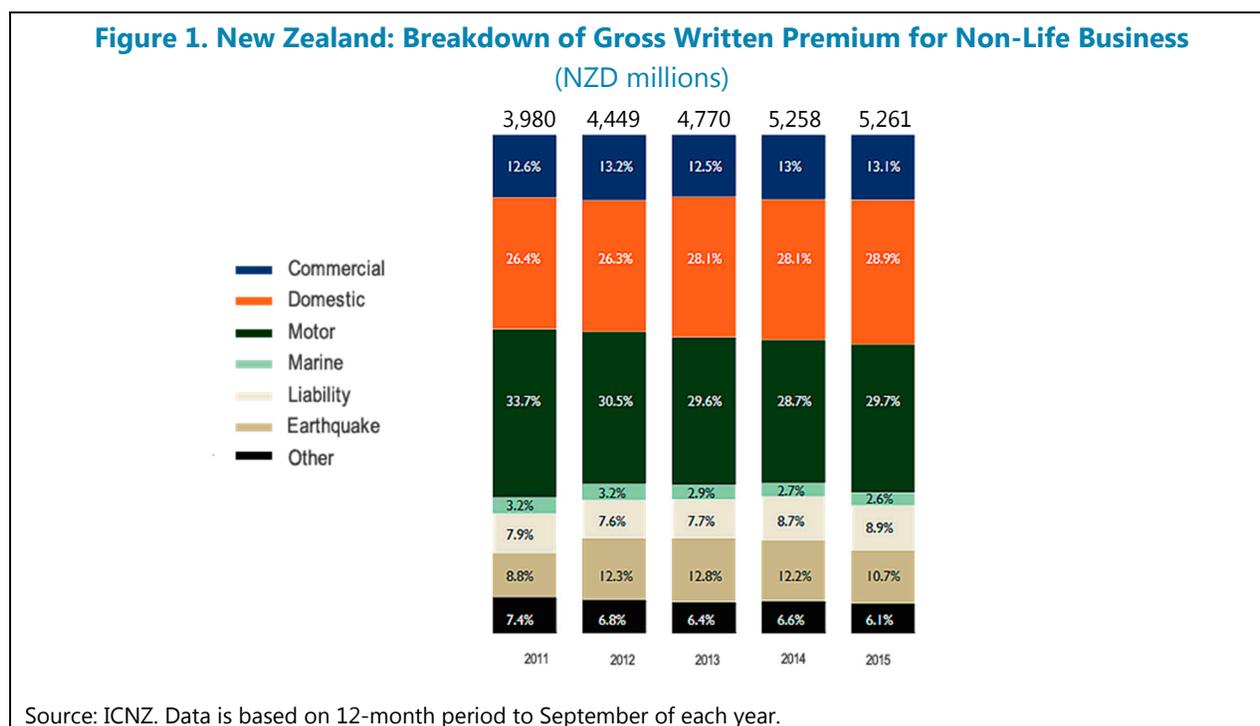
**Table 2. New Zealand: Breakdown of Life Insurance Business**

	<b>Inforce Premium as of June 30, 2016 (NZD thousands)</b>	<b>New Business Premium in 2nd Quarter 2016 (NZD thousands)</b>
<b>Traditional:</b>	<b>103,872</b>	<b>58</b>
Whole life and endowment	75,158	52
Unbundled	28,714	6
<b>Risk:</b>	<b>2,095,449</b>	<b>59,892</b>
Term	1,149,937	25,855
Guaranteed acceptance	68,333	3,421
Trauma	375,884	11,540
Replacement income	362,264	13,825
Lump-sum disability	71,106	2,021
Accidental death	14,375	411
Credit insurance	53,550	2,819
<b>Group:</b>	<b>141,819</b>	<b>2,195</b>
Life and disability	92,330	1,594
Replacement income	44,121	520
Trauma	5,368	81
<b>Annuities</b>	<b>14,478</b>	<b>25</b>
Source: Financial Services Council		

<sup>4</sup> Discontinuance has been attributed to various reasons: (1) more favorable tax treatment for fund managers under the previous tax regime; (2) high cost of traditional insurance products; (3) opaque nature of traditional participating policies; and (4) high costs for insurers to provide guarantees.

<sup>5</sup> The KiwiSaver is a voluntary long-term savings scheme which came into operation from July 2, 2007. Pre-tax contributions are invested in one of the approved funds and the government makes matching contributions ("tax credits") up to a limit. If an employee chooses to participate in KiwiSaver, the employer has a contribution obligation unless it already contributes to another qualified superannuation scheme on behalf of the employee.

**13. There is no compulsory class of non-life insurance because of the role of the ACC.** The ACC provides universal no-fault protection against work and non-work related injuries. The compensation covers medical expenses, replacement of lost earnings, cost of changes to homes and vehicles required as a result of a person's injury, and financial assistance for fatal accidents. Consequently, there is no compulsory insurance often seen in other markets such as motor insurance and workers compensation insurance. Individuals may take up additional private insurance to supplement the ACC's coverage. According to the Insurance Council of New Zealand (ICNZ), which is an industry association whose members account for 95 percent of the total non-life market, the largest class of non-life business is motor, followed by the domestic (private property) and commercial (material damage and business interruption) lines (Figure 1).



**14. There are various intermediation channels for insurance.** Products are distributed through direct sales (including internet offerings), agency arrangements (tied agents and banks), and particularly for corporate business, through brokers. Although certain intermediaries are required to report information to the FMA, there are no comprehensive data on intermediation channels.

**15. The industry is highly concentrated in a few large insurers** (Table 3). The number of insurers has declined since the RBNZ started licensing in 2012. The total number of licensed insurers was 96 at the end of 2015, which appears high, given the size of the market. Further industry consolidation may be expected. However, the industry is also highly concentrated. The top 8 life insurers account for 87 percent of life premium income and 93 percent of life industry assets. The top 8 non-life insurers account for 91 percent of non-life premium income. In fact, the top 2 non-life insurers have a 67 percent market share, while in life insurance the top two insurers account for 47 percent of the market.

<b>Table 3. New Zealand: Number of Insurers (Dec 31)</b>				
	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>
<b>Licensed in/reinsurers by predominant type nature</b>				
<b>Direct insurers:</b>				
Life	25	25	26	30
Non-life	51	51	49	49
Health	6	6	6	6
<b>Captives:</b>				
Life	-	-	1	1
Non-life	5	7	8	11
Subtotal licensed direct insurers	87	89	90	97
<b>Reinsurers:</b>				
Life	6	6	6	6
Non-life	3	3	3	3
<b>Total licensed</b>	<b>96</b>	<b>98</b>	<b>99</b>	<b>106</b>

**16. The industry has experienced a steady increase in premiums in the past five years.** Total private sector premiums increased from NZD 7.6 billion in 2011 to NZD 9.8 billion in 2015 (Table 4).

<b>Table 4. New Zealand: Gross Premium (NZD millions)</b>					
	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
<b>Direct insurers:</b>					
Life	2,308	2,184	2,059	1,992	1,817
Non-life	5,603	5,468	5,127	4,723	4,152
Health	1,088	1,021	968	934	877
Total direct insurers	8,999	8,673	8,154	7,649	6,846
<b>Captives:</b>					
Life	-	-	22	18	18
Non-life	20	28	52	64	59
Total captives	20	28	74	82	77
<b>Reinsurers:</b>					
Life	374	278	284	177	174
Non-life	418	415	423	461	461
Total reinsurers	792	693	707	638	635
<b>Total Private Sector (life and non-life)</b>	<b>9,811</b>	<b>9,394</b>	<b>8,935</b>	<b>8,369</b>	<b>7,558</b>
<b>Total Public Sector (non-life only)</b>	<b>4,594</b>	<b>5,005</b>	<b>4,957</b>	<b>4,972</b>	<b>4,918</b>
<b>Total Market</b>	<b>14,405</b>	<b>14,399</b>	<b>13,892</b>	<b>13,341</b>	<b>12,476</b>
<b>Total non-life sector</b>	<b>10,197</b>	<b>10,473</b>	<b>10,084</b>	<b>9,695</b>	<b>9,070</b>
<b>Private Sector</b>	<b>54.9%</b>	<b>52.2%</b>	<b>50.8%</b>	<b>48.7%</b>	<b>45.8%</b>
<b>Public Sector</b>	<b>45.1%</b>	<b>47.8%</b>	<b>49.2%</b>	<b>51.3%</b>	<b>54.2%</b>

**17. Assets in the life sector are about 45 percent of the total insurance sector, reflecting the lack of savings elements in the life products** (Table 5). There are no data available on breakdown of investments by asset classes.

<b>Table 5. New Zealand: Total Assets (NZD millions)</b>					
	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
<b>Direct insurers:</b>					
Life	12,994	11,741	11,475	10,813	10,549
Non-life	15,270	15,471	16,906	19,031	14,604
Health	922	873	842	833	788
<b>Total direct insurers</b>	<b>29,186</b>	<b>28,085</b>	<b>29,223</b>	<b>30,677</b>	<b>25,941</b>
<b>Captives:</b>					
Life	-	-	65	61	59
Non-life	59	85	192	215	190
<b>Total captives</b>	<b>59</b>	<b>85</b>	<b>257</b>	<b>276</b>	<b>249</b>
<b>Reinsurers:</b>					
Life	739	650	764	503	450
Non-life	804	1,200	1,496	1,636	767
<b>Total reinsurers</b>	<b>1,543</b>	<b>1,850</b>	<b>2,260</b>	<b>2,139</b>	<b>1,217</b>
<b>Total Private Sector (life and non-life)</b>	<b>30,788</b>	<b>30,020</b>	<b>31,740</b>	<b>33,092</b>	<b>27,407</b>
<b>Total Public Sector (non-life only)</b>	<b>38,424</b>	<b>35,107</b>	<b>34,168</b>	<b>32,860</b>	<b>31,304</b>
<b>Total Market</b>	<b>69,212</b>	<b>65,127</b>	<b>65,908</b>	<b>65,952</b>	<b>58,711</b>
<b>Total non-life sector</b>	<b>53,694</b>	<b>50,578</b>	<b>51,074</b>	<b>51,891</b>	<b>45,908</b>
<b>Private Sector</b>	<b>28.4%</b>	<b>30.6%</b>	<b>33.1%</b>	<b>36.7%</b>	<b>31.8%</b>
<b>Public Sector</b>	<b>71.6%</b>	<b>69.4%</b>	<b>66.9%</b>	<b>63.3%</b>	<b>68.2%</b>

**18. A substantial part of insurance business is conducted via branches of overseas insurers.** Of the 96 insurers operating in New Zealand, 35 are branches, 18 of which are of Australian insurers.<sup>6</sup> Total premiums collected by branch operations in 2015 were NZD 2,030 million (23 percent of total industry premium income), and assets of NZD 9,583 million (33 percent of total industry assets).

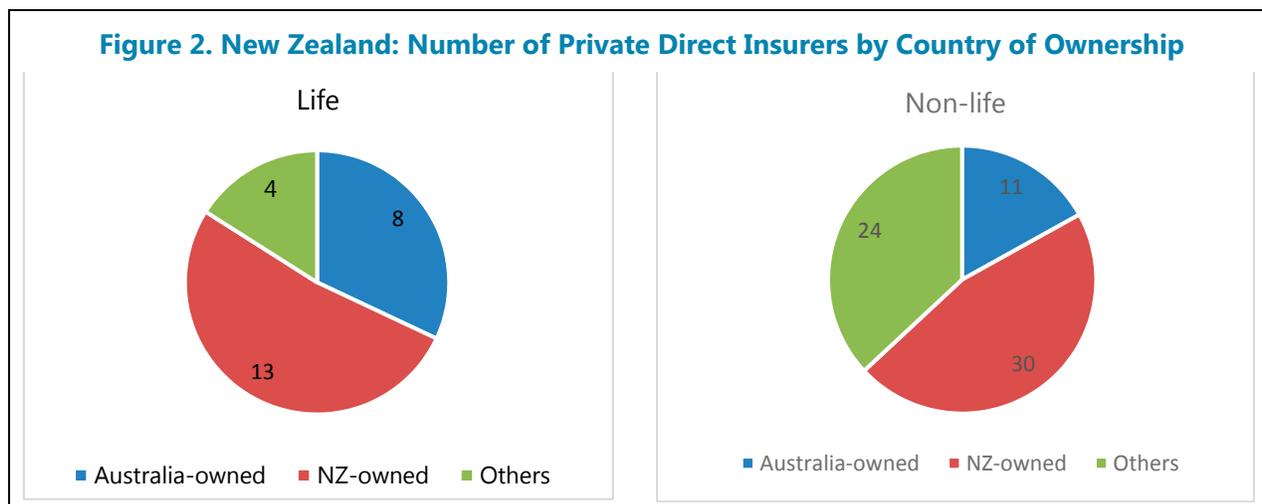
**19. Australian insurers dominate the market.** Australian-owned operations in New Zealand (branches and subsidiaries combined) represent 66 percent of market by premium and 75 percent by assets. The RBNZ has extensive cooperative arrangements with the Australian authorities as the home supervisor (Table 6 and Figures 2, 3, and 4).

<sup>6</sup> By immediate home jurisdiction, not ultimate parentage, for example, Swiss Re Life & Health Australia is counted as Australian. The remaining branches comprise of 5 British, 4 American, 3 Japanese, 1 Indian, 1 German, 1 Bermudan, 1 Dutch, and 1 French.

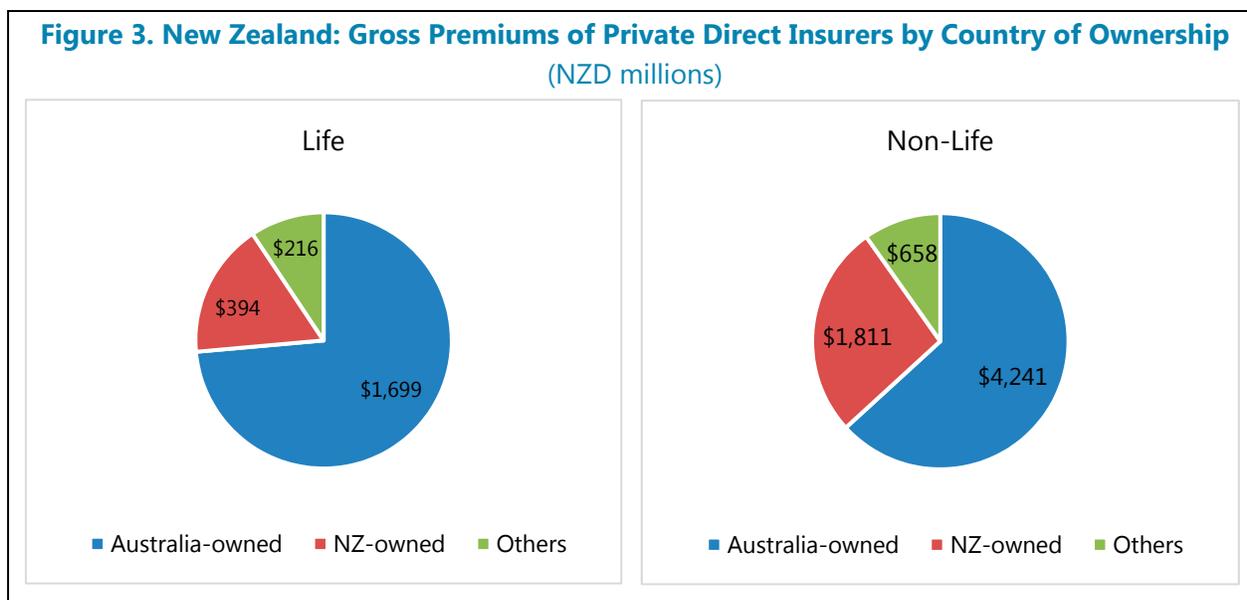
**Table 6. New Zealand: Direct Insurers by Ownership**

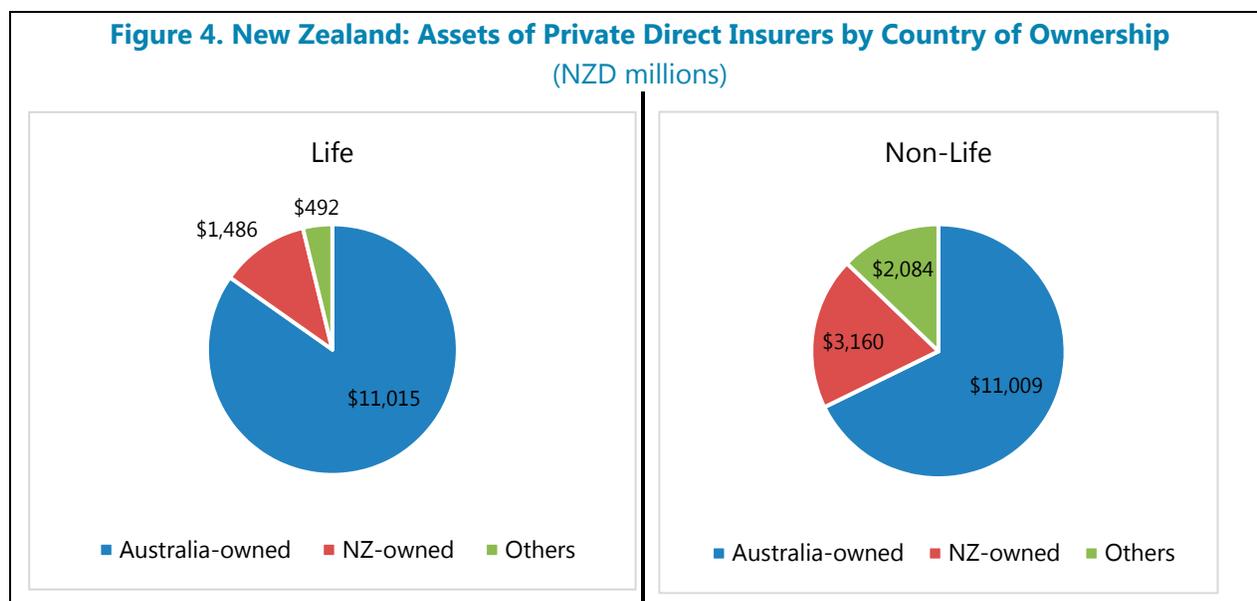
	Number (12/31/15)		Premium (NZD m)		Assets (NZD m)	
	Count	% Total	Amount	% Total	Amount	% Total
Australia-owned	19	21	5,940	66	22,024	75
NZ-owned	43	48	2,205	24	4,646	16
Others	28	31	874	10	2,576	9
Total	90	100	9,019	100	29,245	100

**Figure 2. New Zealand: Number of Private Direct Insurers by Country of Ownership**



**Figure 3. New Zealand: Gross Premiums of Private Direct Insurers by Country of Ownership (NZD millions)**





### Assets of Private Direct Insurers by Country of Ownership (NZD millions)

**20. ICNZ data shows that the performance of non-life business in aggregate is still adversely affected by the Canterbury earthquakes in 2010 and 2011.** Other than the earthquake line, all lines of non-life business are comfortably profitable, with combined ratios in the 50 to 60 percent range (Table 7). However, claims from the Canterbury earthquakes are still trickling into insurers, following the assessment undertaken by EQC (Box 1). Total private sector claims are estimated at NZD 21.5 billion, of which NZD 18.3 billion has been paid.

	2011	2012	2013	2014	2015
All lines of business	146.36	98.93	96.27	93.69	100.45
Commercial	55.65	65.50	59.60	63.32	56.47
Domestic	62.30	59.33	58.11	52.15	53.43
Motor	65.16	63.52	64.88	65.99	69.51
Marine	63.62	64.39	42.74	47.53	50.53
Liability	48.82	43.93	42.03	30.96	23.02
Earthquake	31,163.02	201.81	115.09	108.75	174.79
Others	58.50	59.17	53.42	49.40	58.49

Source: ICNZ. Data is based on 12-month period to September of each year.

**21. There are 14 foreign-owned insurance groups, 6 domestic insurance groups and 15 financial conglomerates operating in New Zealand.** IPSA does not apply to holding companies, and the RBNZ exercises minimal group-wide supervision.

### Box 1. Earthquake Commission

The EQC, a Crown Entity (see footnote 1 above) established under the Earthquake Commission Act 1993, provides natural disaster insurance to residential properties in New Zealand. Its predecessor was the Earthquake and War Damages Commission, a government body established in 1945.

The EQC's functions are to: (a) manage the Natural Disaster Fund; (b) educate New Zealanders about disaster preparedness; (c) conduct research that improves the detection and understanding of geological hazards; (d) settle claims for natural disaster damages; and (e) obtain reinsurance in respect of coverage provided under the Act.

#### How It Works

The EQC provides insurance, called the EQCover, against damages caused by earthquakes, landslides, volcanic eruptions, tsunamis, and geothermal activities. The maximum coverage is NZD 100,000 for home, NZD 20,000 for contents, and cover for land. The amount of coverage is for each event of natural disaster.

The EQCover is integrated with private insurance. When a homeowner takes up a home and household contents policy with a private insurer, he/she is automatically covered by EQCover. Part of the premium he/she pays to the insurer is transferred to the EQC and goes into the Natural Disaster Fund.

The EQC is a first loss insurer. In a natural disaster, the EQC will pay the first NZD 100,000/20,000 for damages to a home/contents, and cover storm and flood damages to land. The land cover is complex, but primarily relates to land under and within eight meters of an insured home and any appurtenant structures (such as garages), and certain retaining walls, bridges and culverts.

The EQC is also the first point of contact in the case of a claim. The EQC processes the claim and passes the remaining portion of the claim to the private insurer for settlement.

#### Government Guarantee

EQCover is government guaranteed. Should the Natural Disaster Fund and its reinsurance be insufficient to meet the claim payments, the government will pay the shortfall. As at June 30, 2016, the Natural Disaster Fund had a negative balance of NZD 457 million, compared to negative NZD 424 million at the end of 2015.

#### The Canterbury Earthquake Claims

The EQC has paid NZD 9.4 billion to date, while private insurers have paid NZD 18.3 billion. Claims are still emerging after 6 years. The slow processing is due to the high volume of claims, the complexity of restoration, and legal proceedings affecting claims resolution. For example, rebuilding is not possible until land is restored.

#### EQC Reform

In July 2015, the Treasury invited public comments on the proposed reform to the EQC Act. The key proposals are:

- The EQC claims to be lodged with private insurers.
- Monetary cap on building cover to be increased to \$200,000 + GST.
- The EQC land cover to apply only where rebuilding is not practicable.
- Scheme terms and conditions to be better aligned with usual insurer practice.
- The EQC no longer provide contents insurance.
- EQC premiums to reflect the costs of running the EQC and the costs and risks of the EQC scheme; monetary caps, prices and excesses to be reviewed at least every 5 years.

## Key Risks and Vulnerabilities

### 22. **The non-life insurance sector is exposed to earthquake and other natural disasters.**

New Zealand is highly vulnerable to natural catastrophes: earthquakes, volcanic eruptions, and the resulting landslides, tsunamis, fires, floods, etc. The Canterbury earthquakes in 2010–11 resulted in the government bail-out of one insurer and the failure of another (these events predated the full introduction of insurance regulation). Most of the Canterbury claims fell to the private insurance market, as the EQC only covers residential properties up to limits. The Canterbury events highlighted some uncertainties regarding the boundary between the EQC and private insurer coverage, particularly in relation to the costs of restoring land.

**23. The risks have been mitigated to an extent since the Canterbury earthquakes.** Insurers and reinsurers have continued to provide cover, but have taken steps to limit exposure to future earthquakes, for example, by placing limits on coverage such as moving away from full replacement value. The RBNZ has strengthened the solvency requirement relating to natural catastrophes. The government is planning reforms to EQC legislation including but not limited to coverage and the claims handling process, the results of which are likely to have significant implications for insurers' risk management (Box 1).

**24. Non-life insurers are exposed to other risks, excluding those related to personal accident.** Exposures include weather-related events such as windstorm, and also cyber risk. New Zealand insurers (and the EQC) are particularly exposed to developments in international reinsurance markets as they have used reinsurance programs extensively to manage and mitigate natural catastrophe risks. The role of ACC (see above) means that personal accident risks are limited to top-up policies extending the coverage provided by ACC.

**25. The life insurance sector is exposed to mortality and disability morbidity risk and risks associated with its commission paying practices.** New sales of life insurance products are largely for term life. The second largest class of life insurance (22 percent of total new premiums) is disability income policies whose liability is also long-term in nature. In addition, there are risks associated with distribution practices in this market, where payment of high-levels of upfront commission to distributors has become prevalent. Insurers are exposed to lapse risk, where they are unable to recoup acquisition costs, while the apparent unsustainability of current commission practices (which the FMA is investigating) exposes life insurance companies to significant business risk as practices eventually change. There are already challenges from the low growth rate of new sales of life insurance in recent years.

**26. There also remain blocks of traditional life business with market risks.** There remains a stock of inforce traditional life insurance policies, which, after many transfers of books of closed business in recent years, expose a small number of life insurers to market risks, including low interest rates. These are mitigated by the participating nature of much of this business, where future bonuses are not guaranteed and insurers have reduced bonus rates in light of the recent prolonged low interest rate environment. However, exposure is likely to differ across insurers, depending on the exact nature of their past business. The new regulatory regime is addressing these risks through

solvency standards and financial condition reporting. All life and non-life insurers are to varying degrees exposed to investment risk. However, there appears to be limited direct exposure to the property market.

**27. New Zealand policyholders are exposed to risks from the limited protection in the case of the failure of an insurer.** There are no policyholder protection schemes and no policyholder priority of claim in case of insolvency for non-life policyholders. The public policy objective is to make consumers responsible for their financial decisions, drawing on published information, including requirements on the disclosure of financial strength ratings, to facilitate informed decisions. However, consumers do not always have access to advice they may need, even when buying pure life protection policies, which reflects in part the relatively complex financial advisers regulatory regime as well as low financial literacy (the subject of a government financial capability initiative).

**28. There is a high degree of exposure to Australia through various channels.** Some of the largest insurers in New Zealand are branches or subsidiaries of Australian insurers. This has proved a source of strength to the New Zealand market, as seen in the availability of parental support in the response to the Canterbury earthquakes. However, it does also expose New Zealand to shocks originating in Australia and it exposes them to the particular risk, however low, of a common shock or simultaneous separate shocks in Australia and New Zealand. There is particular exposure in the case of life insurance because of the significant Australian presence in branch form, the disapplication of many New Zealand prudential requirements and the direct dependence on Australian insolvency law and practices in case of failure. There are also links to Australian banks (all the large four banks have insurance companies in New Zealand, one of which is the largest life insurer by premium income). Otherwise, the interconnectedness with banks is limited by the requirements on banks operating in New Zealand to limit their interest in insurers to one percent of assets. However, New Zealand insurers also hold bank-issued bonds (data are limited on the extent of this exposure).

**29. There may also be risks associated with the openness of the New Zealand regime to insurance provided on a cross-border basis into New Zealand.** Most countries accommodate the insurance of domestic risks being done abroad, for example, commercial lines business for internationally active companies and reinsurance. This is often handled via domestic brokers, facilitating the assessment of risks in such business via intermediary oversight. In New Zealand, such oversight is limited and there are no requirements to notify business placed abroad. The risk is of individuals or smaller business buying insurance cover abroad, unaware of any additional risks compared with insurance cover provided by a domestic insurer. Again, data are not available on the extent of such business.

**30. The market conduct risk is exacerbated by intense competition in a small market.** The regulatory regime covering financial advisers is complex. The majority of (individually registered or authorized) financial advisers (6,500 out of 8,300) are subject to a low degree of regulation: no demonstration of competence and a limited degree of disclosure are required, although all must be members of a disputes resolution scheme. The strong competition for life business and high-levels

of upfront commission may have led to “churning” of policies to the detriment of policyholders if their resulting cover has not been in line with their requirements. There is limited oversight of insurance conduct beyond the advice function. The conduct risks in insurance may, however, be lower than in many other developed markets due to the relatively limited and less complex product range, both in life insurance (with limited new sales of savings products) and in non-life (given the role of the ACC).

## D. Preconditions for Effective Insurance Supervision

### Sound and Sustainable Macroeconomic and Financial Sector Policies

**31. There is a well-established policy framework centered on the New Zealand Treasury, the RBNZ, and FMA.** The primary purposes of the RBNZ, as set out in the RBNZ Act 1989, are to ensure price stability and to promote the maintenance of a sound and efficient financial system. Its responsibilities include prudential regulation and supervision of the banking system and insurance sector; acting as the resolution authority for banks; macroprudential policy (in relation to the banking system); regulation of nonbank deposit-takers; the oversight and designation of payments systems, and monetary policy. The Treasury is responsible for execution of the government’s economic policy. Its three key outcomes are a stable and sustainable macroeconomic environment, improved economic performance and a higher performing state sector. Responsibilities for oversight of organized financial markets and conduct of business across the financial sector falls to the FMA. The Commerce Commission administers general consumer protection law.

**32. There are established and transparent frameworks for agreeing monetary and fiscal policy objectives.**

- For monetary policy purposes, price stability is defined in the Policy Targets Agreement (PTA) signed by the Minister of Finance and the Governor of the RBNZ, the last version of which (2012) commits the RBNZ to an inflation target of between 1 and 3 percent on average over the medium term. The RBNZ is operationally independent with respect to the PTA’s objectives. It must have regard to the efficiency and soundness of the financial system, and seek to avoid unnecessary instability in output, interest rates and the exchange rate.
- The operation of fiscal policy is governed by the Public Finance Act 1989, which requires the government to reduce total debt to prudent levels and to manage fiscal risks prudently. The government must present an annual Budget Policy Statement with its short term goals and a Fiscal Strategy Report focusing on longer term objectives. In addition, the Treasury must publish, at least every four years, a Statement of the Long Term Fiscal Position, identifying how demographic and other changes may impact the fiscal position over 40 years.

### A Well-Developed Public Infrastructure

**33. There is a well-developed infrastructure, including a legislative framework that supports insurance regulation.** The laws on business organisation, insolvency, property

registration and transfer, and consumer protection are well-established. The Companies Act 1993, for example, provides procedures for the liquidation or voluntary administration of companies. There is a framework of competition law administered and enforced by the Commerce Commission. Property and contract law is well developed, through statute or common law, and is enforced by the courts. The judiciary is independent and of high standing and there is a developed legal profession.

**34. The accounting and auditing frameworks follow international standards and there is a well-developed profession.** New Zealand has implemented international accounting and auditing standards (IFRS and ISA). The External Reporting Board is a “Crown Entity” (an independent entity within the government sector) responsible for the issuance of accounting, auditing and assurance standards. Through its sub-board, the New Zealand Accounting Standards Board, the External Reporting Board is also the standard-setting body. New Zealand standards (NZ-IFRS) are identical to IFRS with a small number of additional New Zealand-specific standards. There is a well-developed accounting profession; a single body, Chartered Accountants Australia and New Zealand (CAANZ), is taking over as the professional body for both countries on the merger of the New Zealand Institute of Chartered Accountants (NZICA) and CPA Australia. CAANZ is a member of the International Federation of Accountants. The large international accounting firms are all represented in New Zealand.

**35. Auditors and audit work are subject to oversight.** Members of the accounting professional body are subject to its oversight and disciplinary processes. The FMA has responsibility under the Auditor Regulation Act 2011 for the regulation of “auditor accredited bodies” (currently NZICA and CPA Australia). The Act also requires registration of auditor firms and for auditors to be licensed where they audit the financial statements of “FMC reporting entities” — those subject to the reporting requirements in Part 7 of the Financial Markets Conduct Act 2013 (FMC Act), which include issuers of securities (and other regulated products) and all licensed banks and insurance companies. The FMA is required to carry out quality reviews of the systems, policies and procedures of registered audit firms and licensed auditors in relation to audits of FMC reporting entities at least once every four years and to report annually on its review work. The FMA is a member of the International Federation of Independent Audit Regulators (IFIAR).

**36. There is an independent actuarial profession.** The New Zealand Society of Actuaries (NZSA) has around 350 members, of whom around half are full members (fellows), including many who are practicing outside New Zealand. Qualification for fellowship is by examination, which may be satisfied in practice by full membership of a number of overseas professional bodies. The NZSA issues competence and conduct standards applicable to its members as well as actuarial standards and guidance (insurers are required by the RBNZ to have regard to certain NZSA standards: see the assessment of ICPs 14 and 17). NZSA has a process for receiving and investigating complaints against its members and for taking disciplinary action, where appropriate. It is responsive to approaches about members, but has not taken disciplinary action to date. The profession is not subject to independent oversight or regulation.

**37. A wide range of statistics are published, including on mortality experience and life expectancy.** Statistics New Zealand is the government office responsible for collecting and

publishing statistics on a wide range of social and economic indicators. Mortality tables are available based on both period and cohort life expectancy measures, based on an extensive database of New Zealand lives. Statistics New Zealand is funded by government but operates independently. The RBNZ also publishes detailed monetary and economic statistics. The NZSA commissions periodic mortality investigations, which draw on insurance company data to assess mortality trends in relation to insured lives. The reports (most recently “Insured Lives 2008 to 2010”) are published in summary on the NZSA website, with the detailed findings being made available for sale.

### **Effective Market Discipline in Financial Markets**

**38. There are extensive general corporate governance standards in laws, codes, and guidelines.** The Companies Act 1993 sets out the role and responsibility of the board, the rights of shareholders (including in relation to the appointment and removal of directors) and the conduct of general meetings. It includes disclosure requirements in relation to staff remuneration (including numbers of staff paid over \$100,000 per annum). The FMC Act sets out governance obligations that apply to issuers of debt securities, managers of managed investment schemes and their supervisors. The FMA has also published corporate governance principles and guidelines that are addressed to a wide set of entities, including those which have some accountability to the public such as regulated financial services providers and public sector bodies (which are encouraged to disclose how they comply with the guidelines in annual reports or on websites). For companies listed on the New Zealand Exchange (NZX), the corporate governance principles issued by the NZX apply.

**39. There are disclosure requirements associated with company law and regulation and listing on the stock exchange.** There is a general requirement for audited financial statements to be produced and made available to the public via the Companies Office register. Entities that do not have public accountability (and smaller for-profit public sector entities) may choose to be subject to reduced requirements in line with the IFRS regime for reduced disclosure. Companies listed on the New Zealand Stock Exchange (NZX) are subject to its disclosure requirements. There is extensive provision of ratings for securities issuers and their issues from ratings agencies (which are not subject to regulation except where they provide ratings to entities subject to regulation by the RBNZ in relation to its requirements on disclosure of financial strength ratings).

### **Mechanisms for Consumer Protection**

**40. The policy framework emphasizes the need for policyholders to take informed decisions and the avoidance of moral hazard.** The broad regulatory approach, particularly in the case of prudential regulation, emphasizes the importance of minimizing the moral hazard associated with regulation itself and reducing the public perception of any implicit government guarantee. There is no depositor protection for the banking system, for example, and the RBNZ makes clear in its publications that it does not aim to prevent all failures of regulated entities in the sectors which it regulates. Regulation in other areas places particular emphasis on the importance of appropriate disclosure, to investors, customers etc. However, levels of financial literacy are low and there is a national strategy to develop financial capability.

**41. In line with the general regulatory philosophy, there is no insurance policyholder protection scheme that would provide a safety net in the event of insurer failure.** In the event of an insurer suffering distress or financial difficulty, the insurance legislation requires the RBNZ to recognize the importance of dealing with an insurer in a manner that aims adequately to protect the interests of its policyholders. There is also a requirement for all life insurance business (except for a few smaller insurers) to be carried out in a statutory fund (see the assessment of ICP 12). There is no corresponding provision for non-life insurance. However, unlike in many other jurisdictions, New Zealand does not mandate insurance cover for particular risks (such as motor third-party liability), often the starting point for policyholder compensation. This reflects the role of the ACC (see above, paragraph 3).

**42. There are dispute resolution schemes available to retail customers, membership of which is compulsory.** Insurers and intermediaries are required to be members of a dispute resolution scheme (there are three covering insurance), except where they are undertaking only wholesale business (for example, where they write reinsurance only).

### **Efficient Financial Markets**

**43. There are deep and liquid financial markets, although they are relatively small by international standards and limited, for debt issues, to shorter maturities.** New Zealand insurers invest largely in NZD-denominated assets and mostly in debt securities. Equity and bond markets are small by international comparison (relative to the size of the economy) and the range of instruments limited. Government and financial institutions dominate debt issuance. Life insurers do not have access to domestic fixed interest securities or derivatives with terms long enough to match all their liabilities. Government securities are issued only out to ten years and the resulting lack of long-term risk-free benchmark rates constrains longer term private issuance. There are limited inflation-indexed products which would help insurers to manage inflation risks: the Treasury issues an inflation linked bond, but volumes are small (see assessment of ICP 14 for the implications for valuation practices and the regulatory approach).

**44. New Zealand insurers also have access to investment markets outside New Zealand.** There are no restrictions on foreign investment, subject to regulatory requirements in relation to risk management, solvency, etc. (most insurers' liabilities are NZD-denominated). Given the significance of foreign-owned insurers to the New Zealand market, many insurers make use of their head office or parent company to source and manage foreign investments.

**Table 8. New Zealand: Summary of Compliance with the ICPs**

Insurance Core Principle	Level	Overall Comments
1. Objectives, Powers, and Responsibilities of the Supervisor	LO	Legislative changes in recent years have strengthened the regulatory framework, establishing a “twin peaks” approach with the RBNZ responsible for prudential regulation and the FMA for conduct in financial markets, including that of insurers and insurance intermediaries. The objectives of the regulators are clearly set out in law and support the protection of insurance policyholders, even if the statutory objectives of the RBNZ focus on the soundness of the insurance sector, including promoting public confidence. Both the RBNZ and FMA have extensive powers, but these do not extend, with important exceptions in RBNZ’s case, to establishing rules themselves or to imposing administrative sanctions, although both bodies have a range of other powers to compel compliance by regulated institutions.
2. Supervisor	LO	<p>The governance structure and decision-making processes are clearly defined for both the RBNZ and FMA. There are transparent arrangements for the appointment and removal of the RBNZ Governor and members of the RBNZ and FMA boards, although reasons for any dismissal do not have to be published (they are likely to be made public in practice). There is scope for publication of more information on the insurance sector in aggregate.</p> <p>The relationship between the RBNZ and government provides for supervisory decisions to be generally taken by the RBNZ, except the appointment of a statutory manager, reflecting the severity of this form of intervention. While the RBNZ’s key relationship is with the Minister of Finance, it also works with and keeps the Treasury informed on individual insurers. As an independent Crown Entity, the FMA is protected from government intervention in supervisory decisions. Its responsibilities and those of the MBIE and the Minister of Commerce regarding regulatory policy are clearly defined. The adequacy of resources at both the RBNZ and FMA needs to be reconsidered.</p>
3. Information Exchange and Confidentiality Requirements	O	The RBNZ has legal power to obtain information and share it with other authorities with similar functions. Domestically, there is a formal avenue for relevant authorities to regularly share information. Internationally, the RBNZ has signed cooperation MoUs with its Australian and U.K. counterparts, and is a signatory to the IAIS MMoU. A formal agreement is not a precondition for information sharing.

4. Licensing	LO	The licensing requirements set out in IPSA are clear and comprehensive, as is the RBNZ's guidance on its interpretation of the legislation, which draws on its licensing of insurers when IPSA took effect. A number of applications were rejected. The RBNZ's policy is to be accommodating towards overseas insurers and in the case of branches, the RBNZ states that it has regard to the benefits of an overseas insurer's presence in the New Zealand market when assessing the home country's regulatory regime. A relatively wide range of jurisdictions are treated as having regulatory arrangements equivalent to (or at least as satisfactory as) those of New Zealand.
5. Suitability of Persons	LO	The legislation has established a clear framework for suitability, under which insurers themselves are held responsible for developing and implementing a policy on fit-and-proper requirements and certifying to the RBNZ that new appointments comply with the policy. The RBNZ does not exercise prior approval for key individuals for particular roles. The scope of the requirements does not extend, however, beyond directors, the CEO, CFO, and the Appointed Actuary. There is extensive scrutiny of significant shareholders at the licensing stage and, in respect of controlling shareholders, in case of changes in control, but there are no ongoing requirements regarding their suitability.
6. Changes in Control and Portfolio Transfers	PO	The legislation requires notification to the RBNZ of changes in control and proposed portfolio transfers. The threshold for the definition of control in IPSA is high in relation to international practices, which define control more broadly or focus approval on significant owners rather than just majority shareholders. Its approach exposes the RBNZ to the risk that potentially detrimental changes in significant owners occur without its knowledge, depriving it of the ability to take any required action. The RBNZ has received a large number of applications for approval of transfers under IPSA. Although policyholder protection is not an objective under IPSA, the RBNZ must base its decisions on an assessment of the impact on policyholders.
7. Corporate Governance	PO	<p>The current framework is less comprehensive and binding than the ICP requires. The RBNZ's 2014 thematic review of risk governance (a subset of overall corporate governance) underscores the importance for the RBNZ to:</p> <ul style="list-style-type: none"> <li>• Provide clear and comprehensive articulation of its expectations with regard to governance to ensure consistent understanding and improve quality of governance.</li> </ul>

		<ul style="list-style-type: none"> <li>Design an ongoing monitoring strategy to give the RBNZ the necessary comfort that ongoing self-discipline is effective.</li> </ul>
8. Risk Management and Internal Controls	PO	The legal requirements on risk management and internal controls are less prescriptive and legally binding than the ICP requires. Other than the Appointed Actuary, there are no explicit binding requirements for insurers to have risk management, compliance and internal audit functions. There is also a lack of a clear indication of the insurer's responsibility for outsourced functions.
9. Supervisory Review and Reporting	PO	<p>The RBNZ has full supervisory powers and a developing set of tools, the application of which takes a structured approach to assessing risk and allocating resources. There is scope for publishing more details of the approach. The supervisory framework is still evolving. Baseline monitoring appears thorough and supervisors have been leveraging limited resources to carry out more in depth risk assessment through thematic work.</p> <p>However, routine supervisory engagement with insurers, even the largest, is focused mainly on issues arising from reporting and regulatory transactions and the annual senior management meeting. The RBNZ does not routinely carry out qualitative assessment based on in-depth interaction, for example, of governance, for risk assessment or remediation purposes. Supervisory resources are accordingly limited, compromising the RBNZ's ability to identify and respond to risk. The RBNZ's full set of reporting requirements has been introduced only recently and the requirements lack granularity.</p>
10. Preventive and Corrective Measures	LO	The legislative framework and RBNZ's internal procedures provide for the RBNZ to take corrective action and to escalate from supervisory action through to imposing enforceable requirements, including directions, according to the severity of the issue. There is no requirement for publication of corrective actions. Not all of the powers outlined in IPSA have yet been used. In some cases, the RBNZ has deliberately not intervened as strongly as it could have, reflecting the challenges faced by many insurers in transitioning to the new regime. However, the RBNZ has imposed significant corrective measures on some insurers.
11. Enforcement	LO	The legislation clearly sets out a range of enforcement tools and sanctions, to be used against individuals as well as insurers, and the circumstances under which they may be applied. The RBNZ has implemented internal procedures to ensure that actual or potential breaches of any requirements are recorded and managed through to resolution. The RBNZ's powers remain largely untested. Financial and other penalties may be sought from the court, including

		against individuals.
12. Winding-up and Exit from the Market	LO	The RBNZ has a range of options in dealing with voluntary and involuntary liquidation of insurers. It chooses which option to use based on circumstances. While policyholder protection is a principle of IPSA, the only specific protective measure is the priority of claim for life insurance policyholders in the statutory fund. There is no policyholder protection scheme currently and there is no intention of establishing one. The largest life insurer by assets is an Australian branch, to which the home jurisdiction's solvency standard and statutory fund requirements apply; it is not required to hold assets in New Zealand; and its winding-up process along with New Zealand policyholders' rights are not within the RBNZ's control.
13. Reinsurance and Other Forms of Risk Transfer	PO	The RBNZ recognizes the importance of reinsurance particularly in the light of New Zealand's exposure to natural disasters. However, the responsibility for ensuring the appropriateness of reinsurance arrangements is largely left to the Appointed Actuary.
14. Valuation	LO	The valuation of assets and liabilities for solvency purposes is broadly in line with the ICP standard. The LO rating is due to the lack of guidance on the choice of discount rates for long maturity businesses.
15. Investment	PO	Insurers are generally permitted to invest freely provided they maintain adequate capital in respect of the associated risks. Supervisory influence on investments is indirect through capital charges. However, this principles-based approach would normally be accompanied by monitoring by the supervisor not only of the actuarial analysis but of the detailed breakdown of actual investments and changes over time that may indicate a developing risk appetite. The RBNZ is not collecting the information on investments they would need to carry out this monitoring.
16. Enterprise Risk Management for Solvency Purposes	PO	The key gaps are: <ul style="list-style-type: none"> <li>• There should be a rigorous process of risk identification and measurement (ICP 16.1) involving all aspects of the operations.</li> <li>• The insurer's risk management policy should include a description of the insurer's policies towards risk retention, risk management strategies (reinsurance, the use of derivatives), and address the relationship between pricing, product development and investment management. (ICP 16.3)</li> <li>• Asset-liability management. (ICP 16.5)</li> <li>• The Enterprise Risk Management (ERM) framework should include mechanisms to incorporate new risks and new</li> </ul>

		<p>information on a regular basis and incorporate a feedback loop (ICP 16.9 and 16.10).</p> <p>While not as extensive as the Own Risk and Solvency Assessment, the Financial Condition Report (FCR) is objectively prepared and serves a particularly useful function.</p>
17. Capital Adequacy	LO	<p>The solvency standard takes into account the risk profile of the insurers. While it does not address dependencies and interrelationships between risk categories, it is a practical methodology. However, the single solvency control level makes it difficult for the RBNZ to make early intervention.</p>
18. Intermediaries	PO	<p>There is a generally well-developed framework applying to insurance intermediaries which sell more complex products and companies that provide advice on a wide range of financial products (Authorised Financial Advisers and Qualifying Financial Entities). The FMA carries out licensing assessments and supervision of these intermediaries, and publishes extensive guidance. There is an effective enforcement process and strong protection is applied to client money due to insurance policyholders. However, the regime applying to those who choose only to sell simpler products, even to retail customers, is limited. Simpler products as defined cover all types of insurance except investment-linked policies (not sold in practice). The FMA and government are already addressing these issues in a government-led review of the legislation on financial advice.</p>
19. Conduct of Business	PO	<p>The conduct of business regime is particularly focused on financial advice. Other aspects of insurance conduct of business are less well covered and in many cases not covered at all in regulation or covered only in FMA guidance. A developing framework of self-regulation in general insurance and established dispute resolution services help reduce risks to customers, but do not substitute for regulatory requirements and effective oversight.</p> <p>The FMA is increasing its overall resources, publishing extensive information on its expectations and undertaking thematic work. The conduct risks in insurance may be lower than in many other developed markets owing to the product range. Nonetheless, aspects of the insurer's relationship with customers where there may be misconduct, including the handling of claims and complaints, and advice on (nominally) simpler products provided by registered financial advisers (RFAs), are effectively unregulated. Risk-based supervisory oversight, including proactive identification and management of risks, is largely limited to financial advice.</p>

20. Public Disclosure	PO	The disclosure requirements are based on accounting standards, supplemented by mandatory disclosure of financial strength: a credit rating by approved credit rating agencies, actual solvency capital amount, the minimum amount required and the resultant solvency margin and solvency ratio. Comparison across insurers is made difficult by the fact that: (a) accounting standards allow some management discretion on the details to be disclosed; (b) branches are allowed to present solvency information using home jurisdiction methodologies; and (c) additional solvency margins are required of some insurers. Compared to the ICP, financial statement disclosure requirements are also lacking in the areas of investments, asset liability management, description of risk concentration and interaction between capital adequacy and risk.
21. Countering Fraud in Insurance	O	Fraud related to insurance is captured by general criminal law on theft, misrepresentation etc. and the criminal and regulatory authorities cooperate to identify cases of fraud and have brought successful prosecutions on insurance-related fraud. The supervisory bodies are part of a network of official agencies cooperating in this area (although on a less formal basis than for AML/CFT work) and spreading wider awareness of fraud issues. Fraud is covered in RBNZ guidelines (in connection with risk management), and fraud prevention and controls are in principle covered in supervisory work within the RBNZ's risk-based approach. Other priorities have led to limited specific focus to date on fraud issues.
22. Anti-Money Laundering and Combating the Financing of Terrorism	O	Both the RBNZ and the FMA are designated supervisors under AML/CFT legislation. The RBNZ monitors life insurers, using reports and analysis of vulnerabilities to AML/CFT risk. It conducts desk-based reviews and a small number of on-site inspections, taking a risk-based approach. The intensity of supervision is lower than for banks, reflecting the risk assessment. The RBNZ benefits from a specialist unit that has built expertise and relationships with other authorities, including in Australia. The FMA collects information, carries out reviews and publishes findings, in relation to the reporting entities within the wide scope of its regulation, although there is no specific work program for insurance intermediaries.
23. Group-wide Supervision	PO	Supervision of insurance is new and the extent of group-wide supervision is limited. While the RBNZ has obtained information of all legal entities in a group at the licensing stage (2013), its knowledge will become outdated over time in the absence of a regular reporting and monitoring of group membership and group structures, except where there is a change of control (see ICP 5). The RBNZ has not established relationships with overseas

		supervisors other than the Australian Prudential Regulatory Authority (APRA) mainly due to resource constraints.
24. Macroprudential Surveillance and Insurance Supervision	PO	Although the RBNZ's objectives focus on the sector, its supervision is focused to a large extent on individual insurers. Its scope to take a system-side view has been hampered to date by limited availability of detailed comparative information from regulatory reporting. However, a more macroprudential approach was taken in response to the Canterbury earthquakes. With increased data availability from late 2016, the RBNZ will be better able to identify emerging market-wide risks, assess for potential systemic significance and publish more aggregate information on the sector. While the development of macroprudential supervision will also contribute to the effectiveness of the supervision of individual insurers, it will not substitute for that activity and is therefore likely to require additional supervisory resources.
25. Supervisory Cooperation and Coordination	LO	NZ has an open and cooperative attitude towards supervisory cooperation, although its attitude is more reactive than proactive. Domestically, there are arrangements to discuss and share information among relevant authorities. Internationally, the RBNZ has well established procedures to cooperate with Australia whose insurers represent 66 percent of the market. Despite the large foreign participation in its market, the RBNZ's active participation in supervisory colleges is mainly limited to one.
26. Cross-border Cooperation and Coordination on Crisis Management	PO	The largest non-life insurer in New Zealand (which is locally incorporated) has a 44 percent market share. There would be a serious impact on the market should it be in distress, similar to the issues caused by the need for the government to acquire AMI as a result of Canterbury earthquake losses. In addition, New Zealand policyholders of foreign branches may be vulnerable to possible overseas policyholder preference. Effective cross-border crisis management is key to New Zealand policyholder protection and financial stability. The RBNZ is only in the early scoping phase in developing its policy relating to managing insurers in crisis.

Observed (O)	3
Largely observed (LO)	10
Partly observed (PO)	13
Not observed (NO)	0
<b>Total</b>	<b>26</b>

<b>Table 10. New Zealand: Recommendations to Improve Observance of the ICPs</b>	
<b>Insurance Core Principle</b>	<b>Recommendations</b>
1. Objectives, Powers, and Responsibilities of the Supervisor	<ul style="list-style-type: none"> <li>• The authorities should make explicit in the RBNZ's purposes (or in the principles which it must take into account) the objective of policyholder protection, consistent with existing distress management and other provisions in the legislation and the way in which the RBNZ approaches regulation and supervision in practice.</li> <li>• The powers of the RBNZ should be extended to issue binding standards on the full range of prudential issues (including governance and risk management), building on its existing powers in relation to solvency and fit-and-proper requirements; IPSA should be amended to apply solvency standards directly rather than via conditions of license.</li> <li>• The powers of the RBNZ and the FMA should be extended to enable them to impose administrative sanctions, including fines, subject to appropriate procedural requirements.</li> <li>• The legislation should be amended, when opportunity arises, to enable the RBNZ to impose a condition of license or change an existing condition without having to consult the insurer itself, in cases where immediate action is required.</li> </ul>
2. Supervisor	<ul style="list-style-type: none"> <li>• The RBNZ and the Treasury should review their 2012 MoU with a view to clarifying and constraining the circumstances in which information on individual insurer supervisory issues are reported by the RBNZ to the Treasury, limiting the exchange of information to clearly-defined cases of Treasury need and avoiding a risk of increased government involvement in supervisory work; any review of the MoU could also clarify the limits of Treasury's involvement in the development of insurance regulation.</li> <li>• The RBNZ and the FMA should review their resource needs, in light of experience of their new regimes to date and taking into account recommendations for enhancements to their current approaches in this assessment.</li> <li>• The RBNZ and the FMA should jointly review the adequacy of current and proposed new published reporting on aggregate data and trends in the insurance sector, working with industry bodies as appropriate, to ensure the availability of appropriate information, for use by policy-makers and private stakeholders.</li> </ul>

3. Information Exchange and Confidentiality Requirements	None
4. Licensing	<ul style="list-style-type: none"> <li>• The RBNZ should review the approach to licensing of overseas insurers to ensure an appropriate balance between attracting foreign involvement and applying a rigorous test of the equivalence (and readiness to cooperate in practice) of foreign jurisdictions.</li> <li>• The RBNZ should review the requirement in IPSA section 19(4) on the RBNZ to treat home country regulation and supervision as appropriate, if the jurisdiction is prescribed in the regulations and/or the list of jurisdictions in the current regulation.</li> <li>• The RBNZ should review, with other authorities and the industry, the extent of and risks relating to insurance cover provided to consumers from abroad and whether any change is required in the scope of the licensing requirement or any other changes in regulation.</li> <li>• The RBNZ should develop a policy for the use of IPSA powers to restrict the amount or share of total business which insurers may write outside New Zealand.</li> </ul>
5. Suitability of Persons	<ul style="list-style-type: none"> <li>• The legislation and/or the RBNZ standards should be amended in due course to: <ul style="list-style-type: none"> <li>• extend the scope of the individuals covered by the fit-and-proper framework, ideally in conjunction with the introduction of requirements for insurers to create a full range of control functions (see ICP 8).</li> <li>• establish an ongoing requirement on the suitability of significant owners, adopting an appropriate definition that would capture those with interests below 50 percent as well as shareholder controllers themselves, ideally aligned with the approach to approval of changes in control (ICP 6).</li> <li>• create an explicit expectation that insurers notify the RBNZ of significant issues affecting the suitability of key persons as and when they occur, in between the reassessments that are required every three years.</li> </ul> </li> <li>• The RBNZ should build into their supervision framework increased oversight of the quality and completeness of insurers' fit-and-proper policies and their implementation in practice.</li> </ul>
6. Changes in Control and Portfolio Transfers	<ul style="list-style-type: none"> <li>• IPSA should be amended to extend the requirements on changes in control to require notification of shareholder changes which involve a lower level of ownership (shares or voting rights) or which otherwise carry with them the right to appoint one or more directors;</li> </ul>

	<ul style="list-style-type: none"> <li>• An approval process (rather than a reevaluation of licensing requirements) should be considered, as well as powers to disenfranchise unsuitable shareholders, if consistent with the general New Zealand law framework.</li> <li>• The RBNZ should develop a risk-based approach to carrying out assessments, enabling it to undertake, for example, a reduced level of work where a home supervisor is involved, consistent with its general approach to overseas insurers.</li> </ul>
7. Corporate Governance	<ul style="list-style-type: none"> <li>• The RBNZ should issue a more comprehensive standard on corporate governance. It could consider using the FMA Corporate Governance Handbook as a baseline, and strengthen it to a higher standard in areas where it deems appropriate.</li> <li>• The RBNZ could consider adopting a two-tiered approach, by issuing legally binding regulations (see ICP 2) for key governance requirements (such as board composition and accountability), and non-binding guidelines for others (such as establishing board committees).</li> <li>• The RBNZ should design an ongoing monitoring strategy to give the necessary comfort of ongoing effective self-discipline. An in-depth understanding of each insurer's governance structure and its effectiveness should be incorporated into the RBNZ's ongoing supervision, in addition to periodic thematic reviews on a selective basis.</li> </ul>
8. Risk Management and Internal Controls	<ul style="list-style-type: none"> <li>• The RBNZ should require the establishment of dedicated risk management, compliance and internal audit functions for insurers. To reduce the burden on smaller insurers, some of these functions may be outsourced.</li> <li>• The RBNZ should issue an outsourcing standard, incorporating its consideration and assessment methodology used at the licensing stage, and setting out the insurer's oversight responsibility and accountability for outsourced functions.</li> <li>• The RBNZ should incorporate assessment of the effectiveness of the insurer's risk management framework into its ongoing supervisory process. To ensure consistency in compliance, RBNZ should also strengthen the enforceability of its risk management requirements (see ICP 1 on its powers to do so).</li> </ul>
9. Supervisory Review and Reporting	<ul style="list-style-type: none"> <li>• The RBNZ should complete the implementation of the current supervisory framework, in particular the planned elaboration of supervisory strategies and action plans; and use these to communicate, in writing and at supervisory meetings, their assessment of individual insurers and the key actions which they expect management to take; they could also consider disclosing to insurers appropriate parts of the risk assessment itself.</li> <li>• The RBNZ should review its approach to the use of supervisory tools with a view to identifying where they would most benefit from increased</li> </ul>

	<p>on-site supervisory work; and then start carrying out such work in practice.</p> <ul style="list-style-type: none"> <li>• The RBNZ should develop its reporting requirements over time to capture more information on insurers' exposures, including their investments and off-balance sheet business.</li> <li>• The RBNZ should review the increased supervisory resources needed to effectively implement the supervisory approach, with the recommended enhancements.</li> </ul>
10. Preventive and Corrective Measures	<ul style="list-style-type: none"> <li>• The RBNZ should develop an internal policy and approach to action to be taken when an insurer's solvency, while remaining above the minimum solvency requirement, is at a level (or is changing sufficiently fast) such that the risk of a breach of the minimum starts to become a risk. The objective would be to ensure that appropriate preventative action is taken at an early stage.</li> <li>• The RBNZ should consider whether its approach would benefit from a presumption in the legislation that certain corrective action requirements be published, unless there are reasons related to the confidentiality of the issue not to do so.</li> </ul>
11. Enforcement	<ul style="list-style-type: none"> <li>• In the context its review of IPSA and the development of its enforcement strategy, the RBNZ should assess: <ul style="list-style-type: none"> <li>• whether to seek additional enforcement powers such as infringement notices, administrative fines or enforceable undertakings.</li> <li>• the merits and appropriateness in the wider New Zealand context of powers to restrict or suspend dividends or other payments to shareholders and to mandate portfolio transfers, to the extent that these are not clearly covered by the power of direction.</li> </ul> </li> <li>• The RBNZ should review the significant limitation on the power to require licensed insurers to cease to enter into new business in section 144(2) of IPSA.</li> </ul>
12. Winding-up and Exit from the Market	<ul style="list-style-type: none"> <li>• The RBNZ should explore the best way to achieve IPSA's policyholder protection principle. Options include one or a combination of the following: <ul style="list-style-type: none"> <li>• Extend the statutory fund requirement to non-life insurance.</li> <li>• Remove the exemption from statutory life fund requirement granted to Australian branches.</li> <li>• Provide a general priority of claim for all policyholders in IPSA in the absence of a statutory fund.</li> </ul> </li> </ul>

13. Reinsurance and Other Forms of Risk Transfer	<ul style="list-style-type: none"> <li>• The prudent management guidelines should be amended to include timely finalization of reinsurance contracts to reduce risks and potential disputes.</li> <li>• The RBNZ should require insurers to have a board-approved reinsurance strategy as part of its risk and capital management strategy.</li> <li>• A reinsurance statement should be included in the FCR from both life and non-life insurers, in light of the importance of reinsurance in managing catastrophe risk for non-life.</li> <li>• The RBNZ should review the reinsurance statements to form its own judgement on whether the reinsurance program is compatible with the insurer's reinsurance strategy.</li> </ul>
14. Valuation	<ul style="list-style-type: none"> <li>• The RBNZ should work with the NZSA to establish a methodology for selecting appropriate discount rates. For example, the Treasury publishes a table of discount rates for 50 years applicable to all Government reporting entities submitting valuations to Treasury for valuing insurance claims liabilities under PBE IFRS 4 Insurance Contracts. This table or a variation thereof may be suitable for valuing private insurance contracts as well.</li> </ul>
15. Investment	<ul style="list-style-type: none"> <li>• The RBNZ should collect a more granular breakdown of assets to facilitate an understanding of an insurer's investment exposures, including in higher risk or innovative investment instruments.</li> <li>• The RBNZ should provide greater clarity on its expectations regarding investment governance (for example, the board's accountability over investment strategy and investment process).</li> </ul>
16. Enterprise Risk Management for Solvency Purposes	<ul style="list-style-type: none"> <li>• The RBNZ should issue comprehensive ERM guidelines to promote proper risk management process on an enterprise-wide basis.</li> <li>• The RBNZ should require insurers to conduct own risk and solvency assessments to identify the relationship between risk management and the level and quality of financial resources needed and available on a group-wide basis. This could be achieved through an enhancement to the Financial Condition Report.</li> </ul>
17. Capital Adequacy	<ul style="list-style-type: none"> <li>• Having two solvency control levels as described in ICPs 17.3 and 17.4 would enable the RBNZ to make less intrusive early intervention before the financial condition of the insurer deteriorates to a critical level.</li> <li>• For consistency and efficiency, the RBNZ should develop internal guidance on the appropriate actions for each solvency control level, in particular, the strongest actions to be taken when the insurer fails to maintain the lower solvency control level.</li> </ul>

	<ul style="list-style-type: none"> <li>• The New Zealand solvency standard should apply to all statutory funds to improve comparability across branches and subsidiaries.</li> <li>• The regulatory capital requirements should be established in an open and transparent process. The basis and circumstances for using licensing conditions to impose additional solvency margin requirements should be made more transparent. The RBNZ has also recognized that a number of areas in the solvency standards could be made clearer.</li> </ul>
18. Intermediaries	<ul style="list-style-type: none"> <li>• The government should revise the legislation (as already planned) to strengthen or remove the registration-only regime currently available to intermediaries, introducing minimum requirements for competence and disclosure that apply to all advisers, including insurance brokers.</li> <li>• The government should consider a proportionate regulatory regime for insurance intermediation not currently captured by the legislation, including pure sales and intermediation where ancillary to another line of business.</li> <li>• The FMA should assess the need for insurance-specific requirements on intermediation as well as an insurance-specific work program, taking into account its overall assessment of risks in financial markets. In that context, they should assess their need, in the medium and longer terms, for more insurance-specific skills and expertise.</li> </ul>
19. Conduct of Business	<ul style="list-style-type: none"> <li>• The government and the FMA should review the scope of conduct regulation for insurance, considering all aspects of the insurance product life cycle, and develop a regulatory framework to include: <ul style="list-style-type: none"> <li>• Minimum standards on all (or all higher risk) issues.</li> <li>• A licensing framework that would provide for screening of new entrants and clear identification of the insurers and intermediaries to whom the regulation framework will apply.</li> <li>• A minimum level of risk-based supervisory oversight applying to the licensed population, avoiding duplication with the existing approach applied to financial advisers.</li> </ul> </li> <li>• The FMA should review its requirements for increased insurance-specific expertise and overall insurance resources.</li> </ul>
20. Public Disclosure	<ul style="list-style-type: none"> <li>• Strengthen disclosure in the following areas: <ul style="list-style-type: none"> <li>• Risk management (asset-liability management practices, sensitivity of regulatory capital and provisions for mismatching).</li> <li>• Financial position (capital management policy, capital adequacy information).</li> <li>• Investment (objectives, policies and procedures).</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• Consider ways to improve the solvency disclosure information to facilitate comparability across insurers and between subsidiaries and branches (see ICP 17).</li> <li>• Enhance the quality of governance disclosure and its enforceability.</li> </ul>
21. Countering Fraud in Insurance	<ul style="list-style-type: none"> <li>• In order to ensure a minimum coverage of fraud in its supervisory work and to support insurance company focus on fraud risks, the RBNZ should: <ul style="list-style-type: none"> <li>• as part of its planning for the development of its supervisory work and resource planning, schedule thematic or firm-specific work on fraud controls; and</li> <li>• in due course include guidance to supervisors on evaluation of fraud risks in the iPRESS framework.</li> </ul> </li> </ul>
22. Anti-Money Laundering and Combating the Financing of Terrorism	None
23. Group-wide Supervision	<ul style="list-style-type: none"> <li>• The RBNZ should develop a strategy on group-wide supervision reflecting its supervisory philosophy and available resources. It should take into account the significance of its domestic insurers in foreign markets (having a negative impact on New Zealand's reputation).</li> <li>• The RBNZ should review its approach to licensing insurers with a substantial amount of business undertaken outside New Zealand, including whether and when to use its powers under IPSA to set requirements on minimum levels of domestic business.</li> </ul>
24. Macroprudential Surveillance and Insurance Supervision	<ul style="list-style-type: none"> <li>• The RBNZ should increase the market wide analysis of the sector from 2017, defining regular outputs (for internal use) such as standard reports on market trends, interconnectedness and other potential sources of systemic risk, as well as templates for the publication of aggregate information (it already has plans for consultation in this area).</li> <li>• While in the medium term, stress-testing exercises should be considered, the RBNZ could undertake cross-company analysis of information in Financial Condition Reports, which could be supplemented by requiring increased reporting of sensitivity analysis.</li> </ul>
25. Supervisory Cooperation and Coordination	<ul style="list-style-type: none"> <li>• The RBNZ should establish a process to more proactively evaluate the need to identify a group-wide supervisor, and the need to establish supervisory colleges for cross-border insurance groups. Regardless of the outcome, the process will instill the discipline of ensuring clarity of supervisory responsibility. The RBNZ should initiate contacts with the host supervisors where New Zealand insurers have large market shares to understand the risks to New Zealand-owned operations in those</li> </ul>

	markets. The RBNZ should also increase its engagement with insurers with substantial overseas operations.
26. Cross-border Cooperation and Coordination on Crisis Management	<ul style="list-style-type: none"> <li>• Due to the high level of cross border activities, the RBNZ should prioritize its crisis management policy and procedures, while studying how best to achieve IPSA's principle of policyholder protection in crisis.</li> <li>• Due to the high catastrophe risk in the New Zealand market, the RBNZ should require insurers to establish and maintain contingency plans and procedures based on their specific risks in use for going- and gone-concern situations.</li> </ul>

## E. Authorities' Responses to the Assessment

The New Zealand authorities (the FMA, MBIE, RBNZ, and Treasury) wish to thank the IMF and the insurance assessors for their thorough assessment of New Zealand's compliance with the IAIS *Core Principles for Effective Insurance Supervision*. The New Zealand authorities welcome the opportunity to comment on the IMF's *Detailed Assessment Report* (DAR).

The New Zealand authorities strongly support the FSAP as a means of promoting and improving both the quality of financial sector regulation and the outcomes that this regulation aims to achieve.

At the time of the last New Zealand FSAP conducted during 2003–04, regulation of the insurance sector was very limited. In part as a response to the recommendations of the previous FSAP, a working group was established in 2005 to examine the existing regulatory frameworks for nonbank financial institutions and financial products. As a consequence of that review, the Reserve Bank became the prudential supervisor for the insurance sector with the passage of the Insurance (Prudential Supervision) Act 2010 (IPSA). The review also contributed to a major overhaul of New Zealand's approach to capital market regulation, and the establishment of the FMA as a general market conduct regulator with responsibilities encompassing the insurance sector.

The DAR has acknowledged that the implementation of IPSA and a prudential regime for the insurance sector was a major achievement. The New Zealand authorities are pleased that the insurance assessors have judged that this new regulatory framework is reasonably "well-developed."

The implementation of IPSA was a very demanding exercise for the Reserve Bank, particularly in the initial licensing phase which lasted three years. In addition, the 2010–11 Canterbury earthquakes were an unfortunate but timely reminder of the significance of robust solvency requirements, given the importance of catastrophe risk in the New Zealand market. Today, the insurance sector is in a much better position to absorb a shock of this nature.

Following the completion of the licensing process in September 2013 the Reserve Bank began developing and embedding a supervisory framework appropriate for New Zealand conditions that

broadly aligns with the approach taken for the prudential regulation and supervision of the banking sector.

For the banking sector there is a long-standing 'three pillar' approach tied to the interplay between self, market and regulatory discipline. This framework is also appropriate for achieving the Reserve Bank's statutory objectives for the insurance sector – to promote a 'sound and efficient insurance sector,' and to 'promote public confidence in the sector.' This systemic focus means the Reserve Bank does not direct its policy and supervisory resources at eliminating all the risks that face individual insurers. Moreover, IPSA is not a zero failure regime – i.e., the Reserve Bank is not required to ensure that no insurer will fail or that there will be no losses to policyholders.

The supervisory counterpart to this emphasis on self and market discipline is a risk-based approach reflecting the fact that not all insurers are equally important to the sector or the wider financial system. Moreover, on-site inspections are an inherently more intrusive and costly form of supervision and can, in the Reserve Bank's view, potentially undermine the incentives on the insurance firm's own directors and management to identify and manage risks.

The DAR has noted a number of areas where the prudential regime falls short of full observance with the IAIS's core principles. In part, this is due to the on-going implementation of supervisory initiatives in a regime that is still maturing (such as supervisory risk assessments and regulatory reporting by insurers). In other areas the DAR acknowledges the gap in full observance is a function of the emphasis the Reserve Bank places on self and market discipline, reflected in the limited scope for on-site inspections and the relatively lightly resourced approach to supervision more generally.

The New Zealand authorities note the recommendations designed to improve the Reserve Bank's three pillar approach to insurance regulation. Examples relating to improving self and market discipline include enhanced disclosure from insurers and the Reserve Bank, and the expansion of powers to develop standards for corporate governance, risk management and internal controls.

A number of the IMF's recommendations are helping to inform the review of the statutory framework for insurance prudential regulation that is currently underway. The terms of reference for this review were released in April 2016 and an Issues Paper was released in March 2017. The review aims to assess the performance of IPSA to ensure it continues to create the preconditions for a cost-effective supervisory regime that helps achieve a sound and efficient insurance sector.

The New Zealand authorities note the IMF's recommendations regarding conduct regulation for insurance, bearing in mind that the FMA's reach into insurance is limited to incidences of mis-selling or misrepresentations and the regulation of financial advice as it relates to insurance agents and brokers.

The review of the FA Act that is currently underway will go some way to address the IMF's recommendations relating to intermediaries. However, it is acknowledged that these changes will not affect conduct regulation of insurers themselves or non-advised sales of insurance.

The New Zealand authorities will, as priorities allow, consider the IMF's recommendations and examine the issues relating to the broader question of the scope of conduct regulation for insurance considering all aspects of the insurance product life cycle.

As the law reforms for financial advisers are completed, the FMA will reassess resource requirements and the need to consider any insurance-specific work alongside its other strategic priorities and program of work.

## DETAILED ASSESSMENT

**Table 11. New Zealand: Detailed Assessment of Observance of the ICPs**

<b>ICP 1</b>	<p><b>Objectives, Powers, and Responsibilities of the Supervisor</b></p> <p>The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.</p>
Description	<p><b>RBNZ</b></p> <p>The insurance legislation (IPSA) clearly establishes (section 12) that the RBNZ is the single prudential regulator of insurers with responsibility for licensing, supervision, and for taking appropriate action in relation to stressed insurers.</p> <p>The purposes of IPSA (effectively the objectives of insurance regulation) are set out in section 3(1) of the Act:</p> <ul style="list-style-type: none"> <li>• To promote the maintenance of a sound and efficient insurance sector.</li> <li>• To promote public confidence in the insurance sector.</li> </ul> <p>IPSA sets out how these objectives are to be met (for example, through licensing) and includes a number of principles (for example, the importance of maintaining the sustainability of the New Zealand market) which the RBNZ must take into account (IPSA section 4).</p> <p>The RBNZ’s purposes in IPSA section 3 do not include an explicit reference to policyholder protection.</p> <p>One of the principles which the RBNZ must take into account is the importance of dealing with an insurer in a manner that aims adequately to protect the interests of its policyholders (as well as protecting the public interest and minimizing the possibility that a failure would cause significant damage to the financial system). However, this applies only where the insurer is “in financial distress or other difficulties” (IPSA section 4(c)). The RBNZ is also required to consider policyholders’ interests in deciding whether to approve portfolio transfers (see ICP 6).</p> <p>The RBNZ is also the AML/CFT supervisor for relevant life insurers under section 130 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the AML/CFT Act) (see ICP 22).</p> <p>The RBNZ has wide-ranging powers under IPSA, including powers to:</p> <ul style="list-style-type: none"> <li>• Impose, vary, remove, add to, or substitute any conditions of license (sections 21–22).</li> <li>• Approve changes in the control of the insurer and its legal form (sections 26–29).</li> </ul>

- Cancel a license (section 30).
- Remove a director or relevant officer (see ICP 5) (section 39).
- Approve transfers and amalgamations (section 44).
- Require an insurer to provide information (about itself or an associated person—see ICP 5), and in certain circumstances require other persons to provide information (sections 121–125).
- Require insurers or associated persons to provide reports (section 126).
- Conduct an investigation by requiring information or by appointing an investigator with power to require information or seek a warrant from the court to enter and search premises (sections 130–134).
- Require an insurer to prepare a recovery plan (sections 138–142) (see ICP 10).
- Issue directions to a licensed insurer (sections 143–150); recommend to the Minister that a licensed insurer be placed into statutory management (section 170); and to apply to the Court to have a licensed insurer placed into liquidation or voluntary administration, or for the value of the insurer’s contracts of insurance to be reduced (sections 151–153). (see ICP 12).

While most powers may be exercised, where necessary, to take immediate action, the RBNZ must consult with an insurer before changing its conditions of license (section 22). The power to set and to change conditions of license is relatively widely used by the RBNZ to impose binding requirements on all or individual insurers. There are also specific provisions in IPSA (section 21(2)) for license conditions to be used to apply solvency standards (issued by the RBNZ under section 55) to insurers, including requirements above the minimum for an individual insurer.

The RBNZ has powers to grant certain specified exemptions from the requirements of the Act in the case of “overseas insurers” (branches of insurance companies incorporated in other jurisdictions): IPSA section 59 (application of solvency standards), section 38 (requirement to provide fit-and-proper certificates) and section 119 (compliance with statutory fund requirements). These exemptions are subject to RBNZ approval, on specified conditions. The power to remove directors is, however, disappplied for all overseas insurers, under section 39, as is the power under section 149 to remove, replace, or appoint a director.

The jurisdictions in respect of which sections 38 and 119 exemptions in particular may be applied are set out in Regulation 5 of the Insurance Prudential Supervision Regulations. The names of the overseas insurers to whom exemptions have been granted are published by the RBNZ on its website.

There is no general power for the RBNZ to issue waivers, exemptions or modifications of IPSA requirements.

The RBNZ has powers to issue binding standards in the areas of solvency (IPSA section 55; they may be applied to all insurers, a specified class of insurers or to individual insurers); and fit-and-proper requirements (IPSA section 36). They are issued by notice signed by the Governor and must be presented to the House of Representatives (Parliament), which does not have to approve but may disallow the measure.

Breaches of standards may attract the imposition of sanctions as provided for in the Act. There is explicit provision for the RBNZ to issue non-binding guidelines on issues to be covered in the Risk Management Program required of all insurers (section 73 of IPSA). The RBNZ has no powers to impose administrative sanctions and penalties. Breaches of IPSA requirements are criminal offences carrying various penalties. Enforcement requires the RBNZ to take court proceedings. It has no powers to approve directors or other individuals employed by insurers (or otherwise engaged by them, such as external auditors) in advance of their appointment. However, it may require removal from office of some key individuals, where the person is judged not to meet fit-and-proper requirements (section 39), or in relation to a director, auditor, or the Appointed Actuary of an insurer or an associated person, in the exercise of its powers under Part 4 (Distress Management – section 149).

The RBNZ has no explicit powers in relation to group supervision. The application of its requirements to groups of insurers depends principally on its powers over licensed insurers themselves (the “indirect approach” to group supervision), but is supported by powers to obtain information about associated persons, which are broadly defined to include other members of the group of which an insurer is a member, whether regulated or not (see ICP 3). The RBNZ’s powers are mostly expressed in terms of obligations on the insurer itself to provide information, but the RBNZ may also impose requirements on associated persons directly in the context of investigations (sections 131–132) or under Part 4 (Distress Management), including giving directions (sections 144–145).

#### **Financial Markets Authority (FMA)**

The FMA’s main objective is to promote and facilitate the development of fair, efficient, and transparent financial markets (section 8 of the Financial Markets Authority Act 2011 (FMA Act)). Each of the main laws for which the FMA is responsible set out specific objectives, including:

- The FA Act: to promote the sound and efficient delivery of financial adviser and brokering services, and to encourage public confidence in the professionalism and integrity of financial advisers and brokers.
- the Financial Markets Conduct Act 2013 (FMC Act): to promote the confident and informed participation of businesses, investors, and consumers in the financial markets;

and to promote and facilitate the development of fair, efficient, and transparent financial markets.

The FMA has a range of powers applicable to insurance regulation and supervision:

- Insurance companies and intermediaries which give advice are subject to the requirements on financial advisers, with associated licensing and other powers under the FA Act (see ICP 18).
- Powers to enforce the general provisions on fair treatment of customers in the FMC Act on all insurers and intermediaries (as insurance is covered by the wide definition of financial products and services in this legislation – ICP 19).

The FMA has powers to supervise insurance intermediaries under the AML/CFT Act, where they are reporting entities for the purposes of the Act (see ICP 22).

Most of the regulatory framework is set out in primary or secondary legislation. The FMA may issue binding “frameworks and methodologies” setting out how requirements in the legislation (such as disclosures) are to be met in practice, but otherwise the FMA does not have powers to set binding standards.

The FMA has extensive enforcement powers: to investigate potential breaches of regulatory requirements, to initiate prosecutions, withdraw licenses and to impose (relatively small) fines for minor infringements.

The FMA does not have general powers to impose administrative penalties or to require redress, where customers have suffered loss. It can and does, however, accept enforceable undertakings from any party subject to the regulatory framework for which it is responsible (whether licensed or not). It can enforce an undertaking by seeking an order from the Court (see sections 46–47 of the FMA Act).

### **Commerce Commission and Privacy Commission**

The Commerce Commission, also the primary competition regulatory in New Zealand, has responsibilities for administering and enforcing the Fair Trading Act (FTA) which applies to insurance companies and intermediaries, prohibiting false and misleading consumer information.

The Commerce Commission can and has taken enforcement action against insurance companies and intermediaries. However, under a Memorandum of Understanding signed in 2014 by the FMA and the Commerce Commission, the two agencies, as well as agreeing generally to cooperate in their work, have recognized that the FMA now has the primary responsibility for regulatory action in relation to misleading and deceptive conduct in financial services, although the Commerce Commission “may seek consent from FMA

	<p>permitting it to bring proceedings under the FTA" in relation to financial products and services.</p> <p>New Zealand's privacy laws are overseen by the Privacy Commission, a Crown Entity (see ICP 19).</p>
Assessment	Largely Observed
Comments	<p>Legislative changes in recent years have strengthened and clarified the regulatory framework, establishing a "twin peaks" approach with the RBNZ clearly responsible for prudential regulation and the FMA for conduct in financial markets, including the conduct of insurers and insurance intermediaries. The objectives of the regulators are clearly set out in law and support the protection of insurance policyholders, even if the statutory objectives of the RBNZ focus on the soundness of the insurance sector, including promoting public confidence. Neither body has objectives which conflict with the objective of policyholder protection.</p> <p>Both the RBNZ and the FMA have extensive powers, but in common with many other regulators in New Zealand, these do not extend, with important exceptions in the RBNZ's case, to establishing rules or other binding requirements themselves or to imposing administrative sanctions. There is therefore reliance on the government and on courts to set standards and enforce where necessary, although both bodies have a range of other powers to compel compliance by regulated institutions in practice. The RBNZ's powers in relation to groups (reliance on indirect supervision) appear sufficient, at least in current circumstances where its responsibilities as group-wide supervisor are relatively limited.</p> <p>It is recommended that the authorities:</p> <ul style="list-style-type: none"> <li>• Make explicit in the RBNZ's purposes (or in the principles which it must take into account) the objective of policyholder protection, consistent with existing distress management and other provisions in the legislation and the way in which the RBNZ approaches regulation and supervision in practice (the IPSA principles already stress that eliminating risk of failure is not an objective).</li> <li>• Extend the powers of the RBNZ to issue binding standards on the full range of prudential issues (including governance and risk management), building on its existing powers in relation to solvency and fit-and-proper requirements; and amend IPSA to apply solvency standards directly (rather than by condition of license), while retaining the power for the RBNZ to set higher standards for individual insurers.</li> <li>• Extend the powers of the RBNZ and the FMA to enable them to impose administrative sanctions, including fines, subject to appropriate procedural requirements.</li> <li>• Amend the legislation, when opportunity arises, to enable the RBNZ to impose a condition of license or change an existing condition without having to consult the insurer itself, in cases where immediate action is required.</li> </ul>

<b>ICP 2</b>	<p><b>Supervisor</b></p> <p>The supervisor, in the exercise of its functions and powers:</p> <ul style="list-style-type: none"> <li>• Is operationally independent, accountable and transparent.</li> <li>• Protects confidential information.</li> <li>• Has appropriate legal protection.</li> <li>• Has adequate resources.</li> <li>• Meets high professional standards.</li> </ul>
Description	<p><b>Internal Governance</b></p> <p>The governance of the RBNZ is set out in the RBNZ Act which requires it to have a Governor, who is the Chief Executive (section 40) with authority over all matters not reserved for the board (section 41(2)). The board itself comprises between five and seven non-executive members as well as the Governor. Its duties include oversight of performance of the Bank's IPSA functions and use of resources (section 53(1)(e)). It may advise the Governor, but has no executive authority.</p> <p>The RBNZ's single decision maker model means that the Governor is formally responsible for all decisions. However, some decisions are delegated to the Deputy Governor and Head of Financial Stability, and to management of the Prudential Supervision Department (PSD), as provided for in section 51 of the RBNZ Act. The RBNZ also has three internal committees (with formal terms of reference) that consider insurance supervision issues:</p> <ul style="list-style-type: none"> <li>• The Insurance Steering Group (ISG): a committee of the management of PSD (and General Counsel) to discuss supervisory and policy issues.</li> <li>• The Financial System Oversight Committee (FSO): a committee of the Governors, PSD senior management and heads of other relevant departments, to discuss policy related to financial stability and certain supervisory decisions.</li> <li>• The Governing Committee: A committee comprising the Governor, both Deputy Governors and the Assistant Governor to discuss major strategic and policy issues.</li> </ul> <p>An Audit Services team provides internal audit services across the RBNZ's functions, including supervision (the head of department has a reporting line to the Governor). It conducted an audit of the systems and processes used in insurance supervision in 2016.</p> <p>The FMA is governed by a Board of Directors (of between five and nine members – there were eight at the time of the assessment), which also operates through committees. There is also provision for the appointment of associate members to bring specialist expertise to the FMA's work (there are none at present).</p>

The Board is responsible for all aspects of the FMA's operation, including decisions on regulatory and supervisory issues, but can and does delegate functions and responsibilities to management. There is provision for the Chair to enable the Chief Executive to take decisions on behalf of the Board in urgent cases where it is not possible to convene a Board meeting.

The FMA has an internal audit function, which reports to the General Counsel and Chair of the Audit and Risk Committee of the Board. Its work includes reviews of regulatory and supervisory work.

### **Appointment and Dismissal**

The Governor of the RBNZ is appointed by the Minister of Finance on the recommendation of the Board (section 40(1) of the RBNZ Act), for five year terms (with provision for multiple terms). Deputy Governors are appointed by the Board on the recommendation of the Governor. Non-executive Board members are appointed by the Minister of Finance (section 54(1)(a)) for terms of up to five years.

The Governor is disqualified from being appointed, reappointed or continuing in office, in prescribed circumstances (section 46 of the RBNZ Act), including where convicted of certain offences or prohibited from being a director of a body corporate. Non-executive directors are disqualified in similar circumstances (section 58).

In addition, the Governor may be removed from office by an Order-in-Council (OiC) made by the Governor-General on the advice of the Minister of Finance (section 49). The Minister must be satisfied that certain circumstances have arisen, including that the RBNZ is not adequately carrying out its functions; that the Governor has not adequately discharged the responsibilities of office; that the Bank's resources have not been properly or effectively managed; that the Governor is unable to carry out the responsibilities of office or has been guilty of serious neglect of duty or misconduct. The same process and similar causes apply to Deputy Governors and non-executive members of the Board.

Any such OiC would have to be published, although there is no requirement to disclose the reasons for removal of a Governor or non-executive Board member. No Governor or non-executive Board member has ever been removed from office under these provisions.

The Board of the FMA is appointed by the Governor-General on the recommendation of government. Members serve for five years. The chief executive is appointed by the Board.

As a Crown Entity, the FMA is subject to Crown Entities Act 2004 provisions (sections 39–41) on the appointment and dismissal of Board members: they may be dismissed at any time by the Governor-General on the advice of the responsible minister (after consulting with the Attorney-General), but only for just cause, which includes (but is not limited to) misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the

collective duties of the Board or the individual duties of members. Dismissals must be published (there have been none), but publication of reasons is not required. Dismissal of the chief executive is governed by contract and general employment law.

### **Institutional Relationships**

The RBNZ is governed by its own statute (it is not a Crown Entity) and acts independently from the government in fulfilling its duties and exercising its powers under IPSA.

Specific intervention powers of the Minister of Finance are set out in IPSA:

- The minister may direct the RBNZ to have regard to government policies relating to the Bank's functions under IPSA (section 13). Such a direction cannot require the RBNZ to act in a particular way or require it to bring about a particular result in respect of a particular person. Directions are not binding other than requiring that the RBNZ must show how it has had regard to them. Directions must be published.
- The minister may advise the Governor-General (on the recommendation of the RBNZ) to place a licensed insurer into statutory management (section 170); and to take other actions in relation to statutory management including vesting of the assets or liabilities of the branch of an overseas insurer; and to reduce the value of one or more of the licensed insurer's contracts of insurance (section 191).

The RBNZ is required (section 162A of the RBNZ Act) to publish an annual Statement of Intent setting out, amongst other points, the specific impacts, outcomes, or objectives that it is seeking to achieve and how it plans to perform its functions and conduct its operations to achieve them. The preparation of the statement is informed by a (published) letter of expectations from the Minister of Finance to the Governor. The most recent letter (March 2016) included expectations on engagement between the RBNZ and the Minister, including expectations of early advice when any significant RBNZ-regulated institution faces a material risk of financial difficulty.

An understanding of the respective responsibilities of the Treasury and RBNZ are set out in the 2012 MoU. The RBNZ is the lead advisor to the Minister on prudential supervision. However, the Treasury and RBNZ have a joint role in advising on whether the financial stability framework is fit for purpose and the Treasury will therefore provide its own advice to the minister on prudential regulation and supervision, where there are impacts on the economy and government finances. The Treasury has no powers to direct the RBNZ.

The RBNZ's practice is to share draft consultation papers with both the Minister and the Treasury ahead of their release and to report on individual insurer supervisory issues, based on its judgment of what it is appropriate for the Treasury and/or Minister to know and taking into account the government's particular interest where government funds may be at risk. Disclosure of information to the Treasury is, however, constrained by section 135 of IPSA.

	<p>The Minister is also responsible for putting forward regulations (secondary legislation) to be made under IPSA, in accordance with a recommendation of the RBNZ (the Minister formally advises the Governor-General on the recommendation of the RBNZ). Regulations may cover requirements on statutory funds (section 103) and various matters relating to IPSA implementation (sections 237 and 238).</p> <p>As an independent Crown Entity under the Crown Entities Act, the FMA is required to perform its functions independent of direction from ministers.</p> <p>As the FMA is an independent Crown Entity, the only direction it can be required to comply with is one to support a “whole of government approach” (such as increased efficiency). The Crown Entities Act provides (section 113) that a Minister may not direct a Crown Entity (or a director, employee, or office holder) in relation to a statutorily independent function; or require the performance or nonperformance of a particular act, or the bringing about of a particular result, in respect of a particular person or persons. Directions must generally be published and laid before Parliament.</p> <p>The relevant minister for the FMA is the Minister of Commerce, one of the ministers of the MBIE.</p> <p>As an independent Crown Entity, the FMA is required to produce a statement of intent setting out its approach to the use of its resources and does so covering four years (latest: 2015–19). The Minister may direct a Crown Entity to amend its statement of intent (section 147 of the Crown Entities Act) and such a direction would be published and tabled in Parliament. However, as with the RBNZ, government practice is to issue a letter of expectations to the FMA ahead of the preparation of the statement of intent. Both the FMA’s Statement of Intent and the letter of expectations are published as is the FMA’s annual statement of performance assessing outcomes in practice.</p> <p>There are no powers reserved for ministers under the legislation which the FMA is responsible for administering.<sup>7</sup></p> <p><b>Independence and Funding</b></p> <p>The RBNZ funds the costs of insurance regulation and supervision from its general resources. However, its spending is subject to a process between the Minister of Finance and Governor whereby they may agree a funding agreement for five years setting out the amount of the RBNZ’s income to be used to meet the RBNZ’s operating expenses (section 159 of the RBNZ</p>
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<sup>7</sup> There is provision for government decision, on the FMA’s recommendation, for the appointment of a statutory manager for any corporation body in New Zealand in circumstances where it is acting recklessly, but this is under general corporate law - section 38 of the Corporations (Investigation and Management) Act 1989. There are also certain powers that a Minister holds in relation to licensed operators of financial markets (such as the NZX) under Part 5 of the FMC Act. However, these issues are not relevant to the insurance sector or the ICP assessment.

Act). These agreements (and any variations that may be agreed between the Minister and Governor at any time) must be laid before and ratified by resolution of Parliament before coming into effect (section 161). The RBNZ is able to allocate the agreed funding (NZD 49.6 million for 2015/2016) between its functions as it chooses.

The FMA is funded by Parliamentary apportion which is currently financed 40 percent by government out of budget resources and the remainder from fees and levies payable by entities subject to its regulation (these shares may be changed in favor of increased industry contribution under a current review). Levies are paid to the government and must be applied to offset FMA funding. Any under- or over-collection of the levy does not affect FMA resourcing.

Fees which are charged for transactional work, such as licensing applications and exemption, are payable directly to the FMA.

The FMA's financing needs are subject to discussion with and agreement of the government and the FMA must consult on proposed industry fees and levies. However, total available resources may be deployed by the FMA as its Board chooses.

#### **Transparency of Requirements and Procedures**

The RBNZ is required by IPSA section 54 to publish its policies for determining license applications; and for imposing, varying, removing, or adding to conditions of licenses. The notices setting out its standards are published as are its guidelines. It also publishes a regular newsletter. It has published limited information on its supervisory processes.

There is a high degree of transparency in the FMA's requirements and processes. It publishes a number of corporate documents, including a Strategic Risk Outlook, its statement of intent and detailed reports on its activities. It publishes extensive guidance on aspects of the regulatory framework and on thematic investigations.

#### **Review of Requirements and Procedures**

Although the insurance prudential framework is relatively new, the RBNZ has reviewed and reissued its solvency standards (in 2014) and has scheduled a review of IPSA for 2017/2018. Section 162AB of the RBNZ Act requires the RBNZ to assess the expected regulatory impacts of the proposed policies and it does so through Regulatory Impact Statements, which are published. Its supervisory processes for insurers were reviewed in 2015 in the light of experience of licensing, and new processes are being implemented.

The framework of regulation which the FMA administers has been subject to extensive change in recent years, with the expansion of the FMA's role. Legislation generally provides for reviews, typically within a five-year period, led by government. The MBIE is currently

reviewing the FA Act.

### **Information on the Insurance Sector and the Supervisor**

The RBNZ publishes limited information on the insurance sector in its six-monthly Financial Stability Report. However, it currently lacks the depth and range of detailed information on insurers that would provide for valuable publication of aggregate information on the sector (see ICP 9 and ICP 24). The FMA publishes limited information on the sector. Information on the use of different channels of intermediation is limited from the FMA or any other source.

There is published information on the regulatory system generally, including a Regulatory Charter published by the Council of Financial Regulators (CoFR).

### **Appeal Against Supervisory Decisions**

Supervisory decisions of the RBNZ and the FMA are subject to judicial review by the High Court, which is generally limited to reviews of the process followed by the regulator. The Court also has authority in some cases to require the regulator not to implement its initial decision until the judicial review proceedings have been completed.

Certain licensing decisions of the FMA may be appealed to the District Court. Of most relevance to insurance, under the FA Act section 138, decisions to refuse a license to give advice may be appealed to a district court, as may decisions taken by the disciplinary committee established under the Act (including recommendations to the FMA to withdraw of authorization) in relation to authorized financial advisers (AFAs – see ICP 18). However, decisions are not suspended pending appeal (section 140).

Under IPSA, there is a right of appeal to the High Court in respect of decisions by the RBNZ to issue a direction removing a director or relevant officer of an insurer (sections 39–43); or by the District Court (on application of the RBNZ) to ban persons from participating in insurance business (sections 222–225). Decisions to remove a person remain in force pending the determination of the appeal unless the High Court orders otherwise (section 42(3)). No other RBNZ decisions are subject to appeal.

### **Confidentiality**

IPSA section 135 provides for the confidentiality of a wide range of information disclosed to the RBNZ (or an investigator appointed under IPSA powers) in accordance with its IPSA functions. It may disclose this material only if it is otherwise available to the public; or is in a statistical or summary form; or if the disclosure is for the purposes of the exercise of its functions or to any authority or equivalent body in any other country and the RBNZ is satisfied that it will be used only for the purpose of those functions.

There are sanctions (a term of imprisonment and a fine or both) for any employee of the RBNZ (or an investigator) who makes disclosures not permitted under IPSA. Decisions to disclose require authorization by a Governor or Head of Department.

The FMA and its staff are subject to requirements to maintain the confidentiality of supervisory information under the FMA Act that are similar to those in the RBNZ Act. In particular, they must not disclose information and documents supplied or disclosed to, or obtained by, the FMA under any financial markets legislation (FMA Act section 59). The provisions for disclosure, including for the purposes of cooperation with other authorities, are similar to those for the RBNZ. The FMA must be satisfied that appropriate protections are in place for maintaining the confidentiality of the information (FMA Act sections 59 and 30 and 31 in relation to sharing with other regulators).

### **Legal Protection**

Under IPSA section 230, officers, employees and directors of the RBNZ (as well as statutory managers and investigators appointed under the Act) and the RBNZ itself are not liable for an act done or omitted to be done in the exercise or performance in good faith of their functions, powers or duties under the Act. In addition, under section 231 the government indemnifies the same set of persons and the RBNZ for any liability that arises from the exercise of powers under the Act, unless shown to have been exercised in bad faith. The indemnity expressly extends to legal costs incurred in defending a proceeding.

The FMA is not liable for anything it may do or fail to do in the course of the exercise of its functions, powers, or duties, unless shown to have acted in bad faith or without reasonable care (section 22 of the FMA Act). No director or employee of the FMA, nor any delegate, is liable for anything that person may do or say or fail to do or say in the course of the operations of the FMA, unless it is shown that the person acted in bad faith.

### **Supervisory Resources**

The RBNZ's overall budget for PSD in 2015/16 was NZD9.6 million and the headcount was 54. There are ten staff, including a manager, allocated to the supervision of insurers, of whom two are actuaries. Other staff, in PSD's policy, enforcement and AML/CFT functions and in the General Counsel function, work on insurance as well as on other sectors regulated by the RBNZ (they are not specifically allocated to sectors).

The RBNZ acknowledges that resourcing is limited (in comparison with other regulators, taking into account the 96 licensed insurers), but notes that it reflects the supervisory approach with its emphasis on self-discipline and an absence of in-depth on-site supervision (ICP 9). Even the largest insurers do not have a single wholly dedicated supervisor.

The RBNZ sets its own remuneration policy and pay ranges and carries out an annual review that includes benchmarking with comparable jobs in other areas. PSD also has a budget for professional services (including consultants), and a training budget.

The FMA has a staff of 170 in total. As the FMA allocates resources according to functions, not all insurance activities are subject to licensing and the supervisory model is mostly reactive, there is no specific allocation to insurance sector work or monitoring of actual resource allocation by sector. The FMA's resources have been increased significantly to reflect its extended responsibilities. Recent activities have included work specifically on insurance sector issues (see ICP 19).

### **Integrity and Professionalism**

The RBNZ has a code of conduct and conflict of interest policy that applies to all staff. The code's requirements include that staff carry out their duties with integrity and behave honestly and lawfully. The conflict of interest policy requires that where conflicts cannot be avoided, they are notified to the Head of Department. There are specific rules on interests in or exposures to regulated entities. Breaches of the code of conduct or the conflict of interest policy can trigger action under the RBNZ's disciplinary policy for staff.

FMA staff are also subject to a code of conduct and requirements to disclose potential conflicts of interest.

### **Outside Experts**

The RBNZ may appoint:

- An actuary (section 46 of IPSA) to prepare an independent report on a transfer or amalgamation — the actuary must be a fellow of the NZSA or "the holder of an equivalent qualification approved by the Bank."
- Appoint an investigator under section 130(2)(b) which requires the person to be 'suitably qualified.' The RBNZ would look for an experienced insolvency or restructuring practitioner.

The Bank may also require (and has in practice required) an insurer to supply a report prepared by a person approved by the Bank (section 126). It seeks appropriate levels of independence from the specialists appointed on a case by case basis. For investigators appointed under section 130, confidentiality of information is explicitly covered in section 135 of the Act. In other cases, the RBNZ includes confidentiality provisions in contractual terms.

The FMA does not appoint external experts in relation to insurance supervisory functions (although it does use external legal resources). It would expect to include confidentiality provisions in contractual terms, were it to engage experts in the future (this has been the

	standard practice for contractors or secondees who carry out work at the FMA on other issues).
Assessment	Largely Observed
Comments	<p>The governance structure and decision-making processes are clearly defined for both the RBNZ and the FMA. There are transparent arrangements for the appointment and removal of the RBNZ Governor and members of the RBNZ and FMA Boards, although reasons for any dismissal do not have to be published (they are likely to be made public in practice).</p> <p>The regulatory framework is clearly set out in publications by government and the regulators. There is scope for publication of more detail on supervisory processes, approaches to the use of supervisory powers (such as the RBNZ's approach to imposing conditions of license in relation to minimum solvency); and more information on the insurance sector in aggregate, including distribution channels.</p> <p>The relationship between the RBNZ and government provides for supervisory decisions to be generally reserved for the Bank, excepting the appointment of a statutory manager, reflecting the severity of this form of regulatory intervention. While the RBNZ's main relationship with government is with the Minister of Finance, it also works alongside the Treasury and keeps Treasury staff informed on individual insurers, reflecting the events following the Canterbury earthquakes in particular. The FMA is protected from government intervention in supervisory decisions through its status as a Crown Entity. Its responsibilities and those of the MBIE and Commerce Minister for regulatory policy are clearly defined and differentiated.</p> <p>The adequacy of resources at both agencies needs to be reconsidered. The RBNZ's resourcing appears particularly limited, even taking into account its relatively low intensity supervisory model (ICP 9).</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The RBNZ and the Treasury review their 2012 MoU with a view to clarifying and constraining the circumstances in which information on individual insurer supervisory issues are reported by the RBNZ to the Treasury, limiting the exchange of information to clearly-defined cases of the Treasury's need and avoiding a risk of increased government involvement in supervisory work; any review of the MoU could also clarify the limits of the Treasury's involvement in the development of insurance regulation.</li> <li>• The RBNZ and the FMA review their resource needs, in the light of experience of their new regimes to date and taking into account the recommendations for enhancements to their current approaches in this assessment.</li> <li>• The RBNZ and the FMA jointly review the adequacy of current and proposed new published reporting on aggregate data and trends in the insurance sector, working with industry bodies as appropriate, to ensure the availability of appropriate information, for</li> </ul>

	use by policy-makers and private stakeholders.
<b>ICP 3</b>	<p><b>Information Exchange and Confidentiality Requirements</b></p> <p>The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose, and use requirements.</p>
Description	<p>RBNZ’s power to obtain information for the purpose of prudential supervision is wide-reaching under IPSA sections 121–132. It may compel information from a licensed insurer, its associated persons and any other person believed to possess such information. “Associated persons” is defined to include holding companies, subsidiaries, and any entity directly and indirectly having more than 50 percent voting rights, as well as entities that share common associated persons.</p> <p>The RBNZ may appoint a qualified person to carry out an investigation of the affairs of an insurer, or enter and search the insurer’s premise to obtain information.</p> <p>Domestically, the RBNZ and the FMA signed an MoU in 2011 establishing the basis of cooperation, promoting transparency, reducing an unnecessary duplication of effort, and identifying risks in the financial systems. At the operational level, the RBNZ and the FMA have collaborated in several cases, including analyzing an insurer’s claim cost information and queries to an external auditor.</p> <p>The CoFR has been established to share information, identify important trends and issues and ensure appropriate coordination arrangements are in place to respond to financial market events and developments. The RBNZ, FMA, Treasury, and MBIE are permanent members of the CoFR. The Council generally meets quarterly and the chair position rotates between the RBNZ and the FMA. The agenda of CoFR meetings includes regular updates on each agency’s work plan, risk assessment of all sectors, and mitigants.</p> <p>Internationally, the RBNZ may share information with any foreign authority with similar functions as the RBNZ provided that (a) the information is necessary for performing such functions and (b) the RBNZ is satisfied that necessary provision exists to protect the confidentiality of the information [IPSA sections 135(2)(d) and 135(3)]. The RBNZ does not require a formal information exchange agreement/understanding, nor does it insist on reciprocity, before it considers a request for information from a foreign authority. A request may be made orally for urgent cases, subject to written confirmation within 10 business days (except under the MoU with the U.K. PRA, where there is no provision on the timing of the written request).</p> <p>Owing to the dominant presence in the market of Australian insurers, the RBNZ has extensive cooperation arrangements with APRA (refer to ICP 26). The 2003 MoU on banking supervisory cooperation was extended to include insurance in 2012 following the expansion</p>

	<p>of the RBNZ's responsibilities. The MoU contains a general confidentiality clause. Except where it is compelled to do so by law, APRA is committed to consulting the RBNZ on the conditions under which it would forward confidential information obtained from the RBNZ. Should APRA be legally compelled to disclose the confidential information, it would notify the RBNZ and use best endeavors to preserve confidentiality of the information.</p> <p>The RBNZ is a signatory to the IAIS MMoU.</p>
Assessment	Observed
Comments	<p>New Zealand has adopted the twin peak supervisory approach and cooperation arrangements have been put in place between the RBNZ and FMA. It has a policy of openness to foreign entrants and its insurance market is in practice dominated by Australian insurers with insurers from a further eight countries represented in the market. In addition, one New Zealand-based insurance group operates in 30 countries, with 95 percent of total revenue derived outside New Zealand, mostly in Europe. Therefore, information exchange both domestically and internationally is important to the effectiveness of RBNZ's supervisory function.</p> <p>IPSA gives the RBNZ the power to obtain information and allows it to share information with other authorities with similar functions. Domestically, there is a formal avenue for relevant authorities to regularly share information. Internationally, the RBNZ has signed cooperation MoUs with its Australian and U.K. counterparts, and is a signatory to the IAIS MMoU. A formal agreement is not a precondition for information sharing.</p> <p>In practice, information exchange is mostly with Australian authorities under bilateral arrangements and supervisory colleges. The MoU with APRA specifies the procedures and conditions of information sharing. Sharing with other overseas authorities is infrequent, proportionate to the relative scale of operations outside of New Zealand and Australia, and is generally limited to fit-and-proper enquiries.</p>
<b>ICP 4</b>	<p><b>Licensing</b></p> <p>A legal entity which intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. The requirements and procedures for licensing must be clear, objective and public, and be consistently applied.</p>
Description	<p><b>Legal framework and scope of licensing requirement</b></p> <p>The licensing requirements are set out in IPSA, in particular:</p> <ul style="list-style-type: none"> <li>• Section 7 sets out a definition of a contract of insurance (and a set of transactions that are deemed not to be insurance for the purposes of the Act), and section 8 defines the meaning of carrying on insurance business in New Zealand.</li> <li>• Section 12 allocates the responsibility for issuing licenses to the RBNZ.</li> </ul>

- Section 15 requires that every person who carries on insurance business in New Zealand holds a license; and makes it an offence to carry out unlicensed business.
- Section 16 makes it an offence for a person who is not a licensed insurer to hold themselves out as being a licensed insurer.

Section 9 of IPSA allows the RBNZ to declare that a person is not carrying on insurance business under the Act where certain conditions are met, including that the person has entered into an “isolated contract of insurance,” or does so only occasionally or on a basis incidental or ancillary to a main business such that, in either case “requiring the person to obtain a license would, in the circumstances, be unduly onerous or burdensome.”

The RBNZ considers that these conditions will not easily or often be met and in practice it declined applications for declarations during the licensing round.

Under section 8(1)(a) of IPSA, foreign insurers fall within the requirement to be licensed by the RBNZ if they:

- have insurance contracts with New Zealand policyholders;
- are required to be registered under the Companies Act or they are “ordinarily resident in New Zealand”; and
- if under IPSA sections 8(1)(b) and (c), they are or have been acting as an insurer in New Zealand and are liable to New Zealand policyholders.

The RBNZ has given consideration to the scope of this requirement and assesses whether foreign insurers should be licensed on a case by case basis, where they are considered to be writing contracts of insurance with a New Zealand policyholder. It takes into account, amongst other factors, whether they have a place of business, staff or infrastructure in New Zealand; and whether they market insurance directly to New Zealand customers.

Given the formulation of the licensing requirement, some overseas insurers offering insurance contracts in New Zealand may be doing so without requiring a license. There are no data on how significant such business is (it may include significant wholesale business, including reinsurance).

There are no exceptions to the licensing requirement based on the size of the insurance business. There are “grandfathering” provisions in the legislation for smaller insurers which were in business at the time of IPSA’s enactment in 2010, but they extend only to exemptions, once the company is licensed, from certain IPSA regulatory and FMC Act reporting requirements, including the minimum capital and (for life insurance) statutory funds requirements (IPSA section 238 and Regulations 9 and 11 of the Insurance Prudential

Supervision Regulations). The business affected is immaterial.<sup>8</sup>

Crown entities subject to the Crown Entities Act 2004 are explicitly deemed not to be carrying out insurance business in New Zealand under section 8 (2)(a) of IPISA. These include the ACC and the EQC. Section 11 of IPISA clarifies that the Act, including the licensing requirement, applies to friendly societies and credit unions as if they were bodies corporate.

### **Licensing process**

The requirements and procedures for licensing and associated guidelines are available on the RBNZ's website (in particular "Conditions of license and licensing policies: Licensed insurers", May 2013) and the license application form can be obtained on request.

- The requirements for documentation to support an application are set out in the license application form and include: a profile of the proposed business, corporate structure, five-year business plans which includes projected New Zealand business volumes, and financial information and projections.
- Applicants must also provide a copy of a fit-and-proper policy (in accordance with IPISA section 34 – see ICP 5) and certify that directors and "relevant officers" (defined in IPISA section 6 as the Chief Executive Officer, the Chief Financial Officer and the Appointed Actuary) are fit-and-proper persons to hold their respective positions.

Applications are handled by the RBNZ's insurance supervision team (there is no separate licensing function), using a documented approval process, which emphasizes, for example, the need for identification of any gaps in the application materials. There is no statutory requirement for decisions to be made within a set time period, but the RBNZ has committed itself to a six-month period for deciding on applications (expressed as a final decision within six months of receiving full information on all relevant criteria). It met this standard in practice in the licensing round that followed the enactment of IPISA.

The matters over which the RBNZ must be satisfied are set out in section 19 of IPISA, and include:

- The applicant's incorporation and ownership structure, governance structure and financial strength are appropriate.
- Its ability to maintain a minimum amount of capital set out within an applicable solvency standard.
- Its ability to comply with proposed conditions of license (that include requirements to maintain a minimum solvency margin for New Zealand incorporated insurers).

<sup>8</sup> A key threshold is annual gross premium income of less than NZ \$1.5 million; once this threshold is breached, the exemption is permanently withdrawn.

The RBNZ's guidance on licensing elaborates extensively on its approach to these and the other matters to which it has regard, including the adequacy of the applicant's risk management program and its assessment of whether the insurer is carrying on business in a prudent manner (as required by section 22 of IPSA).

The RBNZ has refused to issue licenses in cases discussed with the assessors.

A register of licensed insurers in New Zealand is maintained on the RBNZ website, as required by section 54A of IPSA. It shows the current status of the license or when the company closed (and whether it is in run-off). It does not identify other details of the insurer such as whether the insurer is an overseas person (branch). However, any exemptions which may apply (for overseas persons or smaller insurers) are listed under a separate page on the RBNZ website.

### **Licensing conditions**

Under section 21 of IPSA, the RBNZ may issue a license subject to conditions, which (under section 22) may be imposed, modified or revoked at any time subject to notification requirements. The internal decision-making process for such conditions is similar to other licensing decisions. Conditions on licenses typically are used:

- To impose a generally applicable requirement over and above what is laid out in IPSA—most significantly in practice, a condition that directors annually certify to the insurer's compliance with all regulatory requirements matters: this is a standard condition of license.
- To direct insurers to apply the solvency standards (life, non-life, variable annuity, etc.) appropriate to the business they are undertaking; a condition of license is also used to require the insurer to notify the RBNZ if it proposes to carry on other types of insurance not covered by the solvency standard it has specified (see below and ICP 17).
- To require individual insurers to hold an additional capital buffer (solvency margin) above the level of the standard solvency buffer (for example, this has been done in the case of a small number of insurers exposed to high levels of claims and uncertainties relating to the Canterbury earthquakes of 2010–2011).

Licenses under IPSA do not generally authorize an insurer to undertake specific classes of business (variable annuity business is an exception as explicit authorization is required). An insurer may write both life and non-life business within the same legal entity, subject to the requirement that life insurance business must be undertaken in a statutory fund, although an exemption is available to the statutory fund requirement where the gross premium derived from life policies is less than NZD 1.5 million (see ICP 17). License conditions are used to specify which solvency standards apply.

The RBNZ may (under IPSA section 22) impose a condition that a specified amount or

proportion of the insurer's insurance business relates to New Zealand policyholders. It has not imposed such a condition in practice.

Conditions of license are not shown on the RBNZ's register of licensed insurers. They may be disclosed by insurance companies themselves.

### **Branches and subsidiaries of foreign insurers**

IPSA section 19(j) sets out issues on which the RBNZ must be satisfied before granting a license to an overseas person (a foreign body corporate incorporated outside New Zealand).

It must be satisfied that:

- The law and regulatory requirements of the applicant's home jurisdiction are at least as satisfactory as the law and regulatory requirements of New Zealand, having regard to whether they achieve the purposes of IPSA.
- The nature and extent of prudential supervision that applies to the applicant (and to insurers generally in the applicant's home jurisdiction) are similarly appropriate.

However, the RBNZ is also required (under section 19(4)) to treat home country laws, regulatory requirements and prudential supervision as appropriate, if the jurisdiction is prescribed in the Insurance Prudential Regulations, Regulation 5. Prescribed jurisdictions are currently: Australia, Bermuda, France, Germany, India, Japan, the Netherlands, the U.K., and the U.S. states of Delaware, Illinois, and Indiana. These are the home jurisdictions of the currently licensed branches of overseas insurers.

Decisions on the inclusion of a jurisdiction place particular emphasis on whether the RBNZ has accepted that solvency requirements are equivalent to its own. Reviews of jurisdictions were carried out in the context of the licensing round. The RBNZ's 2013 guidance on licensing states that it does not require a detailed matching for equivalence of each of the law and regulatory matters set out in section 19 of IPSA, but makes an overall assessment, taking into account core standards and those where the overseas jurisdiction has higher standards and those that are considered to be lower.

Insurers operating as branches in New Zealand, whether or not they are from jurisdictions set out in Regulation 5, may be granted waivers from certain requirements, including the RBNZ's solvency standards (section 59 of IPSA). In practice, all overseas non-life insurers and Australian life insurers have been granted such an exemption and the insurers concerned are listed on the RBNZ website.

In the case of both overseas persons (branches) and subsidiaries of foreign insurers, the RBNZ has consulted with the overseas supervisor—extensive experience was accumulated in the licensing round that followed the enactment of IPSA. In practice, discussions have covered issues such as the adequacy of capital in the company and the capacity of the parent

	<p>to provide financial support.</p> <p>In the case of an overseas insurer seeking to conduct cross-border insurance without a physical presence, the RBNZ considers whether the business falls within the scope of the section 8 definition of carrying on insurance business in New Zealand (see above). It will take into account the legal advice received by the insurer and take internal legal advice and consult with the home supervisors, as appropriate.</p>
Assessment	Largely Observed
Comments	<p>The licensing requirements set out in IPSA are clear and comprehensive, as is the guidance which the RBNZ has issued on its interpretation of the legislation, drawing on its experience of licensing the population of insurers when IPSA came into effect. A number of applications were rejected or exited the market in this process, others withdrawn and some deterred as the RBNZ's approach developed.</p> <p>The legislation is framed in ways which give the RBNZ discretion to determine the scope of its licensing requirement, particularly in relation to overseas insurers.</p> <p>A focus of the legislation and of RBNZ's licensing work has been on foreign insurance companies. The policy approach is to be accommodating towards such companies and in the case of branches, the RBNZ states that it has regard to the benefits of an overseas insurer's presence in the New Zealand market when assessing the home country's regulatory regime. A relatively wide range of jurisdictions have been listed in the regulations as having regulatory and supervisory arrangements equivalent to New Zealand. The RBNZ has licensed insurers with particularly high levels of business overseas, which poses challenges to effective supervision.</p> <p>It is recommended that the RBNZ:</p> <ul style="list-style-type: none"> <li>• Review the approach to licensing of overseas insurers to ensure an appropriate balance between attracting foreign involvement and applying a rigorous test of the equivalence (and readiness to cooperate in practice) of foreign jurisdictions.</li> <li>• Review, in that context, the requirement in IPSA section 19(4) on the RBNZ to treat home country regulation and supervision as appropriate, if the jurisdiction is prescribed in the regulations and/or the list of jurisdictions in the current regulation.</li> <li>• Review, with other authorities and the industry, the extent and risks of insurance cover provided to consumers from abroad and whether any change is required in the scope of the licensing requirement or any other changes in regulation.</li> <li>• Develop a policy for the use of IPSA powers to restrict the amount or share of total business which insurers may write outside New Zealand.</li> </ul>

<b>ICP 5</b>	<p><b>Suitability of Persons</b></p> <p>The supervisor requires Board Members, Senior Management, Key Persons in Control Functions, and Significant Owners of an insurer to be and remain suitable to fulfil their respective roles.</p>
Description	<p>Section 34 of IPSA requires that licensed insurers are to be subject to a fit-and-proper policy for directors and relevant officers—i.e., that insurers must have and apply such a policy in accordance with the fit-and-proper standards that may be issued by the RBNZ under section 36. The RBNZ does not itself approve individuals to hold positions, although it may require their removal (see below and ICP 11).</p> <p>Section 6 of IPSA defines relevant officers as the chief executive officer, chief financial officer, and the Appointed Actuary. In the case of an overseas insurer, they are the same functions, but for the New Zealand business only (i.e., the branch and not the whole company).</p> <p>The RBNZ's approach does not apply to key persons in control functions other than the Appointed Actuary. Insurers are not required to have control functions for risk, compliance, or internal audit (see ICP 8). See below on significant owners.</p> <p>Under section 34, the insurer's fit-and-proper policy must clearly specify the qualifications, requirements, and other criteria for a position, taking into account the RBNZ's fit-and-proper standards. The policy must cover criteria for appointment and for continuing to hold a position. Changes to a fit-and-proper policy require approval by the RBNZ.</p> <p>Under section 37, insurers must provide a fit-and-proper certificate for directors and relevant officers no later than 20 working days after their appointment stating that the appointment complies with the insurer's policy. (There are also extensive IPSA certification requirements at time of licensing.) The director/relevant officer must also provide a certificate. The RBNZ may also at any time issue a notice requiring an insurer to certify to the fitness and propriety of directors or relevant officers (section 37(2)).</p> <p>Regulation 6 of the Insurance (Prudential Supervision) Regulations 2010 requires fit-and-proper re-assessments of all directors and relevant officers at least every three years. If an individual is no longer considered fit-and-proper, the insurer is expected to take appropriate action.</p> <p>Section 38 of IPSA allows the RBNZ to exempt overseas insurers from the certification requirement in respect of directors, where satisfied that the law or regulatory requirements of the home jurisdiction in relation to fit-and-proper persons are equivalent (approved jurisdictions). They have done so in practice for all branches of overseas entities.</p>

**RBNZ's fit-and-proper standards and guidelines**

Issued under section 36 of IPSA, the RBNZ's Fit-and-Proper Standard requires that an insurer's fit-and-proper policy consider a variety of criteria that would provide indicators of a lack of fitness or of poor character, whether personal behavior or business conduct. The standards are supplemented by Fit-and-Proper Policy Guidelines which state that skills and experience required by each director and relevant officer depend upon that person's role.

The RBNZ's Guidelines set out, inter alia:

- Qualification requirements in the case of the Appointed Actuary, who must be a Fellow of the New Zealand Society of Actuaries (or the holder of an equivalent qualification approved by the RBNZ by notice to an insurer); the Appointed Actuary must also have sufficient skills and background in order to ensure they are appropriate for the position.
- Appropriate experience and qualifications expectations for other positions. For example, for CFOs, an appropriate accounting or finance qualification, although this is the choice of the insurer, to be set out in its Fit-and-Proper Policy.

**Significant Owners**

Suitability requirements apply to owners as part of the IPSA section 19 licensing requirements, under which the RBNZ must be satisfied as to the applicant's incorporation and ownership structure, ownership, governance structure, and financial strength. The required details on ownership structure go up to any ultimate owners, including beneficial owners, of 5 percent or more of the voting rights of the insurer.

There are also requirements (IPSA section 26) on the RBNZ to be satisfied over the matters covered in the licensing requirements, including in relation to ownership, in cases of a proposed change in control, although control in this case is defined as 50 percent or more of the voting rights (see ICP 6).

There are no-going requirements in relation to the suitability of significant owners.

There is no specific fit-and-proper requirement in IPSA for the Reserve Bank to be advised of resignations of directors/relevant officers.

The RBNZ has various enforcement powers in relation to individuals (see ICP 11), including power to remove directors/relevant officers from a date specified by the Bank if there are reasonable grounds to believe that they are not a fit-and-proper person to hold the relevant position. The RBNZ has not used this power.

**Exchanges with other regulators**

The RBNZ's Fit-and-Proper Guidelines create an expectation that an insurer's fit-and-proper

	<p>policy contains adequate provisions to encourage disclosure to the insurer and/or the RBNZ, of information that may be relevant to a fit-and-proper assessment. The Guidelines also require policies to have adequate provisions to cover the giving and obtaining of any consents required for the collection and use of any personal information by the insurer and by the RBNZ. Such consents allow the RBNZ to approach other regulators, both domestic and foreign.</p> <p>In practice, the RBNZ has exchanged information on individuals with other supervisors, within New Zealand and overseas.</p>
Assessment	Largely Observed
Comments	<p>The legislation has established a clear framework for suitability, under which insurers themselves are held responsible for developing and implementing a policy on fit-and-proper requirements and certifying to the RBNZ that new appointments comply with the policy. The RBNZ therefore exercises extensive oversight of suitability of key persons, without going as far as prior approval for key individuals for particular roles. It may, however, seek to meet with key new appointments before they take office.</p> <p>The scope of the requirements does not extend, however, beyond directors, CEO, CFO and Appointed Actuary (this limitation is reflected more fully in the assessment of ICP 8). There is extensive scrutiny of significant shareholders at the licensing stage and, in respect of controlling shareholders, in case of changes in control, but no ongoing requirements on their suitability.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The legislation and/or the RBNZ standards be amended in due course to: <ul style="list-style-type: none"> <li>– Extend the scope of the individuals covered by the fit-and-proper framework, ideally in conjunction with the introduction of requirements for insurers to create a full range of control functions (see ICP 8).</li> <li>– Establish an ongoing requirement on the suitability of significant owners, adopting an appropriate definition that would capture those with interests below 50 percent as well as shareholder controllers themselves, ideally aligned with the approach to approval of changes in control (ICP 6).</li> <li>– Create an explicit expectation that insurers notify the RBNZ of significant issues affecting the suitability of key persons as and when they occur, in between the reassessments that are required every three years.</li> </ul> </li> <li>• The RBNZ build into their supervision framework (for example, in the supervisory plans of selected institutions or via thematic work) increased oversight of the quality and completeness of insurers' fit-and-proper policies and their implementation in practice.</li> </ul>

<p><b>ICP 6</b></p>	<p><b>Changes in Control and Portfolio Transfers</b></p> <p>Supervisory approval is required for proposals to acquire significant ownership or an interest in an insurer that results in that person (legal or natural), directly or indirectly, alone or with an associate, exercising control over the insurer. The same applies to portfolio transfers or mergers of insurers.</p>
<p>Description</p>	<p><b>Changes in control</b></p> <p>Section 26(2) of IPSA requires the RBNZ to be notified before a change in control of an insurer can take place (and where a person would become a holding entity of the insurer). Section 28 requires the RBNZ to be satisfied that all the requirements of licensing are able to be met following a proposed change in control.</p> <p>The RBNZ has received and considered a number of changes of control since IPSA came into effect. Internal guidelines elaborate on supervisory processes for handling changes of control.</p> <p>Section 27 of IPSA requires that the RBNZ be notified before an insurer's corporate form is changed (for example, a change of a mutual company to a stock company or vice versa). The same provisions then apply on how the RBNZ is to assess the proposed transaction. (One insurer has changed from a New Zealand corporation to an Australian branch, mainly on account of the fact that 95 percent of its business was based in Australia.)</p> <p>'Control' is defined in section 26(4) of IPSA as 'a person who has the power, directly or indirectly, to exercise, or control the exercise of, 50 percent or more of the voting rights of the insurer; or has, together with one or more specified persons, the power, directly or indirectly, to exercise, or control the exercise of, 50 percent or more of the voting rights in the insurer.' IPSA does not define control in terms of powers to appoint or remove directors or volume of shares held regardless of voting rights.</p> <p>Control includes both direct and indirect power to exercise or control the exercise of 50 percent or more of the voting rights. Sections 26 to 28 apply to an acquisition or change of control where the intermediate or ultimate beneficial owner is outside New Zealand (or the home jurisdiction of a branch), details of which must be submitted on notification. The RBNZ requests insurers to provide a list of other regulatory approvals that must be obtained in relation to the change of control, and contact details for regulators; and it coordinates, as necessary, with those supervisors.</p> <p>Section 28 requires the RBNZ, on notification of a proposed change of control, to consider whether it is satisfied that the insurer still meets licensing requirements in light of the change in control. The legislation does not require the RBNZ to approve the proposed controller or the transaction itself. The assessment criteria for the proposed change of control are the same as for a new license (ICP 4).</p>

There is no requirement for the RBNZ to be notified or to assess changes in ownership that fall short of a change in control as defined in IPSA. The RBNZ may still take a view on changes in significant owners (those with significant interests but which fall below the 50 percent threshold for control), but is under no obligation to do so and there are no requirements on how to make its assessment.

After receiving a change of control notice, including all of the information required, the RBNZ has 20 working days to give written notice of the decision together with a statement of reasons.

IPSA does not require the RBNZ to be notified if there is a significant decrease below the 50 percent level of control.

### **Portfolio transfers**

IPSA section 44 (1) requires a licensed insurer to obtain the written approval of the RBNZ giving effect to a transaction that involves the transfer of all or part of the insurer's insurance business to another person (in the case of an overseas insurer, the requirement applies to transfers of all or part of the New Zealand insurance business only). Transfers of reinsurance business are covered by the requirements.

Section 48 of IPSA requires the RBNZ to consider, before approving (or refusing approval of) the transaction:

- The ability of the transferee to comply with the ongoing prudential requirements on insurers under IPSA, including the statutory funds requirements for life business.
- The interests of the policyholders of the insurers that are parties to the proposed transfer or amalgamation.
- Any other matter the Bank considers relevant.

Supervisors draw on internal guidance in their consideration of matters which include financial and nonfinancial resources. Key parts of the process are:

- The actuarial review: under section 46 of IPSA, the RBNZ may arrange for an independent actuary (or any other suitably qualified person) to report on a proposed transfer. In practice, RBNZ have required independent actuarial reports in the set of material which must be provided to support the application for approval. The actuary's report must include consideration of the impact on policyholder interests.
- Consultation with policyholders: the RBNZ requires applicants to consult with policyholders as part of the transfer process and that the notification period be a minimum of three weeks.

	<ul style="list-style-type: none"> <li>• RBNZ assessment of the impact on policyholders: this draws on a summary of policyholders' views on the proposed transfer.</li> </ul> <p>The RBNZ has 20 working days to make a decision after it has received all required information and the independent actuary report (or any other required report). The RBNZ may give its approval to a transfer unconditionally or subject to conditions, which may relate to section 20 requirements on carrying on business in a prudent manner). It has considered many applications. It has not had to reject any as yet.</p>
Assessment	Partly Observed
Comments	<p>The legislation requires notification of changes in control and proposed portfolio transfers to the RBNZ, which must either assess whether the insurer would continue to satisfy the requirements for licensing in case of the change of control; or must approve the transaction in the case of a transfer.</p> <p>The threshold for the definition of control in IPSA is high, particularly in relation to prevailing international practices, which define control more broadly or focus the approval requirement on significant owners rather than just majority shareholders. The RBNZ is concerned to limit the need for notification, and the evaluation it must then carry out, to the most significant (and high risk) transactions, taking into account the high participation of foreign insurers in the market and the important role of the home supervisor in approving the change of control at the parent level (or above). However, the approach does expose the RBNZ to the risk that potentially detrimental or destabilizing changes in significant owners take place, for domestic insurers, without its knowledge, depriving it of the ability to take a view and any required action, at least at an early stage.</p> <p>The RBNZ has received a large number of applications for approval of transfers under IPSA, reflecting consolidation in the insurance sector. Although policyholder protection is not an objective of the RBNZ under IPSA, it must base its decisions on portfolio transfers primarily on its assessment of the impact on policyholders, drawing on actuarial input.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• IPSA be amended to extend the requirements on changes in control to require notification of shareholder changes which involve a lower level of ownership (shares or voting rights) or which otherwise carry with them the right to appoint one or more directors.</li> <li>• An approval process (rather than a reevaluation of licensing requirements) also be considered, as well as powers to disenfranchise unsuitable shareholders, if consistent with the general New Zealand law framework.</li> </ul>

	<ul style="list-style-type: none"> <li>The RBNZ develop a risk-based approach to carrying out assessments, enabling it to undertake, for example, a reduced level of work where a home supervisor is involved, consistent with its general approach to overseas insurers.</li> </ul>
<b>ICP 7</b>	<p><b>Corporate Governance</b></p> <p>The supervisor requires insurers to establish and implement a corporate governance framework which provides for sound and prudent management and oversight of the insurer's business and adequately recognizes and protects the interests of policyholders.</p>
Description	<p><b>Legal Requirements</b></p> <ul style="list-style-type: none"> <li><b>Governance</b></li> </ul> <p>Section 19 of IPSA specifies that the RBNZ should take into account the ownership structure, ownership, governance structure, and financial strength etc. in assessing an insurance license application. The RBNZ has closely scrutinized the governance structure during its licensing exercise completed in 2013.</p> <p>Section 21 of IPSA allows the RBNZ to issue license conditions relating to the insurer's ability to carry on business in a prudent manner. Section 20 of IPSA restricts the RBNZ's consideration of "prudent management" to:</p> <ul style="list-style-type: none"> <li>Financial and human resources in relation to the size and nature of the business.</li> <li>Internal controls.</li> <li>The size and type of insurance risk carried.</li> <li>Reinsurance arrangements.</li> <li>Non-insurance activities and their impact on solvency.</li> <li>Nature and extent of related party transactions.</li> </ul> <p>Every insurer's license (see ICP 4) contains a condition that directors must provide an annual certification to the RBNZ that, among other things:</p> <ul style="list-style-type: none"> <li>There are systems in place to ensure compliance with law, regulations, and standards.</li> <li>Financial information lodged with the RBNZ has been prepared in accordance with the solvency standard and other legal financial reporting requirements.</li> <li>Financial information lodged with the RBNZ and provided to the actuary and auditor is accurate and complete.</li> <li>The solvency return lodged with the RBNZ is prepared in accordance with the relevant solvency standards, and is accurate and complete.</li> </ul> <ul style="list-style-type: none"> <li><b>Fit-and-Proper</b></li> </ul> <p>Consistent with the self-discipline principle, IPSA requires an insurer or a group of insurers to have an internal fit-and-proper policy for its directors and "relevant officers," defined as chief executive officer, chief financial officer and the Appointed Actuary. Section 37 of IPSA requires a fit-and-proper certification for new directors and relevant officers within 20</p>

working days of appointment. Section 6 of the Insurance (Prudential Supervision) Regulations requires the insurer to re-assess the fit-and-proper nature of its directors and relevant officers at least once every three years. Section 39 gives the RBNZ the power to remove directors and relevant officers if it considers them no longer fit-and-proper. (See ICP 5 for more details.) Regulations require ongoing re-certification every three years.

The RBNZ issued Fit-and-Proper Standards pursuant to its power under section 36 of IPSA in 2011 to clarify the expected content of the internal fit-and-proper policies. Material changes to such policies are subject to RBNZ approval. (Refer to ICP 5.) These requirements focus on professional qualification, disclosure of financial distress and past wrongdoings, rather than the duties and responsibilities of key individuals, although directors are subject to the general requirements under the Companies Act.

- **Risk Management**

Section 73 of IPSA requires each insurer to have a risk management program that is in writing, appropriate to the nature of its operation, and regularly review to identify and address deficiencies. The program should specify procedures to address insurance risk, credit risk, liquidity risk, market risk, operational risk, and any other risks specified in regulations.

#### **RBNZ Guidelines**

RBNZ has issued a number of guidelines to clarify the intention of IPSA. These guidelines do not have the force of law.

- **Governance Guidelines**

The RBNZ issued its Governance Guidelines in 2011, to set out its expectation with regard to:

- Governance structure: effective oversight, separation from ownership, access to information.
- Board composition: sufficient size (minimum two) and skillset, transparent methods of nomination and appointment, policy on resolving conflict of interest.
- Independence: at least half of the board should be independent and the chairman of the board should be independent.
- Qualifications and experience: collectively the board should have a full range of skills, knowledge, and experience to manage the business.
- Board committees: a separate audit committee with majority independent directors, other committees depending on size and type of business.

Paragraph 2 of the Guidelines states that the Guidelines is not a comprehensive guide to sound governance for licensed insurers and that insurers should look to OECD principles, IAIS ICPs and New Zealand corporate governance code of listed entities for additional guidance. For example, the accountability of the board and the senior management is not discussed in the Governance Guidelines, but is one of the areas assessed in a 2014 thematic review of risk governance. The RBNZ intends to use the scope of the thematic review to provide further

guidance on the governance standard.

There are no expressed expectations on governance relating to the parents of branches operating in New Zealand.

- ***Risk Management Program Guidelines***

The RBNZ issued Risk Management Program Guidelines in 2010 to clarify how the risk management requirements of IPSA should be interpreted and to provide indicative examples of the issues to consider in the risk management program, such as documentation; roles and responsibilities of various parties; information flows; contingency plans, etc. (see ICP 8). The RBNZ also expects an insurer to review its risk management program regularly.

The RBNZ expects the responsibilities of the board relating to risk management to include:

- The solvency, capital adequacy and liquidity of the insurer.
- Establishing risk tolerances and defining and communicating risk tolerances in a meaningful way.
- Approving the reporting requirements, policies, procedures and controls.
- Monitoring the risk exposures of the insurer to check that they are consistent with established risk tolerances.
- Monitoring the insurer's compliance with legal requirements and the insurer's policies and procedures.
- The insurer's policy on managing conflicts of interest.
- Ensuring that any exposures to, and transactions with, related parties are on arm's length terms and conditions.

The RBNZ conducted a thematic review of the quality of risk governance in 17 insurers in 2014. The scope was broader than that of the guidelines. A report was published in February 2015. The methodology consisted of a desk based review of the insurer's documented risk management framework, followed by two interviews with (a) the CEO and relevant executives and (b) the chair of the board risk committee. Out of seven aspects of risk governance reviewed,<sup>9</sup> areas in which at least three insurers are assessed to be weak are: incentives, independent assessment of risk frameworks, communication and challenge, and risk management function. Overall, the RBNZ noted that:

"Whilst we are encouraged by the overall quality of risk governance and there are some examples of reasonably strong risk governance in place, we also came across examples of weak risk governance combined with a lack of awareness of weaknesses."

- ***Prudent Management Guidelines***

The Guidelines were issued in 2011 to give further clarification of the criteria mentioned in

<sup>9</sup> (1) Board responsibilities and practice, (2) firm-wide risk management function, (3) independent assessment of risk management framework, (4) tone from the top, (5) accountability, (6) effective communication and challenge, and (7) incentives.

	<p>section 20 of IPISA. The Guidelines did not expand on the respective accountability of the board and management.</p> <p><b>Other Areas of Governance</b></p> <p>There are no expressed requirements or expectations relating to the board's responsibility over culture and strategy (ICP 7.2), remuneration policy (ICP 7.6), and external audit (ICP 7.8).</p>
Assessment	Partly Observed
Comments	<p>The effectiveness of governance is a linchpin to the RBNZ's supervisory emphasis on self-discipline. Ensuring that the governance framework of each insurer is appropriate and effective should be an ongoing supervision concern, beyond the initial licencing stage. The current framework is less comprehensive and binding compared to the ICP. More importantly, the outcome of the 2014 thematic review of risk governance (which is a subset of overall corporate governance) underscores the importance for the RBNZ to provide clear and comprehensive articulation of the RBNZ's expectation with regard to governance to ensure consistent understanding and improve quality of governance. For example, the existing Guidelines could be expanded to the respective accountability of the board, management and key control functions; board's responsibility over culture and strategy; etc.</p> <p>The FMA has issued a handbook on <i>Corporate Governance in New Zealand: Principles and Guidelines</i> for listed issuers, issuers of other securities, state-owned enterprises, community trusts, and public sector entities. The governance standard applied to insurers should be no less stringent than that applied to securities issuers because of the public fund-collection nature of the insurance business.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The RBNZ use the FMA Corporate Governance Principles as a baseline, and strengthen (or introduce) areas where higher standards are deemed appropriate. For example, the FMA handbook requires the boards of public companies comprise of minimally one-third of independent directors. The RBNZ can raise it to one-half for insurers (as it already does in the Governance Guidelines). Another example is in reporting and disclosure. Due to the regulated nature of the insurance industry, RBNZ can add additional regulatory reporting to the scope.</li> <li>• Given the wide variation in the size and nature of insurance operations, it is not practical to prescribe a one-size-fits-all governance standard. The RBNZ could consider adopting a two-tiered approach, by issuing legally binding regulations (it needs additional legal power to do so) for key governance requirements (such as board composition and accountability), and non-binding guidelines for others (such as board committees).</li> <li>• Design an ongoing monitoring strategy to give the RBNZ the necessary comfort of ongoing effective self-discipline. An in-depth understanding of each insurer's governance structure and its effectiveness should be incorporated into the RBNZ's</li> </ul>

	ongoing supervision, in addition to periodic thematic reviews on a selective basis.
<b>ICP 8</b>	<p><b>Risk Management and Internal Controls</b></p> <p>The supervisor requires an insurer to have, as part of its overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial matters, and internal audit.</p>
Description	<p>The legal requirements and the RBNZ's expectation on risk management and internal controls are embedded in the following:</p> <ul style="list-style-type: none"> <li>• Section 73 of IPSA requires every licensed insurer to have a risk management program, and specifies the scope of the program.</li> <li>• Section 18 of IPSA requires a license applicant to provide a risk management program meeting section 73 requirements.</li> <li>• Section 19 of IPSA requires a license applicant to demonstrate that it is able to carry on insurance business in a prudent manner.</li> <li>• Section 20(2) of IPSA specifies that internal controls is one of the factors that the RBNZ must consider in assessing the insurer's ability to carry on business in a prudent manner.</li> <li>• Section 21(2)(a) indicates that meeting the section 20 prudent management requirement may be one of the conditions of the insurance license.</li> <li>• The RBNZ has issued guidelines on its expectation with regard to the risk management programs, and carrying on business in a prudent manner.</li> <li>• Sections 76–78 of IPSA require a licensed insurer to appoint an actuary and the actuary must prepare an annual actuary's report relating to financial statements.</li> </ul> <p><b>Systems for Risk Management and Internal Controls</b></p> <p>Section 73 of IPSA requires insurers to establish a risk management framework that is appropriate to the nature and scale of their operations. The framework should address all material risks and this must include consideration of the specified risks listed in the legislation: insurance, credit, liquidity, market, operational, and any other risks prescribed by regulation. IPSA also requires the RBNZ to consider an insurer's internal controls in assessing its ability to carry on business in a prudent manner at the licensing stage.</p> <p>The RBNZ expects a risk management program to cover all activities that expose the insurer to threats to its financial security. The "Risk Management Programme Guidelines" include an indicative list of elements and expectations:</p> <ul style="list-style-type: none"> <li>• A documented risk management program.</li> <li>• Comprehensive enough to capture all material risks to which the licensed insurer is exposed.</li> </ul>

- The roles and responsibilities for people who accept risk and manage risk.
- Information flows between operational staff and senior management.
- A system exists to address any exceptions, or observed instances of non-compliance.
- Contingency plans.
- A process for reviewing risk management systems, policies and procedures on an ongoing basis.
- The Risk Management Programme is linked to the solvency policy which includes its policy on the amount of capital required to provide a buffer against losses arising from unanticipated events.

Subsequent to assessment at licensing stage, the RBNZ's ongoing monitoring to date has been limited to ensuring that the insurer's risk management framework on file is current, and one thematic review of risk management functions of 17 insurers in 2014.

Through its guidelines on the interpretation of the section 20 requirement on carrying on business in a prudent manner, the RBNZ has clarified that "internal controls" refers to operationalized risk management that is embedded in day-to-day business practice, and that internal controls are concerned with preventing errors, ensuring legal compliance, and generally controlling quality. Issues that may be considered include:

- Management of information.
- Security of information systems, data storage (soft and hard copy), security of premises and the protection of functionality of information technology.
- Access to confidential information, storage of client data, transport of data, and destruction methods used for confidential data.
- Internal audit procedures and assessment of policy against practice.
- Financial system controls including appropriate accounts reconciliation and auditing.
- Expense management.

#### **Actuarial Function**

IPSA section 76 requires every insurer to have an Appointed Actuary who must be either a Fellow of the NZSA or holding an equivalent professional qualification approved by the RBNZ. The Fit-and-Proper Guideline indicates that, given the Appointed Actuary's position, the insurer should consider whether there is a risk that his independent professional judgement may be unduly influenced.

IPSA requires the Appointed Actuary to review the actuarial information contained in, or used in the preparation of, the financial statements or group financial statements of the insurer.

The Appointed Actuary is to provide a report to the RBNZ stating, among other things, whether:

- The actuarial information contained in the financial statements and any group financial statements has been appropriately used and included in those statements (and if not, the respects in which it has been inappropriately included).
- The insurer is maintaining the statutory solvency margins.

The solvency standards require the Appointed Actuary to prepare a Financial Condition Report that, amongst other things, provides the actuary's comment on:

- The material risks facing an insurer that pose a threat to the ability of the insurer to maintain a solvency margin and the management of these risks.
- Any contingent liabilities not included in the financial statements.
- The adequacy of the Resilience Risk Capital charge, including the risks involved in assets and liabilities mismatches.
- Assumptions used in calculating the solvency margin.
- Sensitivity of solvency margin to various assumptions.
- Reinsurance arrangements.

Section 80 of IPSA specifies that the Appointed Actuary must have reasonable access to the accounting records and other documents of the insurer to carry out his duties.

### **Compliance and Internal Audit Functions**

The RBNZ's expectations on control functions depend on the size and type of the insurer's business. There are no requirements that insurers must have dedicated internal audit or compliance functions. In the absence of dedicated control functions, insurers may rely on other suitably skilled and senior internal resource and/or external expertise. Correspondingly, there is no requirement on independence, authority and resources for these functions.

There are no specific triggers for insurers to provide the RBNZ with information on the appointment, assessment or dismissal of the heads of control functions —unless they are considered to be a Relevant Officer (CEO, CFO, and Appointed Actuary) under the Act.

### **Outsourcing**

The RBNZ has not established a specific policy regarding outsourced functions. Outsourcing is therefore considered within the general requirements of the risk management framework and the requirements for insurers to operate in a prudent manner.

	<p>As part of the assessment of an insurer's ability to carry on business in a prudent manner at licensing stage, the RBNZ considers the use of outsourcing, outsourcing policy, and management in evaluating the applicant's human resource adequacy. An applicant is required to include details of its major outsourcing providers and what activities they are employed in for the RBNZ's assessment. Considerations include, for example, suitable business continuity arrangements to be in place should any outsourcing fail. Subsequent to licensing, there has been no ongoing the RBNZ review of new, or changes in the existing, outsourcing arrangements.</p>
Assessment	Partly Observed
Comments	<p>The legal requirements on risk management and internal controls are less prescriptive and legally binding than what the ICP requires. It is noted that the risk management framework and prudent manner of operation are subject to rigorous assessment at the licensing stage.</p> <p>While the requirement for, and responsibilities of the Appointed Actuary are specified in the primary legislation and solvency standards, there are no explicit binding requirements for insurers to have other control functions (risk management, compliance, and internal audit). There is also a lack of clear indication of insurer's responsibility for outsourced functions.</p> <p>It is recommended that the RBNZ:</p> <ul style="list-style-type: none"> <li>• Require the establishment of dedicated risk management, compliance, and internal audit functions. To reduce the burden on smaller insurers, some of these functions may be outsourced.</li> <li>• Issue an outsourcing standard, incorporating its consideration and assessment methodology used at licensing stage, and setting out the insurer's oversight responsibility and accountability for outsourced functions.</li> <li>• Incorporate an assessment of the effectiveness of the insurer's risk management framework into its ongoing supervisory process. To ensure consistency in compliance, the RBNZ should also strengthen the enforceability of its risk management requirements (see ICP 1 on the scope of the RBNZ's powers to issue directly enforceable standards).</li> </ul>
<b>ICP 9</b>	<p><b>Supervisory Review and Reporting</b></p> <p>The supervisor has an integrated, risk-based system of supervision that uses both off-site monitoring and on-site inspections to examine the business of each insurer, evaluate its condition, the quality and effectiveness of its Board and Senior Management and compliance with legislation and requirements. The supervisor obtains the necessary supervisory information to conduct effective supervision of insurers and evaluate the insurance market.</p>
Description	<p><b>Powers</b></p> <p>The RBNZ's legal authority and supervision powers in respect of licensed insurers are set out in Part 3 of IPSA. It has information-gathering powers under section 121 (the basis for the</p>

regular reporting requirements it imposes, by notice, on insurers); powers to obtain information from associated persons under sections 122–123; and powers to conduct audit or third party review under section 125. (FMA's approach is covered under ICP 18 and ICP 19.)

RBNZ may also require, under IPSA section 126, that an insurer commissions a report to be prepared by a person approved by the Bank on any matter relating to the business, operation or management of the insurer or an associated person. It also has powers to carry out an investigation under section 130. Conditions of license (see ICP 4) have also been used to collect relevant information from insurers or to alter the content/timing of required information.

### **Framework for Supervisory Review**

The RBNZ outlined its overall approach to supervision in its July 2015 newsletter, including a high level explanation of its risk-based approach that set out the expectation that insurers having the greatest significance (i.e., impact) in relation to the purposes of the IPSA would be subject to a greater intensity of supervision.

Internally, the approach is supported by a framework (iPRESS) that involves:

- Determining the insurer's impact by a measure that looks at market share (including the New Zealand market share of branches) based on the greater of gross annual premium and total assets; impact assessment is undertaken quarterly.
- Assessing probability of failure, taking into account inherent risks (strategic, insurance, operational, liquidity, credit and market, and investment risk), adequacy of controls etc.: a template sets out the matters to be reviewed. Key inputs are:
  - A review of the financial statements and report of the Appointed Actuary (and for designated insurers a review of financial and solvency reporting by the RBNZ's own actuaries – see below).
  - Review of the business risk profile (for inherent risks in the insurer's operations and strategy).
  - Financial soundness based on available capital resources, reinsurance arrangements, and the performance.
  - A review of risk governance, including the composition, organization and effectiveness of the board and management, and the operation of the internal control framework based on documentation provided, including the Risk Management Program.
- Directing supervisory attention to those licensed insurers having both a higher probability of failure and significance to financial stability.

A management override is used to move higher risk insurers into more intensive supervision when the impact/probability measure would otherwise lead to a supervisory approach that appears unsuitable in the circumstances (such as a new insurer that is rapidly growing).

Although the framework has been implemented, it remains under development in parts and has not been fully applied to all insurers. For example, ranking guidelines (i.e., benchmarks for the assignment of risk grades under each heading of the risk assessment) are under development. At the time of the assessment, 10 insurers had been subject to the full risk assessment process.

The framework applies to all insurers, including branches of foreign companies, taking into account the exemptions which they have from the RBNZ's solvency standards (they must report on home country standards instead, for the whole entity). The assessment takes account of the willingness and ability of shareholder to support the insurer in the financial soundness review.

Where a licensed insurer has been assessed as needing a greater intensity of supervision, it is assigned a designated supervisor (i.e., it is relationship-managed) and referred to as a designated insurer. There are 24 such companies at present. The remainder (of 96 in total) are supervised on a portfolio basis by a separate specialised team and are referred to as 'portfolio-managed insurers.'

The key difference between the two groups is that, while all insurers are subject to a minimum level of oversight (baseline monitoring – see below), the RBNZ aims for early identification and resolution of prudential issues at the designated insurers, based on a deeper understanding of the business model, strategy, governance, and risks.

Probability assessments for designated insurers are completed at least annually (half yearly for the largest). For portfolio insurers, a formulaic approach is taken, incorporating reported solvency, financial strength ratings, newness of the insurer, and any known distress factors. The approach is inherently more reactive than for designated insurers, reflecting their low impact and limited RBNZ resources. All supervisory issues arising are logged on an issues register.

Risk ranking scores are moderated by an 'insurance rating committee' to provide consistency between supervisors, which also takes a peer group perspective. The probability and the impact scores are combined to determine the 'supervisory stance,' indicating the supervisory activity that might apply. The actual supervisory activity is for the judgement for the supervisor, but a menu of typical or possible activity is available to foster consistency (for example, increases in the frequency and intensity of engagement). This part of the framework is also under development.

The iPRESS assessment is also used to generate supervisory action plans which are expected to involve some on-site activity. Supervisors currently record the objectives underlying the plan in the probability risk assessment. This part of the framework is also under development — the intention is to expand on these objectives (and to set the scope for supervisory actions) in a further document.

No part of the iPRESS output is communicated explicitly to insurers.

### **Reporting**

The RBNZ collects financial, solvency, and exposure data. Insurers are required to provide, within four months of the financial year end:

- Their audited annual financial statements (where mandatory – see ICP 20) and audit report.
- The Appointed Actuary’s review of the financial statements.
- A Financial Condition Report; Insurer Return (basic data) and Solvency Return (detailed information on compliance with solvency standards).
- Annual certification in accordance with their conditions of license (see ICP 4) stating that they have complied with the Act, the Regulations and the Standards, any condition of license, direction, and other requirements imposed by the RBNZ.

They also have to provide interim Financial Statements in relation to the half year and a half yearly Insurer Return, Insurer Solvency Return and certification. Larger insurers (excluding specialist reinsurers) are required to report financial and exposure information on a quarterly basis.

Insurers are required to correct and resubmit returns where errors have been identified, but at present only for the regular data returns and not for solvency returns, Financial Condition Reports (FCR), or financial statements.

Ad hoc reporting may be required or the frequency of standard reporting may be increased, and has been, for example, in relation to Canterbury earthquake exposures (one company was required to provide a monthly solvency update).

The reporting is based on legal entities, but insurers subject to the application of solvency standards on the basis of insurer and subsidiaries (see ICP 17) must also report solvency on that basis. Overseas Insurers exempt from the solvency standards (see ICP 17) are required (under the exemption notice which the RBNZ issues) to submit reports provided to the home regulator and an FCR.

There is limited reporting of off-balance sheet exposures. Insurers are not explicitly required to report material outsourced functions and activities or significant changes to corporate governance. They do have to seek approval of changes in the insurers' fit-and-proper policy (under section 34 of IPISA), and risk management program (section 73) the RBNZ's approval is required before either is amended in a material way.

The RBNZ requires the annual Solvency Return to be audited. However, it has given guidance (September 2012) on the level of assurance that is required, requiring directors of insurers at a minimum to obtain either a reasonable or limited assurance engagement on whether the Solvency Return has been prepared in accordance with the relevant Solvency Standards. They can, but are not required to obtain an assurance engagement on the Catastrophe Risk Capital Charge component of the solvency calculations and on the projected solvency position within the return.

#### **Off-site monitoring**

Insurers are subject to monitoring of compliance with a defined set of baseline obligations based on key requirements of IPISA, regulations, standards, and notices. Baseline compliance is validated annually or more often depending on whether it is a designated or portfolio insurer. The outcomes of baseline compliance checks are recorded centrally. An automated system to manage supervision activity, including baseline compliance monitoring, is under development and expected to be rolled out during 2016.

Off-site activities also include responding to requests for approval of changes in insurers' fit-and-proper policy and risk management program.

The RBNZ's actuaries provide specialist technical advice and support for supervisors as required and attend the rating committee discussions. There are two actuaries in the supervisory team. A key role for the actuary is in reviewing the Appointed Actuary's report and the FCR.

#### **On-site supervision**

Supervisory action plans are expected to involve some on-site activity. Typically, this has been limited mainly to Prudential Consultation Meetings (PCMs) with designated insurers and thematic reviews. PCMs are annual meetings (or a series of meetings) with senior managers and directors of designated insurers: typically, independent directors and relevant officers (Chief Executive Officer, Chief Financial Officer, and Appointed Actuary). They cover high level issues relating to governance, culture, strategy and the business model as well as specific issues arising from the iPRESS assessment.

The RBNZ also undertakes thematic reviews and in particular has undertaken a risk governance review involving 17 insurers (see ICP 8). Most of the interviews for this review

	<p>were conducted at the insurer's premises.</p> <p>There is follow up to the PCM in the form of a letter to senior management on the main issues covered. Findings from the risk governance thematic review were communicated to participant insurers at the conclusion of the review and summary findings were also published on the RBNZ's website. Supervisors monitor follow-up actions during regular engagement through the Compliance Risk Register (for actual or suspected breaches) and risk assessment process (for management weaknesses). There is a regular review of outstanding issues on the register by management. The monitoring includes, at least for the larger insurers, recommendations made by the Appointed Actuary in the FCR.</p> <p>The RBNZ has undertaken some more in-depth work on individual insurers, involving on-site activities, but only using its powers to obtain independent assessments from an external party (approved by the Bank), which it has used, for example, to obtain an independent actuarial assessment; or under section 130 (investigations), which has been used to provide a full assessment in relation to supervisory issues with one insurer. It has not carried out in-depth on-site supervisory work itself.</p>
Assessment	Partly Observed
Comments	<p>The RBNZ has full supervisory powers and a developing set of tools, the application of which is governed by a supervisory framework that takes a structured approach to assessing risk and allocating resources, taking into account the nature of the market, including the large number of insurers and significance of foreign insurer participation. There is scope for publishing more details of the RBNZ's approach.</p> <p>Reflecting the newness of the regime and the pressures from licensing, and from the Canterbury earthquakes, the supervisory framework is still evolving. It is being implemented at the same time as parts remain under development. Baseline monitoring appears thorough and supervisors have been leveraging limited resources to carry out more in depth risk assessment through thematic work. However, routine supervisory engagement with insurers, even the largest, is focused mainly on issues arising from reporting and regulatory transactions and the annual senior management meeting. The RBNZ does not routinely carry out detailed on-site assessment, for example, of governance or controls, for risk assessment or remediation purposes, and supervisory resources are accordingly limited, compromising the RBNZ's ability to identify and respond to risk across the population of insurers.</p> <p>The RBNZ's full set of reporting requirements has been introduced only recently (and phased in over time) as it moved away from reliance on published financial statements. There have been issues with the completeness and accuracy of insurer reporting in practice. The requirements lack granularity in areas such as insurers' investments, off-balance sheet exposures and reporting of material outsourcing.</p>

	<p>It is recommended that RBNZ:</p> <ul style="list-style-type: none"> <li>• Complete the implementation of the current supervisory framework, in particular the planned elaboration of supervisory strategies and action plans; and use these to communicate, in writing and at supervisory meetings, their assessment of individual insurers and the key actions which they expect management to take; they could also consider disclosing to insurers appropriate parts of the risk assessment itself.</li> <li>• Review its approach to the use of supervisory tools with a view to identifying where, for risk assessment or remediation purposes, they will most benefit from increased on-site supervisory work (for example, the assessment of the effectiveness of governance and controls), and then start carrying out such work in practice.</li> <li>• Develop its reporting requirements over time to capture more information not in financial statements or current reporting in areas where insurers may have exposures, including their investments and off-balance sheet business; and in the interim, enforce compliance with the required standards of accuracy and timelines of reporting by all insurers; and review the need for increased supervisory resources effectively to implement the supervisory approach, with the recommended enhancements.</li> </ul>
<b>ICP 10</b>	<p><b>Preventive and Corrective Measures</b></p> <p>The supervisor takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.</p>
Description	<p><b>Unlicensed insurance</b></p> <p>IPSA requires every person who carries on insurance business in New Zealand to hold a license and makes it an offence for a person who is not a licensed insurer to hold itself out to be a licensed insurer (see ICP 4). The RBNZ has the discretion to initiate court proceedings.</p> <p><b>Corrective powers and escalation of the RBNZ actions</b></p> <p>The RBNZ may intervene in case of concerns at an insurer using:</p> <ul style="list-style-type: none"> <li>• its authority to persuade insurers to take corrective action; or</li> <li>• its power to impose a condition of license (see below and ICP 4); or</li> <li>• powers in Part 3 of IPSA to require the provision of information by the insurer or a third party or to carry out an investigation (which may lead to more specific interventions using other powers); or</li> <li>• powers in Part 4 on distress management, including recovery plans (subpart 1) and directions (subpart 2) (other IPSA Part 4 powers in relation to the management of insurers in distress, including statutory management, are covered under ICP 11 and ICP 12).</li> </ul>

The RBNZ's overall objective, in carrying out supervisory activity in respect of designated insurers (see ICP 9), is to enable early identification and resolution of prudential issues. For portfolio-managed insurers, the objective is to understand risks across the sector but to supervise more reactively, accompanied by enforcement action where there is non-compliance.

There are internal processes for recording compliance issues, broadly defined to include all potential breaches or actual breaches of the Act, regulations, standards or notices to be recorded centrally in the Compliance Issues Register (CIR), to assess the issues for severity and to consider action, including referral of the issue to the investigations and enforcement team in PSD (see ICP 11) or to initiate a supervisory response such as an email or letter to management. Expedited decision-taking is provided for in the RBNZ's internal processes, including through delegation.

A key tool which the RBNZ has used on a number of occasions is the imposition of a condition on license under section 21 of IPSA which explicitly provides for the power to be used as a response to supervisory concerns or breaches. Conditions may relate to 'carrying on business in a prudent manner' and any other matters to be prescribed under section 20(2)(g). Similarly, an insurer's solvency margin requirement (see ICP 17) may be varied under section 21 to require additional solvency cover.

The RBNZ has implemented additional solvency margin requirements in respect of some insurers exposed to risks related to Canterbury earthquake claims.

The RBNZ does not have a formal, prescribed ladder of intervention, but seeks to escalate actions:

- It typically starts with a management letter from the Bank to the insurer outlining the issues and its expectations on remediation, typically signed by either the Head of Prudential Supervision or the Senior Manager Supervision.
- Where concerns remain, it may use the Part 3 information-gathering powers to validate its concerns; and raise the insurers' awareness of the issues. The powers are exercisable where an insurer has failed or is likely to fail to maintain a solvency margin, is not carrying on business in a prudent manner, is operating fraudulently or recklessly or has failed to comply with any direction, condition, or other requirement imposed by or under IPSA or the regulations (section 126).
- It may then impose conditions of license under section 21 to achieve the outcome it requires.

These tools have all been used by the RBNZ on several occasions since IPSA took effect.

	<p><b>Recovery plans</b></p> <p>Under Part 4 of the Act, the RBNZ may require an insurer to prepare a recovery plan, where (under section 138) it has reasonable grounds to believe that the insurer has failed or is failing or is likely to fail to maintain a solvency margin or its business is not being conducted in a prudent manner or the insurer has failed or is failing to meet comply with any direction, condition, or other requirement. The RBNZ must then approve the recovery plan and any amendments (sections 139 and 141). It is an offence not to comply with requirements set out in a recovery plan.</p> <p>The IPSA provisions on recovery plans require that the plan sets out an appropriate timetable, but without specifying even a range for what appropriate may mean. Plans may be prepared with the assistance of a person specified by the Bank. Recovery plans require the RBNZ's approval (section 139) and may only be amended with the consent of the Bank (section 141). The RBNZ has not yet had cause to use this power.</p> <p><b>Directions</b></p> <p>The RBNZ may give directions to an insurer based on similar grounds to those used to require the preparation of a recovery plan and, in addition, where changes in the insurer's governance and, in the case of overseas insurers, whether the home supervisor has taken regulatory action or changed its supervision of the licensed insurer. The RBNZ has used this power on one occasion by requiring an insurer to provide projected solvency calculations because it was concerned about a likely breach of solvency requirements.</p> <p><b>Communication, monitoring, and follow-up</b></p> <p>Progress with implementing corrective measures is monitored through supervision directed at holding the insurer's management or board to account for resolving the issue. Supervisors may require copies of reporting by management to the board that evidences board taking action to address the issue of concern.</p> <p>Compliance issues are communicated to the supervisor's primary contact at the insurer. RBNZ senior management may be involved as necessary. For designated insurers, the PCM (see ICP 9) provides an opportunity to discuss issues with the management and board, if required. Material or repeated compliance issues are typically escalated to management in the first instance and then to the board.</p>
Assessment	Largely Observed
Comments	The legislative framework and the RBNZ's internal procedures provide for the RBNZ to take corrective action and to escalate from supervisory action through to imposing enforceable requirements, including directions, according to the severity of the issue. There is no requirement for publication of any of these corrective actions.

	<p>The insurance regulatory framework is relatively new and not all the powers provided for in IPSA have been used. Furthermore, in some cases, the RBNZ has deliberately not intervened as strongly as it could, reflecting the challenges faced by many insurers in transitioning to the new regime (see ICP 9 on problems with reporting requirements). However, as part of its response to the Canterbury earthquakes, for example, the RBNZ did impose significant corrective measures on some insurers, which led to resolution of the issues without the need for further escalation.</p> <p>The framework gives the RBNZ considerable discretion as to what tool to use, when to use it and how to frame the relevant requirement. In the case of requirements for recovery plans (a power that has not been used), supervisors would need to ensure that tight deadlines are set for delivery of the plan and timely implementation of the commitments made under it to restore the insurer to a satisfactory financial condition. Furthermore, as outlined in ICP 17, while the power to require a recovery plan is clearly triggered by failure to meet minimum solvency requirements, it may also be used when the insurer is likely to fail to meet (but is still exceeding) the minimum.</p> <p>The RBNZ could benefit from an internal framework setting out when and at what levels it would take actions at solvency levels above the minimum (see ICP 17 for solvency control below the minimum). The plan could also cover action to be taken where the RBNZ is notified by an insurer that it may breach minimum solvency within three years, a requirement of IPSA section 24.</p> <p>It is recommended that the RBNZ:</p> <ul style="list-style-type: none"> <li>• Develop an internal policy and approach to action to be taken when an insurer’s solvency, while remaining above the minimum solvency requirement, is at a level (or is changing sufficiently fast) such that the risk of a breach of the minimum starts to become a risk; the objective would be to ensure that appropriate preventative action is taken at an early stage.</li> <li>• Consider whether its approach would benefit from a presumption in the legislation that certain corrective action requirements be published, unless there are reasons related to the confidentiality of the issue not to do so.</li> </ul>
<b>ICP 11</b>	<p><b>Enforcement</b></p> <p>The supervisor enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>
Description	<p><b>Powers</b></p> <p>The legislation provides a range of enforcement responses, including:</p> <ul style="list-style-type: none"> <li>• Requiring reports and recovery plans (see ICP 10).</li> </ul>

- Giving directions covering a wide range of matters.
- Removing directors, CEOs, CFOs, auditors or actuaries.
- Prosecutions for violations of requirements in the Act or regulations;
- Applying for liquidation of an insurer.
- Recommending an insurer be placed in statutory management.

IPSA powers that may be used to require corrective action may also be used for enforcement purposes, including imposing conditions of license (section 21) and issuing a direction to take or refrain from taking a wide range of actions (sections 143 and 145). As noted under ICP 1, imposing conditions of license is done by notice with an opportunity for the insurer receiving the notice to make submissions to the RBNZ. The other measures do not require prior notice once the Bank is satisfied that there are reasonable grounds for the measure.

In deciding whether it is appropriate to exercise its enforcement powers, the RBNZ must take into account the principles of IPSA (section 4), including:

- The importance of dealing with an insurer in financial distress or other difficulties in a manner that aims to adequately protect the interests of policyholders and the public interest and ensure that any failure, or possible failure, of the insurer does not have the potential to significantly damage the financial system or the economy of New Zealand.
- The desirability of consistency of treatment of similar institutions (section 4(c) and (f)).

Publication of enforcement measures is not required.

The RBNZ is developing an enforcement strategy, for publication, including guidance to insurers on the approach they can expect.

#### **Internal process**

The RBNZ has internal processes to record and manage instances of non-compliance. The Compliance Issues Register (CIR) tracks the status of instances of non-compliance and how the issues are resolved. When an entry is made in the CIR, supervisors must assess the likely breach against criteria for referring matters to the investigations and enforcement team, including whether the issue is material, discrete or potentially systemic; whether there is an emerging pattern of non-compliance by that entity; whether the issue has the potential to undermine public confidence in the sector.

In the period since IPSA came fully into force, there have been no formal referrals to the investigations and enforcement team of insurers.

**Directions**

The scope of the RBNZ's direction power is specified in broad terms and is therefore available to address a wide range of problems involving insurers. Under section 143(1), the RBNZ may give a licensed insurer a direction, in writing, if it has reasonable grounds to believe that, inter alia: the insurer has failed, is failing, or is likely to fail to maintain a solvency margin; the business of the insurer has not been, or is not being, conducted in a prudent manner; the insurer, or a director or relevant officer of the insurer, has failed, is failing, or is likely to fail to comply with any direction, condition, or other requirement imposed by or under the Act or regulations.

Before giving a direction to a licensed insurer under section 143, the RBNZ is required to consider whether, in the circumstances, it would be more appropriate to give a direction to the insurer to prepare a recovery plan (section 143(2)).

A direction may require a licensed insurer to:

- Consult with the RBNZ about the circumstances of the insurer and the actions or proposed actions of the insurer in respect of resolving any difficulties facing the insurer.
- Cease entering into any new contracts of insurance.
- Carry on its business, or any part of its business, in accordance with the direction.
- Cease to carry on its business, or any part of its business, in accordance with the direction.
- Take the action that is specified in the direction to address a failure, or potential failure, to comply with any direction, condition, or other requirement imposed by or under the Act or the regulations.
- Ensure that any officer or employee of the insurer ceases to take part in the management or conduct of its business except with the permission of the RBNZ and so far as that permission extends.
- Take the action that is specified in the direction to address any circumstances of financial difficulties.

However, a direction must not require the licensed insurer to cease to enter into contracts of insurance by way of renewal of contracts of insurance that were originally entered into before the direction was given (section 144(2)).

The RBNZ may give an associated person of a licensed insurer a written direction if it has reasonable grounds to believe, inter alia, that the circumstances of the associated person are such as to be prejudicial to the solvency of the insurer or its ability to comply with the Act or the regulations; or the affairs of the associated person are being conducted in a manner prejudicial to the solvency of the insurer or its ability to comply with the Act or the

regulations (section 145).

Such a direction may require an associated person to take a range of action similar to that required of insurers under a direction issued under section 143. It must state the grounds on which it is given (section 147(1)). The RBNZ may amend or modify a direction, replace a direction with another direction, or revoke a direction (section 147(2)).

To date, the RBNZ has used the powers of direction once, under section 143.

### **Enforcement against individuals**

In any of the circumstances set out in Section 143 under which the RBNZ may give an insurer a direction, it may give a direction requiring an insurer to ensure that any officer or employee ceases to take part in the management or conduct of its business, except with the permission of the RBNZ (section 144(1)(f)). In these circumstances the RBNZ may also remove, replace, or appoint directors, auditors or actuaries (section 149). The RBNZ is also empowered to remove directors and relevant officers that are not fit-and-proper to hold the relevant position (section 39).

The powers under section 149 (power to remove, replace or appoint a director, actuary and auditor) and 39 (removal of directors and relevant persons found not fit-and-proper) do not apply in respect of directors of overseas insurers (the RBNZ's enforcement powers otherwise apply in full, as applicable).

Under section 222 of IPSA, the RBNZ may apply to the court for an order banning a person from participating in insurance business, including banning a person from being a director, employee or shareholder of an insurer.

### **Liquidation and statutory management**

The RBNZ has power to apply to the High Court to put an insurer into liquidation or voluntary administration (sections 151 and 153) – see ICP 12.

Under section 170, the RBNZ may recommend to the Minister of Finance that a licensed insurer or an associated person be the subject of statutory management, a procedure analogous to the concept of conservatorship. The appointed statutory manager assumes control of the insurer in statutory management.

The RBNZ may only recommend that an insurer be the subject of statutory management if:

- the RBNZ is entitled to give a direction to the insurer and is satisfied on reasonable grounds that the failure of the insurer may cause significant damage to the financial system or economy of New Zealand; or

	<ul style="list-style-type: none"> <li>the insurer is or may be operating fraudulently or recklessly and the appointment of a statutory manager may limit or prevent further deterioration of the financial affairs of the insurer or the effects of any fraudulent act or activity or may enable the affairs of the insurer to be dealt with in a more orderly or expeditious way (section 173(1)).</li> </ul> <p>The RBNZ must also be satisfied that those objectives cannot be adequately secured in some other way (section 173(2)).</p> <p><b>Sanctions</b></p> <p>IPSA specifies a number of offences for which the court, on conviction, may impose a fine on an insurer or impose a fine or term of imprisonment (or both) on an individual. These offences and penalties (the maximum fine is NZD 1,000,000) include failure to comply with:</p> <ul style="list-style-type: none"> <li>conditions of license (section 23);</li> <li>reporting and disclosure requirements of solvency standards (section 57);</li> <li>risk management requirements (section 75);</li> <li>statutory fund requirements of life insurers (section 118); or</li> <li>recovery plan requirements (section 142).</li> </ul> <p>These are all court-based sanctions in which the court will apply recognized sentencing principles, that would contribute to consistency across different judgments. Court-based sanctions would themselves be enforced through the court process (for example, in case of non-payment of a fine).</p> <p>The RBNZ has the discretion to initiate a prosecution in respect of any IPSA offence provision.</p> <p>There are no statutory or other legal barriers that would prevent the RBNZ from taking preventative and corrective measures while also pursuing sanctions for offences.</p>
Assessment	Largely Observed
Comments	<p>The legislation clearly sets out a range of enforcement tools and sanctions, to be used against individuals as well as insurers, and the circumstances under which they may be applied. The RBNZ has implemented internal procedures to ensure that actual or potential breaches of any requirements are recorded and managed through to resolution, with management sign-off. There is a clear process for referrals to the RBNZ's enforcement unit. The RBNZ's powers are still largely untested, owing to the newness of the regime (the more severe interventions that immediately followed the Canterbury earthquakes were carried out under powers that predated the full implementation of IPSA).</p> <p>Financial and other penalties may be sought from the court, including against individuals. Powers to impose administrative penalties, including fines, may be of relatively limited value</p>

	<p>to prudential supervision, but could be helpful to the RBNZ in taking (and publishing) action in case of infringements of certain requirements including in the areas of reporting and internal control (see recommendation under ICP 1).</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• in the context its review of IPSA and the development of its enforcement strategy, the RBNZ assess: <ul style="list-style-type: none"> <li>– Whether to seek additional enforcement powers such as infringement notices, administrative fines or enforceable undertakings.</li> <li>– The merits, and appropriateness in the wider New Zealand context, of taking powers to restrict or suspend dividend or other payments to shareholders and to mandate portfolio transfers, to the extent these are not clearly covered by the power of direction.</li> <li>– It should review the significant limitation on the power to require licensed insurers to cease to enter new business in section 144(2).</li> </ul> </li> </ul>
<b>ICP 12</b>	<p><b>Winding-up and Exit from the Market</b></p> <p>The legislation defines a range of options for the exit of insurance legal entities from the market. It defines insolvency and establishes the criteria and procedure for dealing with insolvency of insurance legal entities. In the event of winding-up proceedings of insurance legal entities, the legal framework gives priority to the protection of policyholders and aims at minimizing disruption to provision of benefits to policyholders.</p>
Description	<p><b>Powers of RBNZ</b></p> <p>RBNZ has a range of options in managing distressed insurers under Part 4 (sections 138 to 199) of the IPSA.</p> <ul style="list-style-type: none"> <li>• RBNZ has the power under section 138 to require an insurer to prepare a recovery plan if there are reasonable grounds for concern over its solvency position or regulatory compliance. The recovery plan must be in writing and set out the timetable and specific actions to address the concerns. The recovery plan is subject to RBNZ's approval.</li> <li>• RBNZ may give written directions under section 143 to an insurer and/or its associated persons (see ICP 3 above) if there are reasonable grounds for concern over its solvency position, regulatory compliance, governance structure, or regulatory actions taken by foreign supervisors. Such directions may require the insurer to: <ul style="list-style-type: none"> <li>– Consult with RBNZ about the circumstances of the insurer and the actions or proposed actions of the insurer in resolving any difficulties facing the insurer.</li> <li>– Cease entering into any new contracts of insurance.</li> <li>– Carry on or cease to carry on its business (in part or in whole) in accordance with the</li> </ul> </li> </ul>

direction.

- Take specified action to address regulatory compliance failures.
- Ensure that any officer or employee of the insurer ceases to take part in the management or conduct of its business except with the permission of RBNZ.
- Take specified action to address any circumstances of financial difficulties.
- RBNZ has the power to remove, replace or appoint directors, auditor or actuary out of any of the concerns above. In the case of an overseas branch, RBNZ does not have the power to remove its directors (section 149).
- RBNZ may apply for liquidation of insurers (section 151) in accordance with the Companies Act. RBNZ may apply to the High Court to appoint a liquidator. The High Court may, on the application of RBNZ, reduce the value of the insurance policies if the insurer's assets are insufficient to meet all of its obligations.
- For an insurer that is a corporate body, RBNZ may apply for the appointment of an administrator for an insurer under the Companies Act (section 153).
- RBNZ has the power to approve any voluntary liquidation or appointment of administrator by an insurer (section 154).
- RBNZ must approve any transfers or amalgamation of insurance business (section 44).
- Upon a recommendation by RBNZ (section 170), the Minister responsible for the administration of the IPSA may advise the Governor-General to declare, by Order-in-Council, that an insurer is subject to statutory management. RBNZ's recommendation must be based on reasonable belief that: [section 173(1)]
  - the failure of the insurer may cause significant damage to the financial system or the economy of New Zealand; or
  - the insurer may be operating fraudulently or recklessly, and that it is desirable to subject it to statutory management to limit or prevent:
    - the risk of further deterioration of its financial affairs; or
    - the continuation or the effects of any fraudulent activity

so that the affairs of the insurer may be dealt with in a more orderly manner.

Section 173(2) restricts RBNZ to use this option as a last resort.

If the insurer subject to statutory management is an overseas branch, the requirements apply to the property, rights, assets, and liabilities relating to its New Zealand business (section 171). It should be noted that branches are not required to hold assets in New Zealand.

The power for RBNZ to apply to the High Court to reduce the amount of insurance in insolvency (4<sup>th</sup> bullet above) is a parallel to bail-in, permitting the recapitalization or sale of

	<p>an insolvent insurer by reducing the value of its liabilities. This could also be used in the unlikely event that the Minister did not consent to the appointment of a statutory manager (last bullet above).</p> <p><b>Cancellation of License</b></p> <p>RBNZ may cancel an insurance license under a number of circumstances (section 30), provided the insurer no longer has any policy liabilities in respect of its New Zealand business. The circumstances include: cessation of insurance business, breach of licensing conditions, removal from the company register, deregistration from the Financial Service Providers Act, liquidation, winding-up or dissolution.</p> <p>Before license cancellation, RBNZ must give notice of reasons for cancellation to the insurer involved at least 20 working days before the effective date of the cancellation. After license cancellation, RBNZ must give public notice of the cancellation.</p> <p><b>Policyholder Protection</b></p> <p>One of the guiding principles for RBNZ in IPSA section 4 in dealing with an insurer in financial distress or other difficulties is to adequately protect the interests of its policyholders and the public interest and ensuring that the failure or possible failure of the insurer does not cause significant damage to the financial system and economy [section 4(c) of IPSA]. RBNZ is also required to consider policyholder’s interest in approving a request for portfolio transfers or amalgamation (section 48 of IPSA).</p> <p>In terms of specific policyholder protection measures, a life insurer must maintain at least one statutory fund in respect of its life insurance business (section 82 of IPSA), unless exempted by the Governor-General. In practice, all Australian branches are exempted on the basis that Australia has an equivalent statutory fund requirement and that New Zealand policyholders in the Australian statutory fund have the status as Australian policyholders. In a liquidation or other winding up of a life insurer, the assets of a statutory fund must first be applied in discharging liquidation expenses and fees, after which, policyholders have priority claim before general creditors. If the assets are insufficient to discharge all of the policy liabilities of the life insurance statutory fund, the High Court will direct how the remaining assets (if any) are to be applied.</p> <p>There is no statutory fund requirement for non-life insurers. Non-life policyholders are treated in the same way as other creditors of the insurer. Nor is there any policyholder compensation scheme to make policyholders good in case of loss.</p>
Assessment	Largely Observed
Comments	The RBNZ has a range of options in dealing with voluntary and involuntary liquidation of insurers. The RBNZ chooses which option to use based on circumstances. For example, an

	<p>insurer was in financial distress following the Canterbury earthquakes due to a dispute with its reinsurer. The dispute went into arbitration. Instead of initiating winding up proceedings, RBNZ judged the best option was to place the insurer in run-off, pending the outcome of arbitration. In another case, an insurer was allowed to go into voluntary liquidation.</p> <p>While policyholder protection is a principle of IPSA, the only specific protective measure is the priority of claim for life insurance policyholders. There is no policyholder protection scheme currently and there is no intention of establishing one. The largest life insurer in New Zealand by assets is an Australian branch, to which the home jurisdiction's solvency standard and statutory fund requirements apply; is not required to hold assets in New Zealand; and the winding-up process and New Zealand policyholders' rights are not within RBNZ's control.</p> <p>It is recommended that RBNZ explore the best way to achieve IPSA's policyholder protection principle. Options include one or a combination of the following:</p> <ul style="list-style-type: none"> <li>• Extend the statutory fund requirement to non-life insurance.</li> <li>• Remove the exemption from statutory life fund requirement granted to Australian branches.</li> <li>• Provide a general priority of claim for all policyholders in IPSA in the absence of a statutory fund.</li> </ul>
<b>ICP 13</b>	<p><b>Reinsurance and Other Forms of Risk Transfer</b></p> <p>The supervisor sets standards for the use of reinsurance and other forms of risk transfer, ensuring that insurers adequately control and transparently report their risk transfer programs. The supervisor takes into account the nature of reinsurance business when supervising reinsurers based in its jurisdiction.</p>
Description	<p>Reinsurance arrangements are one of the aspects of prudent management of insurance required by IPSA section 20. The RBNZ guidelines on prudent management indicate that a reinsurance program should include:</p> <ul style="list-style-type: none"> <li>• Establishment and management of a robust and sustainable reinsurance strategy.</li> <li>• Consideration of the selection process and ongoing management of reinsurers, including relevant experience, expertise and counterparty security.</li> <li>• Compatibility of the reinsurance arrangements with the risk management program and business plans.</li> <li>• Ongoing operational management of reinsurance treaties.</li> </ul> <p>Reinsurance between a life insurer's statutory funds is not permitted (section 95 of IPSA).</p> <p>The Financial Condition Report (FCR) must consider the reinsurance arrangements and the material risks associated with the reinsurance program in accordance with the NZSA</p>

	<p>professional guidelines.</p> <p>Solvency standards require life insurers to include a reinsurance statement in the FCR that lists all reinsurance contracts and contractual details from 1 January 2015.</p> <p>There is no requirement for the insurers to be transparent in their reinsurance arrangements and the associated risks to allow the supervisor to understand the economic impact of reinsurance (ICP 13.2).</p> <p>There are no direct requirements for insurers to finalize reinsurance contracts in a timely manner. However, in calculating capital requirements for life insurers, credit may not be taken for reinsurance if the reinsurance contracts do not involve genuine risk transfer, are not legally binding, not in writing, not signed or the insurer is not a party that has a right to receipt. This indirectly serves to encourage insurers to strive for prompt contract finality.</p> <p>RBNZ does not assess whether insurers monitor their liquidity positions and relies on Appointed Actuaries to highlight any potential liquidity issues in the FCR. The industry did not experience liquidity issues during the Canterbury earthquakes.</p> <p>There is no prohibition against risk transfer to the capital market. There are no such activities either.</p>
Assessment	Partly Observed
Comments	<p>The RBNZ recognizes that reinsurance is an essential risk management tool, particularly given the fact that New Zealand is prone to catastrophe risks. The current regime, however, lacks specific requirements on the standards of reinsurance arrangements and leaves the responsibility of ensuring the appropriateness of reinsurance programs to the Appointed Actuary.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The prudent management guidelines be amended to include timely finalization of reinsurance contracts to reduce risks and potential disputes.</li> <li>• The RBNZ require insurers to have a board-approved reinsurance strategy as part of its risk and capital management strategy.</li> <li>• A reinsurance statement should be included in the FCR from both life and non-life insurers, in light of the importance of reinsurance in managing catastrophe risk for non-life.</li> <li>• The RBNZ should review the reinsurance statements to form its own judgement on whether the reinsurance program is compatible with the insurer's reinsurance strategy.</li> </ul>

<b>ICP 14</b>	<p><b>Valuation</b></p> <p>The supervisor establishes requirements for the valuation of assets and liabilities for solvency purposes.</p>
Description	<p>Overseas insurers that are granted an exemption from the New Zealand solvency standards are required to follow the requirements of their home jurisdiction for regulatory capital purposes.</p> <p><b>Assets</b></p> <p>Assets backing insurance liabilities are required to be measured on a fair value or similar basis. Assets not backing insurance business may be valued using alternative methods allowed under NZ IFRS, e.g., historic cost with amortization. Many insurers designate all assets as supporting the insurance business and hence use a fair value measurement for all of the assets.</p> <p>Assets not carried at fair value are subject to impairment testing. The fair value of the assets relative to the carrying value must be disclosed.</p> <p>For regulatory solvency purposes, certain assets are ascribed as having no value. (Refer to ICP 17.)</p> <p><b>Liabilities</b></p> <p>NZ IFRS requires insurance technical provisions to be valued on a current net present value basis, taking into account all future projected cash flows. Solvency Standards require the calculation of liabilities be consistent with the professional standard issued by the NZSA. The standard for life insurance requires that “in valuing any options the Appointed Actuary should have regard to materiality, given the expected take up rates and analysis of the entity’s own experience.” (Professional Standard 20, para 9.7.4).</p> <p>Non-Life insurers are required to value liabilities on central estimate basis (including claims handling expenses) and an explicit risk margin. For solvency purposes, the risk margin is set at a 75 percent probability of sufficiency.</p> <p>Life insurers are required to measure policy liabilities as a best estimate liability plus the present value of future profit margins. The value of future profit margins is set to eliminate profits emerging at point of sale and is used as a prudent margin over best estimate. For solvency purposes, policy liabilities are calculated based on more conservative assumptions, using prescribed prudential margins above the best estimate assumptions. These include: the use of risk free rate as discount rate, 110 percent of best estimate mortality rates, 90 percent of annuitant mortality rates with 2 percent additional annual improvement rates, 120 percent of permanent disability rates, 150 percent of disability income rates, 40 percent adverse</p>

	<p>experience in lapse rates.</p> <p>Exceptions to discounted present values may apply for short term contracts (the majority of non-life provisions) or where the application of alternative methodology would not be materially different to a full discounted projection approach.</p> <p><b>Discount Rate</b></p> <p>Where the value of a liability is not materially impacted by discounting, discounting is not required. This relates typically to claims provisions expected to be settled within one year.</p> <p>For non-life and life insurance contracts where the contractual benefits do not depend on the performance of the assets held, discount rates are risk free, and based on current observable, objective rates that relate to the nature, structure and term of the future obligation, or cash flows. Where the contractual benefits depend on the performance of underlying assets, such as with investment-linked contracts the market returns on the assets backing the insurance liabilities are to be used.</p> <p>Although government bond yields are indicated as a potential starting point for determining risk free rates, there is no prescribed mechanism within the accounting framework or within the RBNZ solvency standards or actuarial standards to determine risk free rates from market observed government bond or swap rates, nor on the method of determining discount rates to durations beyond the observable market rates.</p>
Assessment	Largely Observed
Comments	<p>The valuation of assets and liabilities for solvency purposes is broadly in line with the ICP standard. The LO rating is due to the lack of guidance on the choice of discount rates for long maturity businesses. It is recommended that the RBNZ work with the NZSA to establish a methodology in selecting discount rates. For example, the Treasury publishes a table of discount rates for 50 years applicable to all Government reporting entities submitting valuations to Treasury for valuing insurance claims liabilities under PBE IFRS 4 Insurance Contracts. This table or a variation thereof may be suitable for valuing private insurance contracts as well.</p>
<b>ICP 15</b>	<p><b>Investment</b></p> <p>The supervisor establishes requirements for solvency purposes on the investment activities of insurers in order to address the risks faced by insurers.</p>
Description	<p><b>Investment Governance</b></p> <p>Investment policy is one of the elements of market risk that the “Risk Management Programme Guidelines” expect insurers to consider. Para 36(b) of the Guidelines sets out an expectation that insurers should have “documented and monitored investment strategy covering risk tolerance, investment needs and agreed investment strategy.” Para 20(b) of the</p>

Guidelines expect the board of directors to be responsible for “establishing risk tolerances for the insurer and defining and communicating risk tolerances in a meaningful way.” However, the Guidelines are silent on the issue of asset liability management and the investment process such as establishing strategic and tactical asset allocations.

### **Investment Limits**

The Companies Act requires that a subsidiary in general cannot hold shares in its holding company or maintain a voting right in respect of any cross-held shares. (Section 82 of Companies Act). The RBNZ in general does not impose investment limits, except that it indirectly discourages risky investments through higher capital charges.

A life insurer is required to establish at least one statutory fund in respect of its life insurance business. Investment restrictions are imposed on the statutory fund under regulations. These restrictions include:

- Prohibition against a statutory fund’s assets being mortgaged or charged except to obtain a bank overdraft for the business of the statutory fund [s 94(3)].
- Prohibition against unsecured borrowing for the business of the statutory fund [s 94(4)].

### **Actuary’s Responsibility**

The Appointed Actuary is required to consider the suitability of the investments (to its liabilities) and the associated risks to the insurer in the annual Financial Condition Report in accordance with NZSA professional standards:

- The Appointed Actuary must comment on the insurer’s approach to asset management, state its investment philosophy and summarize the asset allocation.
- The Appointed Actuary must take into account the relationship between the nature and term of the insurer’s assets and corresponding liabilities and comment on material risks arising from the insurer’s:
  - Currency and duration mismatches of assets and liabilities (if any).
  - Liability profile and liquidity needs.
  - Credit policy.
  - Investment and other assets.
  - Investment guarantees.
  - Methods for valuing assets and non-insurance liabilities.
  - Treatment of derivatives and the impact on the solvency margin.

	<p><b>Complex instruments and less transparent assets</b></p> <p>Consistent with the principles-based approach, there are no specific requirements for investing in complex and less transparent instruments, other than general guidelines relating to risk management and operating in a prudent manner which require appropriate internal controls and ability to identify, assess, and monitor risks.</p>
Assessment	Partly Observed
Comments	<p>NZ requirements are principles-based, which is consistent with the ICP. Insurers are generally permitted to invest freely provided they maintain appropriate capital in respect of the associated risks (in the context of the liabilities) within an appropriate risk management framework. Supervisory influence on investments is indirectly through capital charges and requiring insurers to use NZSA professional standards. However, this principles-based approach would normally be accompanied by monitoring by the supervisor not only of the actuarial analysis but of the detailed breakdown of actual investments and changes over time that may indicate a developing risk appetite. The RBNZ is not collecting the information on investments they would need to carry out this monitoring.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The RBNZ collect more granular breakdown of assets to facilitate an understanding of the insurer's investment exposures, including in higher risk or innovative investment instruments.</li> <li>• The RBNZ provide greater clarity in its expectation regarding investment governance.</li> </ul>
<b>ICP 16</b>	<p><b>Enterprise Risk Management for Solvency Purposes</b></p> <p>The supervisor establishes ERM requirements for solvency purposes that require insurers to address all relevant and material risks.</p>
Description	<p>As described under ICP 8, the IPSA section 73 requires an insurer to have a risk management program which must be in writing and set out the procedures that the insurer will use for the effective identification and management of the following risks:</p> <ul style="list-style-type: none"> <li>• Insurance risk.</li> <li>• Credit risk.</li> <li>• Liquidity risk.</li> <li>• Market risk.</li> <li>• Operational risk.</li> <li>• Any other risks prescribed by regulations (none so far).</li> </ul> <p>The RBNZ's Risk Management Programme Guidelines provide general considerations in risk planning, contingency planning, review process, accountability, and interpretation of risk</p>

	<p>categories mentioned in legislation.</p> <p>The solvency standards issued by the RBNZ require the Appointed Actuary to prepare an annual Financial Condition Report. In the report, the actuary should identify and describe the material risks facing the insurer that pose a threat to the insurer's ability to maintain the required solvency margin. Where practicable, the actuary should quantify such risks. The actuary should also comment on the steps taken or proposed to be taken to address the risks identified, and, among other things, comment on the risks associated with mismatching of assets and liabilities. (Section 6.3 of the solvency standards for life insurance and section 5.3 for non-life).</p> <p>Section 24 of IPSA requires an insurer to report to RBNZ when it has reasonable grounds to believe that a failure to maintain a Solvency Margin (see ICP 17) is likely to occur at any time within the next three years.</p> <p>The RBNZ risk management guidelines indicates one element to be considered in monitoring market risk is a documented and monitored investment strategy covering risk tolerance, investment needs, and agreed investment strategy.</p>
Assessment	Partly Observed
Comments	<p>ERM refers to the process of identifying, assessing, measuring, monitoring, controlling, and mitigating risks. While the RBNZ's guidelines on risk management provides a list of indicative overall risk management approaches (e.g., documented risk identification process and mitigation procedures) that meet the ICP 8 requirements, the coverage is not as comprehensive as required under ICP 16 for ERM. The key gaps are:</p> <ul style="list-style-type: none"> <li>• There should be a rigorous process of risk identification and measurement (ICP 16.1) involving all aspects of the operations.</li> <li>• The insurer's risk management policy should include a description of the insurer's policies towards risk retention, risk management strategies (reinsurance, the use of derivatives), and address the relationship between pricing, product development and investment management. (ICP 16.3)</li> <li>• Asset-liability management. (ICP 16.5)</li> <li>• The ERM framework should include mechanisms to incorporate new risks and new information on a regular basis and incorporate a feedback loop (ICP 16.9 and 16.10).</li> </ul> <p>While not as extensive as the Own Risk and Solvency Assessment, the Financial Condition Report is objectively prepared and serves a particularly useful function.</p> <p>It is recommended that the RBNZ should consider the feasibility of:</p> <ul style="list-style-type: none"> <li>• Issuing comprehensive ERM guidelines to promote proper risk management process on</li> </ul>

	<p>an enterprise-wide basis.</p> <ul style="list-style-type: none"> <li>• Requiring insurers to conduct own risk and solvency assessments to identify the relationship between risk management and the level and quality of financial resources needed and available on a group-wide basis. This could be achieved through an enhancement of the Financial Condition Report.</li> </ul>
<b>ICP 17</b>	<p><b>Capital Adequacy</b></p> <p>The supervisor establishes capital adequacy requirements for solvency purposes so that insurers can absorb significant unforeseen losses and to provide for degrees of supervisory intervention.</p>
Description	<p><b>Solvency Standards and Exemptions</b></p> <p>The RBNZ has issued solvency standards for: (1) life business; (2) non-life business; (3) non-life insurers in run-off; (4) non-life captives; (5) New Zealand local government insurance corporations; and (6) variable annuity business. An internal models approach to regulatory capital is not allowed, except in the case of variable annuities for which modelling is required using stochastic methods or scenario-based analysis or a combination of the two.</p> <p>Overseas branches of Australian life insurers (3, including the largest life insurer in New Zealand by assets) have also been exempted by RBNZ from the New Zealand solvency standards. Overseas non-Australian life insurers (2), however, are required to establish custodial arrangements to support the statutory funds they must maintain in accordance with IPSA</p> <p>The solvency requirement is calculated at the entity level as well as at the level of each life fund. Solvency Margin = Actual Solvency Capital – Minimum Solvency Capital. Each insurer must maintain at least a positive solvency margin by way of licensing conditions. Additional solvency margin may be imposed as the situation warrants via a change in licensing conditions. As noted under other ICPs, this has, for example, been done to a number of non-life insurers following the Canterbury earthquakes. Since then, the additional solvency margin amounts have been reviewed and adjusted.</p> <p><b>Eligibility of Capital Resources</b></p> <p>Qualified capital resources must satisfy criteria relating to permanence, loss absorption, servicing charges, ranking upon winding-up, and other measures. These include ordinary shares, revenue and other reserves, and retained earnings.</p> <p><b>Actual Solvency Capital</b> is qualified capital resources, deducting:</p> <ul style="list-style-type: none"> <li>• Intangible assets.</li> <li>• Deferred tax assets.</li> </ul>

- Equity investments in, and subordinated loans to, related parties.
- Equity investments in, and subordinated loans to, other financial institutions (or holding companies of such) classified as counterparty grade 1, 2 or 3 in excess of 15 percent of Actual Solvency Capital.
- Equity investments in, and subordinated loans to, other financial institutions (or holding companies of such) classified as counterparty grade 4 or 5.
- Unrealized gains and loss on liabilities arising from changes in the insurer's own credit risk.
- Fair value gains on assets not based on observable market data or transactions.
- Any surplus, net of any associated deferred tax liabilities, in any defined benefit superannuation fund sponsored by the licensed insurer as employer.
- Deferred Acquisition costs in excess of specified limits (non-life).
- Solvency margin relating to its overseas branches that are not freely available to meet losses.
- Declared but unpaid dividend or capital repayment.

#### ***Minimum Solvency Capital for Life Insurers***

Minimum Solvency Capital = Total Solvency Requirement – (Policy Liabilities + Other Liabilities), where:

- Total Solvency Requirement = insurance risk charge + catastrophe risk charge + asset risk charge + reinsurance recovery risk charge.
- Asset risk charge = resilience (credit, foreign currency, interest rate, and solvency liability resilience) + concentration risk charges.

The insurance risk charge is similar to the Best Estimate Liability, but calculated using prescribed assumptions that are more conservative than the best estimate liabilities for financial reporting purposes, and subject to a minimum of current termination value.

The impact of interest rate risk (part of the asset risk charge) is derived from the most adverse of a 175 basis points increase or decrease in nominal interest rate instruments and 60 basis points increase or decrease in real interest rate instruments (subject to a minimum of 0).

#### ***Minimum Solvency Capital for Non-Life Insurers***

Minimum Solvency Capital is the sum of:

- Insurance risk charge.

- Catastrophe risk charge.
- Asset risk charge (risk weighted exposure, derivative, concentration).
- Foreign currency.
- Interest rate.
- Reinsurance recovery.

The catastrophe risk charge is based on all exposures that could give rise to loss under an extreme event. Such extreme event exposure is defined as the greatest of:

- (a) the projected insurance losses due to a major earthquake event affecting Wellington (defined as everywhere within a 50-kilometer radius from the Beehive), calibrated to a minimum loss return period of 1 in 1000 years; or
- (b) the projected insurance losses due to a major earthquake affecting any place other than Wellington (as defined above), calibrated to a minimum loss return period of 1 in 1000 years; or
- (c) the projected insurance losses due to a non-earthquake extreme event occurring anywhere within New Zealand or elsewhere, calibrated to a minimum loss return period of 1 in 250 years.

#### **Fixed Capital Amount**

The Minimum Solvency Capital is subject, in aggregate, to a minimum of NZD 5 million for life insurers and NZD 3 million for non-life insurers (termed the Fixed Capital Amount).

#### **Risk factors not included in capital requirements**

Other than a 0.25 percent allowance in relation to investment-linked business, operational risks are not taken into account in the minimum solvency capital amount.

RBNZ considers that liquidity risk is best addressed through risk management processes, and is less of an issue for insurers than other risks, outside of catastrophe situations where reinsurance can be of assistance.

#### **Recognition of reinsurance arrangements**

Reinsurance arrangements may be recognized. However, for life insurance minimum solvency capital requirements, reinsurance cannot be recognized unless there is genuine risk transfer, the insurer is a party to receipt, and the reinsurance contracts are legally binding, in writing, and signed by authorized persons.

#### **Group solvency requirements**

IPSA is legal entity based. In the context of group-wide solvency assessment, the RBNZ

	<p>requires the insurer and its insurance subsidiaries (in or outside New Zealand) to calculate a consolidated solvency margin by applying the solvency standard to the consolidated financial statements. An insurer is required to meet both the legal entity and consolidated solvency requirements via conditions of license.</p> <p><b>Solvency control levels</b></p> <p>The solvency standards specify only one solvency control level: the Solvency Margin. The Solvency Margin is a minimum capital requirement as envisaged in ICP 17.4, in the sense that RBNZ’s belief on reasonable grounds that “the insurer has failed, is failing, or is likely to fail to maintain a solvency margin” is a ground for requesting a recovery plan [IPSA section 138(1)], or ground for issuing directions [IPSA section 143(1)(a)]. “The insurer is failing to maintain a solvency margin” is a ground for application to the High Court for liquidation [IPSA section 151(2)].</p> <p>On the other hand, the Solvency Margin has the characteristics of a prescribed capital requirement as envisaged in ICP 17.4, in the sense that RBNZ may allow an insurer not to maintain the Solvency Margin (albeit for a short period of time), as RBNZ recognizes that the Solvency Margin is determined on a conservative basis and that the insurer might still be viable when it fails to maintain the solvency margin.</p> <p>The RBNZ has not yet developed a formal process to determine the appropriate response, if any, relative to the level of Solvency Margin.</p>
Assessment	Largely Observed
Comments	<p>The solvency standard takes into account the risk profile of the insurers. While it does not address dependencies and interrelationships between risk categories, it is a practical methodology. It is recommended that the RBNZ addresses the following issues to enhance the standards:</p> <ul style="list-style-type: none"> <li>• Having two solvency control levels as described in ICP 17.3 and 17.4 will enable the RBNZ to make less intrusive early intervention before the financial condition of the insurer deteriorates to a critical level.</li> <li>• For consistency and efficiency, the RBNZ should develop internal guidance on the appropriate actions for each solvency control level; in particular, the strongest actions to be taken when the insurer fails to maintain the lower solvency control level.</li> <li>• The New Zealand solvency standard should apply to all statutory funds to improve comparability across branches and subsidiaries.</li> <li>• The regulatory capital requirements should be established in an open and transparent process (ICP 17.6). Whilst the RBNZ consults the affected insurer when it imposes additional solvency margin using licensing condition, the basis and circumstances for doing so should be made more transparent, either through amendment of the solvency</li> </ul>

	standards or guidance notes. The RBNZ has also recognized that a number of areas in the solvency standards could be made clearer.
<b>ICP 18</b>	<p><b>Intermediaries</b></p> <p>The supervisor sets and enforces requirements for the conduct of insurance intermediaries, to ensure that they conduct business in a professional and transparent manner.</p>
Description	<p>There are various intermediation channels for insurance: direct sales, including internet offerings, agency arrangements (tied agents and banks) and (particularly for corporate business) brokers. Although certain intermediaries are required to report information to the FMA, there are no comprehensive data on intermediation channels.</p> <p>For regulatory purposes, a broker is defined, in the FA Act (section 77A) as a financial services provider who holds (or transfers or makes payments with) money or property on behalf of clients. Not all “brokers” meet this definition (but may still call themselves brokers).</p> <p>The framework of insurance intermediation regulation is not distinct from the general regime for financial advice and fair treatment of customers in financial services. The FMA is the main responsible regulatory authority (see ICP 1), administering a body of legislation, most importantly for insurance covering:</p> <ul style="list-style-type: none"> <li>• Financial advice, where there is a developed regulatory regime under the FA Act, administered by the FMA with an enforcement role, in respect of some advisers, for a separate Financial Advisers Disciplinary Committee (see below).</li> <li>• The handling of client money: intermediaries that handle client money are regulated as brokers as well as financial advisers under requirements in the FA Act.</li> <li>• The general provision of financial services (which includes insurance, broking services and financial adviser services) under Part 2 (Fair Dealing) of the Financial Markets Conduct Act 2013 (FMC Act), which sets out general conduct obligations. The FMC Act is administered by the FMA. The scope of the Act is already broad, but the FMA has a power, subject to process requirements, to “designate” particular financial products to bring them clearly within scope, or to reclassify a product from one FMC Act type to another to ensure appropriate regulation is applied (FMC Act sections 562–563).</li> </ul> <p>The high level requirements for intermediaries are set out in legislation. Other requirements are set out in a Code of Professional Conduct for Authorized Financial Advisers (AFA Code), which is developed by a Code Committee and published by the FMA. Although applicable only to the AFA category of adviser (see below), it has a wider impact on all market conduct of intermediaries: the FMA must take into account Code provisions in its oversight of certain other advisers.</p> <p>The FMA has also issued guidance applicable to insurance intermediaries, including on sales and advice (though focused mainly on retail investment products – Sales and Advice report,</p>

November 2015).

A body of general consumer protection law applicable to all businesses dealing with consumers (the FTA and the Consumer Protection Act 1993), is relevant to sales practices and advertising by insurance intermediaries. It is administered by the Commerce Commission (see ICP 1 on the roles of FMA and Commission).

There is no formal regulatory role for self-regulatory bodies. An industry code for non-life insurance (the ICNZ Fair Insurance Code – see ICP 19) has an impact on insurance intermediation via its application to insurers' own advisers and their monitoring of agents and can be a reference point for the handling of complaints. There is no equivalent code for life insurance.

### **Licensing and oversight**

The focus on financial advice means that intermediaries which provide only sales/execution services are not covered by the FA Act and are subject to limited or no regulation. In practice, the FMA considers that almost all (and all significant) intermediaries are captured by the relatively wide definition of advice in the FA Act, which includes simply giving an opinion on a financial product (FA Act, section 10(1)).

As financial service providers, insurance intermediaries are also required (under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 – the FSP Act.) to register on the Financial Service Providers Register (a central register) and, where applicable, to belong to one of four dispute resolution schemes which provide a free resolution service for retail customers. The Insurance & Financial Services Ombudsman Scheme, Financial Services Complaints Ltd., and Financial Dispute Resolution Service cover insurance (registered entities may choose between them).

There is no explicit treatment (or exemption) for financial advice/insurance intermediation given in connection with or ancillary to another service (for example, by travel agents in relation to travel insurance) and in practice the relevant businesses are not licensed.

The registration and licensing requirements apply to business conducted with persons in New Zealand and where undertaken in New Zealand. Insurance intermediation services provided from overseas or to overseas persons out of New Zealand are thereby captured. Reinsurance broking is included in the scope of the FA Act and other legislation.

There are three categories of license under the FA Act and the scope of permitted business and associated regulatory regime vary according to status:

- Organizations (including groups) that provide financial advice on a range of different financial products can apply to FMA to be licensed as 'Qualifying Financial Entities'

(QFEs), relieving them of the requirement to have individual staff registered or authorized. A QFE takes responsibility for the advice given by its staff, including providing for their ongoing training. There are 57 QFEs, including many insurance companies and groups (one third of the total are insurers), covering an estimated 26,000 individual staff (“QFE advisers”). However, QFE advisers may advise only on simpler products (Category 2 under the FA Act) or more complex products (Category 1) sourced by their own employer or group.

- Individuals providing personalized advice (whether working on their own, within businesses made up of individual advisers or within QFEs—where they would need to be able to advise on a range of producers’ Category 1 products):
  - May apply to the FMA to be AFAs, which allows them to give personalized advice on Category 1 products (including investment-linked insurance); there are around 1,800 AFAs (June 2015); or
  - Are otherwise required only to have obtained registration under the FSP Act. (They are known as Registered Financial Advisers – RFAs). RFAs may advise on Category 2 products, which includes insurance products except for investment linked insurance products. There are around 6,500 RFAs (June 2015).

The key differentiation in regulation is between QFEs and AFAs compared with RFAs:

- QFE/AFA license applications are reviewed against capability and competency requirements. The process for granting QFE status may involve on-site visits to support the assessment of whether the criteria (section 66 of the FA Act) are met. AFA applicants must demonstrate they meet the criteria (section 54 of the FA Act), including being of good character; demonstrating competency; and being qualified to provide advice. For RFAs, there is no minimum competence or qualification level that must be shown before they can be registered, although they have to meet a test based on the criminal and financial history of the applicant.
- QFEs and AFAs are subject to ongoing supervision: annual compliance reporting, including for QFEs an annual report to FMA certifying that the entity has complied with its obligations (section 77 of the FA Act); on-site visits, thematic reviews and periodic review of conditions of authorization. AFAs and QFEs are also required to report to the FMA within five business days in the event of any significant issue including serious breaches. RFAs are not subject to ongoing oversight.

However, the FMA’s powers in the FMA Act (see ICP 1) apply to all three categories of adviser. FMA has in practice carried out thematic work, whose scope has included RFAs — for example, its work on sales and advice practices (November 2015) and an enquiry into the extent of replacement business in the life insurance sector and potential “churn” (June 2016).

### Requirements on intermediaries

There are requirements on adequate levels of professional knowledge and experience, integrity and competence in various laws and in the AFA Code. All advisers, including RFAs, are subject to a general duty (section 33 of the FA Act) “to exercise care, diligence, and skill in the course of providing advice.” As noted, compliance with this requirement is not checked in the case of RFAs before registration or through ongoing supervisory work, nor are there additional standards or guidance on how the requirement should be interpreted in practice for RFAs.

There is no explicit requirement in relation to good corporate governance of insurance intermediaries — which would be applicable to QFEs in particular, as AFAs and RFAs are individuals (for QFEs which are insurers or banks, governance would also be covered under prudential regulation).

The FMA has issued a range of general corporate governance material that is applicable, including its publication “Corporate Governance in New Zealand – Principles and Guidelines” and expectations in relation to sales and advice (Sales and Advice Report, November 2015). Governance, including the role of the board, is reviewed in practice as part of the licensing and ongoing supervisory assessment of QFEs.

There are requirements in relation to disclosures by intermediaries, although no single set of requirements apply to all (taking into account the nature of the service, for example, agent or broker). AFAs and QFEs are subject to binding disclosure requirements in the FA Act (section 22) and the FA (Disclosure) Regulations, requiring for example, that AFAs detail the types of payments and commissions they receive; and that they disclose the specific amounts before (or soon after) providing advice, the fees the client must pay and details of all material remuneration that the adviser will receive. AFAs must also disclose if they provide a service only in respect of financial products of a particular provider or multiple providers. Separate requirements for QFEs require disclosure of fees.

There is no explicit requirement on intermediaries to disclose their relationship with insurers, specifically whether they are independent or an agent for one or more insurance companies and whether they are authorized to conclude insurance contracts on behalf of an insurer or not (ICP 18.5.9).

RFAs are subject to no explicit requirements in relation to disclosure in relation to basis of remuneration and potential conflicts of interest.

Brokers are not subject to any disclosure requirements in respect of their role as brokers (they are also subject to FA Act requirements). Powers in the FA Act (section 77F) to set such requirements have not been used. Under guidance issued by the FMA, they are asked to disclose information including any material interests or relationships.

	<p><b>Client money</b></p> <p>Under sections 4 and 5 of the Insurance Intermediaries Act 1994, a payment by the insured to the intermediary is treated as discharge of the obligation to the insurer; and payments by the insurer to the intermediary do not discharge obligations to the insured.</p> <p>In addition, section 14 provides that intermediaries must establish a ‘broking client account’ into which all money received on behalf of the insured or insurer must be paid immediately, and from which money may be withdrawn only in accordance with the legislation. There are limitations on how money in the ‘broking client account’ can be invested and provisions for protection of the account in the event of insolvency of the broker (in favor of the insured and then the insurer).</p> <p><b>Enforcement, including against unlicensed intermediaries</b></p> <p>The FMA takes action against intermediaries to the extent that it identifies breaches of requirements in its oversight work—which is applied in practice only to the QFE and AFA population, as noted. It would react to a breach of requirement by an RFA. It is required to notify breaches of the AFA Code to the Financial Adviser Disciplinary Committee, which enforces compliance with the Code (it is independent from the FMA, but the FMA acts as prosecutor and provides the administration). It can impose penalties on AFAs from cancelling authorization to imposing a \$10,000 fine. The FMA is required to refer breaches of the relevant requirements to the Committee. The Committee has issued decisions against a number of AFAs, although none on insurance specific issues.</p> <p>The Commerce Commission has taken action against insurance brokers under the FTA.</p> <p>It is an offence under section 114 of the FA Act to provide a financial adviser service without being permitted to do so and under section 115 for a person to hold themselves out as an AFA or QFE. The FMA seeks to enforce the perimeter of regulation and to issue warnings when it becomes area of unlicensed activity. It is also taking action to remove from the financial services register companies who are abusing registration in New Zealand to market services overseas without being subject to a full licensing regime.</p>
Assessment	Partly Observed
Comments	<p>There is a generally well-developed framework applying to insurance intermediaries which sell more complex products and companies that provide advice on a wide range of financial products (Authorised Financial Advisers and Qualifying Financial Entities). Requirements apply to intermediation carried out by employees of insurance companies, if QFEs, as well as to individuals acting independently. The FMA carries out licensing assessments of these intermediaries and ongoing supervision and publishes extensive guidance. Other strengths of the approach include an effective enforcement process and strong protection applied to client money due to insurance policyholders.</p>

	<p>However, the regime applying to those who choose only to sell simpler products, even to retail customers, is limited, including on entry into the market, where only a registration requirement applies with just a minimal assessment of integrity. While a proportionate approach is clearly justified, the regime for these Registered Financial Advisers (RFAs) is open to a variety of abuse, including by parties using it to promote business outside New Zealand, and there is some evidence of poor conduct by RFAs. Simpler products as defined cover all types of insurance except investment-linked policies (not sold in practice).</p> <p>The FMA and government are already addressing these issues in a government-led review of the legislation on financial advice. They are also considering wider simplification of an overall regime which is complex and, the evidence suggests, hard for customers to understand, with implications for access to advice.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The government revises the legislation (as already planned) to strengthen or remove the registration-only regime available now to intermediaries, introducing minimum requirements on competence and disclosure that apply to all advisers, including insurance brokers; and that it also considers a proportionate regulatory regime for insurance intermediation not currently captured by the legislation, including pure sales and intermediation where ancillary to another line of business.</li> <li>• The FMA assess the need for insurance-specific requirements on intermediation as well as insurance-specific work program, taking into account its overall assessment of risks in financial markets, and in that context, that they assess their need, in the medium and longer terms, for more insurance-specific skills and expertise.</li> </ul>
<b>ICP 19</b>	<p><b>Conduct of Business</b></p> <p>The supervisor sets requirements for the conduct of the business of insurance to ensure customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.</p>
Description	<p>Conduct regulation for insurance is set out in a number of different laws. The FMA is the principal regulatory body. The main elements are:</p> <ul style="list-style-type: none"> <li>• Where insurers provide financial advice, as most do, the FA Act sets out various obligations (covered more fully in the assessment of ICP 18); this legislation is overseen by the FMA and there is also an enforcement decision-making role for the Financial Advisers Disciplinary Committee (see ICP 18).</li> <li>• The provision of financial services (which includes insurance, broking services, and financial adviser services) is also subject to the general conduct obligations that apply to dealing in financial products under Part 2 (Fair Dealing) of the Financial Markets Conduct Act 2013 (FMC Act); the FMC Act is also administered by the FMA.</li> </ul>

There is also a general body of consumer protection law (see ICP 18), administered by the Commerce Commission (ICP 1). (Unlike in some other countries, there is no overarching insurance contracts legislation to define core legal features of insurance business.) Privacy legislation, which is overseen by the Privacy Commission, a Crown Entity, applies to insurance companies and intermediaries.

In addition, all financial service providers are required, under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (see ICP 18) to be registered by the single central register of financial services providers. However, these registration arrangements do not amount to a licensing or wider regulatory or supervisory regime.

There is no general licensing and oversight framework for insurance conduct in New Zealand. It is possible for insurers (and intermediaries) to establish businesses that are not subject to licensing and to conduct requirements (if they are product providers or have a sales function only and do not provide advice as defined in the FA Act). The granting of a license by the RBNZ to undertake insurance business does not trigger insurance-specific conduct regulation. Supervision work is focused on financial advisers and thematic reviews and does not cover all aspects of insurance conduct. There is no oversight framework covering all insurance companies' monitoring of their own direct sales staff and advisers (unless insurers are QFEs, as many are) or their oversight of their agents.

There is no requirement for prior approval of individual insurance products.

As for insurance intermediary regulation and supervision (see ICP 18), for conduct of business there are limited insurance-specific requirements. Most are of a high-level nature or apply only to specific parts of the insurance product life cycle (such as advice) that are common to other financial products.

The most comprehensive set of insurance-specific conduct standards is in the Fair Insurance Code developed by the Insurance Council of New Zealand (ICNZ), the representative body for general insurers. The Code is enforceable against ICNZ members by the Council itself (and may be taken into account by a dispute resolution scheme), but it has no statutory backing. There is no equivalent code for life insurance.

#### **Conduct requirements**

In relation to financial advice, many insurers and intermediaries are covered by the regulation of advisers (see ICP 18). The licensing requirements and ongoing supervision, where they apply to insurers and intermediaries providing advice, are likely to contribute to good outcomes for customers in other areas of the insurance relationship such as claims handling. However, there are no provisions in law and regulation that expressly require insurers and intermediaries to act with due skill, care and diligence in relation to all aspects of the relationship with the policyholder.

The fair dealing provisions of Part 2 of the FMC Act apply to insurers. They are, however, expressed mainly in terms of prohibition on misleading or deceptive conduct and the making of false or misleading (or unsubstantiated) representations. Other requirements of the FMA Act may apply to insurers if their business falls within the wide definition of financial products or to the groups of which they are a part (many life insurers, for example, have separate fund management companies).

There are also no explicit requirements on insurers or intermediaries in many areas:

- To establish and implement policies and procedures on the fair treatment of customers that are an integral part of their business culture. Again, in relation to financial advice, the FMA has published detailed expectations in this area in the form of guidance (including the Sales and Advice Report, November 2015).
- To consider different types of customers when developing and marketing products. There is no regulatory product approval framework or requirements on the factors to which insurers should have regard when designing new products or developing new distribution arrangements. However, the marketing of products itself is subject to extensive requirements, reflecting the focus of regulation on advice at time of sale.
- To service policies appropriately through to the point at which all obligations under the policy have been satisfied; disclose to the policyholder information on any contractual changes during the life of the contract; and disclose to the policyholder further relevant information depending on the type of insurance product.
- To have policies and processes in place to handle claims in a timely and fair manner.
- To have policies and processes in place to handle complaints in a timely and fair manner.

Because of the focus of the conduct regulatory framework on advice, there are extensive requirements for insurers and some intermediaries:

- On the timing, delivery, and content of information provided to customers at point of sale (see ICP 18); however, the requirements applying to RFAs (see ICP 18) are limited.
- On the provision of advice (before concluding an insurance contract) – to the extent that it is governed by the FA Act.

Many of the specific provisions in these areas are set out in guidance from the FMA, for example:

- The requirement that if advice is provided, it is appropriate for the customer and products, is included in the FMA's Sales and Advice Report, November 2015.
- The requirement that customers be given adequate information and help to make decisions, and referred to third-party sources (such as a financial adviser), where that would help them (also in the Sales and Advice Report).

	<p>However, all financial advisers, including RFAs, are under a legal obligation to exercise care, diligence and skill in the course of providing advice (section 33 of the FA Act). The FMA takes the view that this high level obligation has the effect of requiring all financial advisers to meet the expectations set out in the FMA’s sales and advice guidance, even if the FMA’s guidance is not directly enforceable. This has not been fully tested as yet.</p> <p>As noted under the assessment of ICP 18, those intermediaries (including for these purposes insurers giving advice) which choose only to become registered as financial services providers (RFAs) and not to be licensed under the FA Act are subject to much lesser requirements and oversight, at entry and on an ongoing basis.</p> <p><b>Privacy requirements</b></p> <p>There is a set of general privacy laws that all businesses must comply with and which are overseen by the Privacy Commission, a Crown Entity. The Privacy Act 1993 includes a number of core principles (section 6), for example, on storage and security of personal information subject to the Act and requiring entities subject to the Act to take reasonable steps to ensure the individual is aware that the information is being collected, the purpose for doing so etc.</p> <p>The Act also provides for the publication of Codes of Practice that have legal authority. One such code is the Health Information Privacy Code. The Privacy Act requires all businesses to have a privacy officer whose responsibilities must include advising managers on how to ensure they comply with privacy requirements.</p> <p>While the Privacy Act provides general principles for insurers and intermediaries to follow, there are no specific requirements for them to have their own policies and procedures for the protection of private information on customers.</p> <p><b>Information on conduct issues</b></p> <p>The FMA publishes extensive information on its own findings on conduct issues. It issues warnings when the fair treatment of customers may be at risk, for example, from overseas entities selling into New Zealand. It supports the wider government initiative (the National Strategy for Financial Literacy) to improve financial capability led by a separate agency, the Commission for Financial Capability. For example, it has recently published a “white paper” (one in a series of research and information publications) on the use of behavioral insights to improve financial capability.</p>
Assessment	Partly Observed
Comments	The conduct of business regime is particularly focused on financial advice, where there is an established regime, although it is in need of extension and reform, as outlined in the assessment of ICP 18. Other aspects of the conduct of insurers and intermediaries towards policyholders are less well-covered and in many cases not covered at all in regulation or

	<p>covered only in FMA guidance. A developing framework of self-regulation in general insurance and established dispute resolution services help reduce risks to customers, but do not substitute for regulatory requirements and effective oversight.</p> <p>The FMA is increasing its overall resources, is publishing extensive information on its expectations on issues relevant to insurance and is undertaking increased thematic work on the sector. The conduct risks in insurance may be lower than in many other developed markets owing to the relatively limited and less complex product range, both in life insurance (with limited new sales of savings products) and non-life (given the role of the Accident Compensation Commission in reducing the need for personal accident and liability coverage).</p> <p>Nonetheless, aspects of the insurer’s relationship with customers where there may be misconduct, including the handling of claims and complaints, and advice on (nominally) simpler products provided by registered advisers (RFAs), are effectively unregulated or reliant on industry self-regulation and dispute resolution processes. Risk-based supervisory oversight, including proactive identification and management of risks, is largely limited to financial advice. There is a risk that FMA will not focus sufficiently on insurance issues within the broad scope of its overall responsibilities or develop sufficient insurance-specific expertise.</p> <p>It is recommended that the government and FMA review the scope of conduct regulation for insurance, considering all aspects of the insurance product life cycle, and develop a regulatory framework to include:</p> <ul style="list-style-type: none"> <li>• Minimum standards on all (or all higher risk) issues.</li> <li>• A licensing framework that would provide for screening of new entrants and clear identification of the insurers and intermediaries to whom the regulation framework will apply.</li> <li>• A minimum level of risk-based supervisory oversight applying to the licensed population, avoiding duplication with the existing approach applied to financial advisers.</li> </ul> <p>Recommendations under ICP 18 are relevant to the assessment of ICP 19 also, including the recommendation that FMA’s requirements for increased insurance-specific expertise and overall insurance resources be reviewed.</p>
<b>ICP 20</b>	<p><b>Public Disclosure</b></p> <p>The supervisor requires insurers to disclose relevant, comprehensive and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities, performance and financial position. This is expected to enhance market discipline and understanding of the risks to which an insurer is exposed and the manner in which those risks are managed.</p>

Description	<p><b>Overview</b></p> <p>Public disclosure is generally based on New Zealand accounting standards, which comply with IFRS in full but may include additional New Zealand-specific requirements or limits on available options.</p> <p>Licensed insurers are subject to additional disclosure requirements by insurance legislation and RBNZ guidelines:</p> <ul style="list-style-type: none"> <li>• IPSA requires licensed insurers to disclose their financial strength ratings prepared by approved rating agencies, to policyholders before issuing insurance policies and in advertisements and on websites. RBNZ also discloses these ratings on its website.</li> <li>• Solvency standards require insurers to disclose their solvency position and regulatory capital information in financial statements and on websites. For branches that the RBNZ has exempted from complying with New Zealand solvency requirements, the condition of exemption requires the disclosure of regulatory capital requirements (calculated based on home jurisdiction methodology) in the New Zealand branch financial statements.</li> <li>• The RBNZ's Guidelines on Governance create an expectation, though not a binding requirement, on disclosure of governance arrangements to shareholders, policyholders, and other stakeholders via a corporate governance statement in annual reports.</li> </ul> <p>Except for a closed group of seven small insurers that are exempted from producing financial statements, all insurers are required to produce audited financial statements and lodge them with the appropriate Registrar within four months of the financial year end. For an insurer having subsidiaries, only group financial statements are required for general purpose financial reporting. For an insurer having no subsidiaries, the financial statements are required for the entity. Insurers subject to RBNZ solvency requirements disclose solvency information on solo entity basis. These statements are available to the public free of charge from the Companies Office website. Some firms also publish the financial statements on their company websites.</p> <p><b>Disclosure on Company Profile</b></p> <p>There is limited disclosure required by accounting standards in this area. NZ IAS 1 requires the disclosure of:</p> <ul style="list-style-type: none"> <li>• The domicile and legal form of the entity, its country of incorporation and address of principal place of business.</li> <li>• A description of the nature of the entity's operations and principal activities.</li> <li>• The name of the ultimate parent of the group.</li> <li>• If it is a limited life entity, information regarding the length of life.</li> </ul>
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**Disclosure on Financial Position**

NZ accounting standards require disclosure of key accounting policies, methods and assumptions used in preparing the financial statements and in determining the insurance contract related assets, liabilities, revenue, and expenses. Sensitivity to key assumptions and impact of assumption changes are required to be disclosed as well. However, the degree of detail is subject to insurer's own judgement, balancing the amount of information provided against the principles of understandability, relevance, reliability and comparability (NZ IFRS 4 Appendix C 14.1.7, Appendix D 17.6.4).

Information on the determination and adequacy of the technical provisions include:

- The size and adequacy of the non-life insurance risk margin in addition to the central estimate methods and assumptions.
- The sensitivity of the life insurance liability to key assumptions changes.
- The provision is subject to a liability adequacy tests relative to expected future cash flows.
- Disclosure of the "run off result", i.e., past claims development, except for claims expected to be resolved within one year.

NZ IAS 1.134 require disclosure that enables users of financial statements to evaluate the entity's objectives, policies and process for managing capital. A life insurer must disclose the solvency margin of each life fund and the aggregate solvency margin for all life funds of the insurer; and a group must disclose the solvency margin of each life insurer in the group. The amount of equity retained for the purpose of financial soundness and the basis of establishing that amount must be disclosed. A group must make this disclosure for each insurer in the group.

RBNZ solvency standards require that the following components of regulatory capital be disclosed in the financial statements and on an insurer's website, although a description of the regulatory capital methodologies is not required:

- Actual Solvency Capital.
- Minimum Solvency Capital.
- Solvency Margin (= Actual Solvency Capital – Minimum Solvency Capital).
- Solvency Ratio (= Actual Solvency Capital over Minimum Solvency Capital).

For foreign branch operations exempted from complying with New Zealand solvency requirements, the same solvency information applies, but determined in accordance with the home jurisdiction's requirements, the fact of which is disclosed.

Branches are required to submit to the Registrar financial statements of the overseas parent company (or group) prepared according to accounting standards of its home jurisdiction, and the financial statements of the New Zealand branch prepared according to New Zealand accounting standards. The financial statements of the branch and the parent company (or group) are required to be lodged with the New Zealand Companies Office. The FMA has exempted branches of overseas banks and insurers from applying the New Zealand accounting standards until 2020 [Financial Markets Conduct (Overseas Registered Banks and Licensed Insurers) Exemption Notice 2015].

#### **Disclosure on Investments**

New Zealand accounting standards require a company to disclose the significance of financial instruments to its financial position and performance and information on the nature and extent of the risks arising from financial instruments and how it manages those risks. A company is also required to disclose its general approach to valuation and measurement of financial assets and liabilities. However, a company is not required to disclose its investment objectives or policies and procedures.

The disclosures include exposure information, sensitivity and maturity analysis. Sensitivity analysis focusses on the impact on equity and profit rather than impacts on minimum regulatory capital.

#### **Disclosure on Risk Management**

Accounting standards require disclosure relating to the nature and extent of the risks arising from insurance contracts, before and after the impact of reinsurance, including sensitivities to insurance risks and risk concentration. The disclosures include:

- Objectives, policies and processes for managing risks arising from insurance contracts and the methods used to measure those risks.
- Information about insurance risk before and after mitigation by reinsurance:
  - Sensitivity.
  - Concentrations.
  - Actual claims compared to previous estimates.
- Credit, liquidity, market and other risks.

Non-life insurers are required to disclose information that describes how the insurer's reinsurance program is structured.

There is no disclosure on asset-liability management practices, or sensitivity of regulatory capital and provisions for mismatching due to changes in discount rates or asset values.

	<p><b>Disclosure on Financial Performance</b></p> <p>New Zealand accounting standards require disclosure on financial performance include a statement of financial performance, other comprehensive income, changes in equity, and statement of cash flows. Financial performance and balance sheet items for each statutory fund, split between investment-linked and non-investment linked business, are separately disclosed. While accounting standards require segmentation into key operating segments, few splits are given in the New Zealand context.</p> <p>Life insurers are required to provide an analysis of earnings such as:</p> <ul style="list-style-type: none"> <li>• Planned margins of revenues over expenses.</li> <li>• The difference between actual and assumed experience.</li> <li>• The effect of changes to underlying assumptions.</li> <li>• Loss recognition (i.e., liability adequacy test impacts).</li> <li>• Investment earnings on assets in excess of liabilities.</li> <li>• Other material sources of profit.</li> </ul> <p>Non-life insurers are required to provide underwriting results.</p> <p>Disclosure of key sources of revenue is required. Life insurers must provide investment revenues from equity securities, debt securities, property and other with appropriate relevant sub-categories e.g., rent, dividends, unrealized gains or losses, split by statutory fund and by unit linked vs non unit linked business lines.</p> <p>Claims development tables are required, except for claims expected to be settled within one year.</p> <p><b>Disclosure on Corporate Governance</b></p> <p>The RBNZ's Guidelines on Governance indicate that insurers should disclose information on its corporate governance policies, practices and processes as well as information about the directors, how the governing body operates and any committees of the governing body, in addition to general disclosure requirements under the Companies Act. However, the Guidelines do not have the force of law.</p>
Assessment	Partly Observed
Comments	<p>The disclosure requirements are based on accounting standards and disclosures themselves are focused on financial statements, supplemented by additional regulatory requirements on disclosure of financial position, including required ratings, and corporate governance. Since one part of the RBNZ's supervisory philosophy is market discipline, including an emphasis on the consumer's responsibility for financial decisions, the level of regulatory capital and</p>

	<p>solvency information is important information to facilitate informed decisions. The usefulness of the disclosures of insurers in New Zealand, however, is hampered by the use by branches of home jurisdiction methodologies for presenting solvency information. In addition, published solvency information does not take into account the requirements which RBNZ can and does impose on individual insurers (see ICPs 4 and 17), which may mislead as to the true financial strength of the company. While this additional requirement reflects confidential supervisory judgments, it may be appropriate to publish the information in the New Zealand context given the emphasis on market discipline.</p> <p>Compared to the ICP, financial statements disclosure is less comprehensive and descriptive in the areas of investments, asset liability management, description of risk concentration, and interaction between capital adequacy and risk.</p> <p>It is recommended that the RBNZ consider the following:</p> <ul style="list-style-type: none"> <li>• Strengthen disclosure in the following areas: <ul style="list-style-type: none"> <li>– Risk management (asset-liability management practices, sensitivity of regulatory capital, and provisions for mismatching).</li> <li>– Financial position (capital management policy, capital adequacy information).</li> <li>– Investment (objectives, policies, and procedures).</li> </ul> </li> <li>• Consider ways to improve the solvency disclosure information to facilitate comparability across insurers and between subsidiaries and branches. (see ICP 17).</li> <li>• Enhance the quality of governance disclosure and its enforceability.</li> </ul>
<b>ICP 21</b>	<p><b>Countering Fraud in Insurance</b></p> <p>The supervisor requires that insurers and intermediaries take effective measures to deter, prevent, detect, report, and remedy fraud in insurance.</p>
Description	<p><b>Criminal law coverage of fraud</b></p> <p>Fraud in insurance (as experienced by both consumers and insurance provider firms) is a criminal offence under legislation including the Crimes Act, Proceeds of Crimes Act, Financial Market Conduct Act, and FTA. The Crimes Act sets out a number of offences that relate to dishonesty, including obtaining by deception or causing loss by deception (including fraud) section 240. These offences are liable for punishment by terms of imprisonment. The proceeds of crime from any committed fraud are also subject to the Crimes Act.</p> <p>The Insurance Law Reform Act of 1977 permits insurers to avoid a policy where material incorrect statements were made in the proposal or other documents.</p>

### **Fraud awareness and supervisory cooperation**

Many institutions are involved in the detection, investigation and prosecution of fraud-related crimes, including the New Zealand Police, the Serious Fraud Office, the FMA and the Commerce Commission. Cases of fraud are generally referred in the first instance to the police or Serious Fraud Office for investigation and prosecution. New Zealand Police maintains a Financial Crime Group that includes a Financial Intelligence Unit (FIU) and Asset Recovery Units.

The Insurance Council of New Zealand (ICNZ), the trade association for non-life insurance, operates the Insurance Claims Register (ICR) and provides a confidential fraud reporting framework (an online fraud reporting form and fraud 'hot line'). The ICR is an electronic register, established in 1999, that holds a central record of all claims lodged by the participating insurance companies, enabling them to access claims histories when underwriting new business and processing claims, for the purpose of checking for fraud. Four insurers own and oversee the ICR (with administration provided by the ICNZ). They account for 85 percent of personal lines insurance business. There are provisions for others to participate for a fee.

ICNZ and the Serious Fraud Office publish, on a regular basis, examples of action taken against fraudsters and examples of actual cases of insurance fraud.

Under the Serious Fraud Office Act 1990, the Serious Fraud Office (SFO) is tasked with investigating and prosecuting serious offenses relating to fraud. The SFO reports to the Minister of Police. Prosecution, and sentences of imprisonment, have been recently obtained against a New Zealand insurance broker, by the Serious Fraud Office, under the Crimes Act 1961 and the Serious Fraud Office Act.

The New Zealand Police host an annual financial crime conference, which includes discussion of fraud awareness, detection and prevention for all types of industry participants. Case studies are included, on emerging financial crime trends. The RBNZ participates.

The Reserve Bank cooperates with and exchanges information with other relevant authorities, subject to the provisions of IPSA (see ICP 3 and ICP 25).

### **Supervisory requirements**

IPSA and guidelines issued by the RBNZ require Insurers to be subject to and comply with a Risk Management Programme (section 73 of IPSA) (ICP 8). The Risk Management Guidelines note that the requirements on the management of operational risk include fraud risks (section 40). The RBNZ's supervision and enforcement work (ICPs 9 and 11) include consideration of risk management including operational risk. Fraud risk is not a priority focus of RBNZ supervision, and supervisors' awareness derives from particular cases (including a

	current case of alleged fraud by a licensed non-life insurer). Insurers are expected to monitor fraud in conjunction with industry bodies and the criminal authorities.
Assessment	Observed
Comments	<p>Fraud related to insurance is captured by general criminal law on theft, misrepresentation etc. and the criminal and regulatory authorities cooperate to identify cases of fraud and have brought successful prosecutions on insurance-related fraud. The supervisory bodies are part of a network of official agencies cooperating in this area (although on a less formal basis than for AML/CFT work) and spreading wider awareness of fraud issues. There is an apparently strong commitment of the insurance industry to fraud detection, as evidenced by an established claims registry service.</p> <p>Fraud is covered in RBNZ guidelines (in connection with risk management), and fraud prevention and controls are in principle covered in supervisory work within its risk-based approach. Other priorities have led to limited specific focus to date on fraud issues.</p> <p>It is recommended that in order to ensure a minimum coverage of fraud in its supervisory work and to support insurance company focus on fraud risks:</p> <ul style="list-style-type: none"> <li>• As part of its planning for the development of its supervisory work and resource planning, RBNZ schedules thematic or firm-specific work on fraud controls.</li> <li>• The RBNZ, in due course, includes guidance to supervisors on evaluation of fraud risks in the iPRESS framework.</li> </ul>
<b>ICP 22</b>	<p><b>Anti-Money Laundering and Combating the Financing of Terrorism</b></p> <p>The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and the financing of terrorism. In addition, and the supervisor takes effective measures to combat money laundering financing of terrorism.</p>
Description	<p><b>Institutional framework and key requirements</b></p> <p>The RBNZ and FMA are two of three designated AML/CFT competent authorities under the AML/CFT Act. RBNZ is the AML/CFT supervisor for life insurers who are reporting entities (i.e., subject to the requirements of the Act). The FMA covers brokers and financial advisers. (The Department of Internal Affairs (DIA) covers all other reporting entities).</p> <p>Life insurance is covered by the AML/CFT Act, with exemptions for business closed to new customers and new premiums; and pure risk/protection policies (AML/CFTaus (Exemptions) Regulations 2011). There are 14 life insurance company reporting entities at present.</p> <p>Non-life insurance is not covered owing to its lower vulnerability (this is under review, with other aspects of the legislation, in a Ministry of Justice review, but is not expected to change).</p>

Advisers which undertake business in more complex products under the FA Act and all intermediaries which accept client money) are reporting entities and subject to FMA oversight.

Reporting entities, general insurance providers and intermediaries are also subject to the Financial Transactions Reporting Act 1996 (FTRA), and are required to report suspicious matters to the New Zealand Police Financial Intelligence Unit (FIU).

Section 131 of the AML/CFT Act outlines the functions of RBNZ as AML/CFT supervisor and section 132 provides the powers for RBNZ to carry out its functions. RBNZ has responsibility for monitoring and assessing the level of AML/CFT risk across the reporting entities that it supervises and it does so through licensing (which includes an assessment of AML/CFT compliance), risk management requirements (insurers are required to include AML/CFT risks in their risk management frameworks – see ICP 8) and supervision, which is undertaken by a specialist AML/CFT unit of four staff.

The regulatory requirements applying to insurers are set out in the AML/CFT Act and Regulations. The Ministry of Justice is responsible for administering the Act. The key functions of RBNZ (section 131 of the AML/CFT Act) include providing guidance to reporting entities. It has issued guidance for insurers specifically (the AML/CFT Insurance Business Coverage Guideline).

Section 56 of the AML/CFT Act requires the appointment of an AML/CFT Compliance Officer (AMLCO). The AMLCO must report to a senior manager of the reporting entity.

#### **Risk assessment and supervisory work**

The RBNZ publishes an AML/CFT Sector Risk Assessment (SRA) for the sectors which it regulates, including life insurers, providing information on inherent money-laundering and terrorist financing risks in the regulated activities. The SRA, the most recent version of which was published in 2011, feed into the National Risk Assessment (NRA) led by the New Zealand Police Financial Intelligence Unit (FIU).

Section 60 of the AML/CFT Act requires each reporting entity to prepare an annual report for its AML/CFT supervisor. The RBNZ undertakes AML/CFT supervision work on the insurance sector, using the mandatory annual AML/CFT reports and occasional surveys of the insurance sector on their actual business to undertake baseline monitoring of compliance and feed into the SRA. It also carries out annual assessments of risk in individual insurers, ranking the vulnerability of each according to inherent AML/CFT risks. The mandatory annual reports include data on use of intermediaries and estimates of the amounts of business per annum generated via using foreign intermediaries.

Life insurance providers have generally been rated as the 'lowest risk' reporting entities supervised by RBNZ since the most recent SRA.

	<p>Using the Entity Risk Assessment, the RBNZ determines the frequency, level of intensity and areas of focus of its targeted reviews of its reporting entities. Two life insurance providers have been visited in 2016. The RBNZ has also conducted a thematic survey of the life insurance sector and published papers on its findings. The supervisory framework is outlined in an internal AML/CFT Supervision Manual.</p> <p>The RBNZ has taken action where it has identified through supervisory work that reporting entities do not have adequate controls for AML/CFT risks. It has issued private formal warnings to banks, but not yet issued any warnings or taken other enforcement action with life insurers. Its enforcement powers in relation to AML/CFT issues are set out in the AML/CFT Act and include accepting enforceable undertakings from insurers and seeking civil penalties. As is the case for its regulation under IPSA, the RBNZ does not have power to impose administrative penalties (see ICP 1). Failure to comply with AML/CFT requirements is not grounds for suspension or withdrawal of a license.</p> <p>The FMA carries out supervisory and enforcement work on the reporting entities subject to its oversight, of which there are around 800 including insurance intermediaries that are reporting entities. While it carries out a program of on-site visits and desk-based thematic reviews, undertaken by a small number of staff in its regulation function, none of these (in 2014–15) were in relation to insurance intermediaries. It also collects annual reports from all reporting entities and requires independent AML/CFT audit reports from some. The FMA publishes an annual report on its activities and findings in AML/CFT supervision.</p> <p><b>Cooperation and coordination</b></p> <p>The RBNZ is a member of the AML/CFT Supervisors' forum that meets fortnightly to discuss operational AML/CFT issues (others are DIA, FMA, the New Zealand Police Financial Intelligence Unit (FIU) and the Ministry of Justice). It is also a member of the AML/CFT National Coordination Committee (NCC) which meets monthly to discuss policy and operational issues, with a broader membership within government. RBNZ cooperates with international authorities, which has included on-site supervisory work with Australian authorities).</p> <p><b>Mutual Evaluation issues</b></p> <p>An Asia-Pacific Group Mutual Evaluation Report published in 2010 noted deficiencies in the AML/CFT framework for insurance. The most recent follow-up report (October 2013) noted that regulatory reforms, including IPSA, the FMA Act and AML/CFT Act, have addressed the lack of regulation. The next mutual evaluation review is due in 2019.</p>
Assessment	Observed
Comments	As the designated supervisor under AML/CFT legislation, the RBNZ monitors life insurance

	<p>providers, using reports and analysis about vulnerabilities to AML/CFT risk in the sector. It conducts desk-based reviews and a small number of on-site inspections, taking a risk-based approach. The intensity of supervision is considerably lower than for banks, reflecting a risk assessment of the sector that is coordinated with other authorities and included in New Zealand's national risk assessment. Resources devoted to AML/CFT are limited, in proportion to the resources available for insurance prudential supervision, and a wide range of tools are used. RBNZ benefits from a specialist unit that has built expertise and relationships with other authorities, including in Australia. The FMA is carrying out collecting information, carrying out reviews and publishing findings, in relation to the reporting entities within the wide scope of its regulation, although there is no specific work program for insurance intermediaries.</p>
<b>ICP 23</b>	<p><b>Group-wide Supervision</b></p> <p>The supervisor supervises insurers on a legal entity and group-wide basis.</p>
Description	<p><b>Group-wide Supervisor</b></p> <p>RBNZ operates on the assumption that the home supervisor is the group-wide supervisor. There are 18 foreign-based insurance groups and financial conglomerates involving a total of 34 New Zealand-licensed insurers operating in New Zealand. Cooperation and coordination with the overseas supervisor is primarily with APRA due to the dominant position of Australian insurers in New Zealand.</p> <p>There are 17 New Zealand-based insurance groups and financial conglomerates involving a total 19 New Zealand-licensed insurers, with market share of 15 percent by premium. RBNZ's supervision is on legal entity basis, and it does not practice full group-wide supervision over insurance groups or financial conglomerates, although it does monitor solvency of groups, where the group comprises an insurer and subsidiaries (see ICP 17).</p> <p>Overseas insurance business by New Zealand-based insurers is limited. However, there are exceptions to this:</p> <ul style="list-style-type: none"> <li>• There is one insurance group that derives over 95 percent of its income from overseas insurance operations. Since the overseas insurers are subsidiaries of the holding company, RBNZ does not have direct supervisory power over the holding company nor the overseas subsidiaries. It may require information from these companies as "associated persons" through the licensed entity.</li> <li>• There is one insurance group that has significant market shares in the South Pacific islands. RBNZ has not established relationships with the host supervisors.</li> </ul> <p><b>Identification of Legal Entities</b></p> <p>At the licensing stage, the license applicant must provide information on its incorporation, ownership and legal structure for the RBNZ to identify all legal entities in an insurance group including non-regulated entities. After licensing, the RBNZ is notified and approves changes</p>

	<p>in control and transfer and amalgamation (see ICP 6).</p> <p>IPSA gives powers to RBNZ in relation to insurance legal entities with no explicit provisions for groups. The RBNZ's power over holding companies and non-RBNZ regulated entities within the group is only through the regulated entity (the "indirect approach" to group supervision) and through "associated persons" which is widely defined in IPSA. It has wide power to compel information from associated persons. (See ICP 1).</p>
Assessment	Partly Observed
Comments	<p>Supervision of insurance is a new regime. RBNZ has just completed its licensing process in 2013. The extent of group-wide supervision is limited at this point. While it has obtained information of all legal entities in a group at the licensing stage, its knowledge will become out of date over time in the absence of a regular reporting and monitoring process on group membership and group structures, except where there is a change of control (see ICP 5). RBNZ has not established in-depth relationships with overseas supervisors other than APRA mainly due to resource constraints. In the case of APRA, the nature of cooperation is more reactive than proactive.</p> <p>It is recommended that RBNZ:</p> <ul style="list-style-type: none"> <li>• Develop a strategy on group-wide supervision reflecting its supervisory philosophy and available resources. It should take into account the significance of its domestic insurers in foreign markets (having negative impact on New Zealand's reputation).</li> <li>• Review its approach to licensing insurers with a substantial amount of business undertaken outside New Zealand and whether and when to use its powers under section 21(2)(d) of IPSA to set requirements on minimum levels of domestic business.</li> </ul>
<b>ICP 24</b>	<p><b>Macroprudential Surveillance and Insurance Supervision</b></p> <p>The supervisor identifies, monitors and analyses market and financial developments and other environmental factors that may impact insurers and insurance markets and uses this information in the supervision of individual insurers. Such tasks should, where appropriate, utilize information from, and insights gained by, other national authorities.</p>
Description	<p>The RBNZ's overall macroprudential work takes into account the small size of insurers relative to banks and their limited systemic importance. The significance of the Crown Entities ACC and EQC, that substitute to an extent for private insurance, reduces the scale and significance of the insurance sector.</p> <p>Ownership linkages between banks and insurers are limited by the requirement on banks registered in New Zealand that they not own insurers larger than 1 percent of their own size. Three domestic banks nonetheless have insurance interests. The more significant links are to the Australian banks: all four major banks have interests in insurers in New Zealand, one of their subsidiaries being a major life company. Insurers have claims on banks and other</p>

financial institutions via the investment book.

The new instruments of macroprudential intervention being developed by the authorities are to be used with respect to banks only.

The RBNZ's Financial Stability Report reports on risks and macroeconomic conditions affecting the insurance sector at a high level. However, the RBNZ is not performing market-wide analysis or stress-testing to identify vulnerabilities across the sector. Information on non-insurance business is not regularly collected (though it was in the licensing process and was identified to be low).

Analysis of sector trends will be developed as more detailed financial information, including exposure data by type and class of insurance, becomes available on a consistent basis across all insurers. However, this will provide limited information on potential stresses, interconnectedness and non-insurance activities. The majority of data being collected is, and will remain in respect of the licensed insurer, or in the case of insurers operating as branches in New Zealand, for the New Zealand branch.

The RBNZ has not yet published aggregate market data based on its returns, but intends to consult on this shortly, after improved reports become available.

Solvency returns and financial condition reports have information on key risks and trends at the insurer level. This has not been aggregated. However, RBNZ has taken a sector-wide approach to monitoring risks related to the Canterbury earthquake claims and has responded with supervisory tools such as increased solvency requirements on the insurers that have material net risks associated with the earthquakes. This monitoring is by way of additional monthly returns and includes looking at future adverse claims development scenarios. Information on Canterbury earthquake exposures has been fed to the industry and individual insurers.

Although the RBNZ's solvency standards relate primarily to the risks of individual entities, the standards include allowance for events that are likely to be more systemic in impact by applying catastrophe solvency requirements for both property insurers (1 in 1000-year earthquake losses) and life insurers (pandemic losses of extra deaths at 1 per thousand).

The RBNZ has not defined or explicitly assessed the systemic importance of insurers in the context of the broader financial system. However, the iPRESS supervisory framework (see ICP 9) considers the relative impact of insurers on the IPSA objectives. It takes account of connections between insurers (but not between insurers and banks) as well as the size of the insurer. It does not capture non-traditional insurance or non-insurance activities; and has no allowance for potential risks from subsidiaries or parents of insurers.

	<p>With increased availability of information by class, the RBNZ will be better-placed to identify where one or more insurer has a market position that could have adverse implications for the availability of insurance cover, were the insurer to fail. The largest non-life insurer has a market share of 45 percent of gross premium income.</p> <p>At present, the RBNZ considers that there are no systemically significant insurers in New Zealand.</p>
Assessment	Partly Observed
Comments	<p>Although the RBNZ's purposes under IPSA focus on the insurance sector, its supervision is focused to a large extent on individual insurers. The scope to take a system-side view has been hampered to date by limited availability of detailed comparative information from regulatory reporting. However, a more macroprudential approach was taken in response to the Canterbury earthquakes, both in managing the exposure of insurers to the risk of increasing claims and in developing the solvency requirements to provide for greater protection for property insurers against earthquake risk in the future.</p> <p>With increased data availability from late 2016, the RBNZ will be better able to identify emerging market-wide risks, assess for potential systemic significance and publish more aggregate information on the sector. While the development of macroprudential supervision will also contribute to the effectiveness of the supervision of individual insurers, it will not substitute for that activity and is therefore likely to require additional supervisory resources.</p> <p>It is recommended that the RBNZ increase the market wide analysis of the sector from 2017, defining regular outputs (for internal use) such as standard reports on market trends, interconnectedness and other potential sources of systemic risk and templates for the publication of aggregate information (it already has plans for consultation in this area). While in the medium term, stress-testing exercises should be considered, the RBNZ could undertake cross-company analysis of information in Financial Condition Reports, supplemented by requiring increased reporting of sensitivity analysis, as necessary.</p>
<b>ICP 25</b>	<p><b>Supervisory Cooperation and Coordination</b></p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements.</p>
Description	<p><b>Domestic Arrangements</b></p> <p>The RBNZ is responsible for prudential supervision of the insurance sector while the FMA is responsible for conduct supervision of insurers and intermediaries. The RBNZ and FMA have signed a MoU in 2011 establishing the basis of cooperation, and CoFR was established to ensure coordination in response to financial market events. Refer to ICP 3 for more details on the domestic arrangements.</p>

### International Cooperation

The insurance market is dominated by overseas insurers' branches and subsidiaries. Of the 90 insurers excluding captives, overseas insurers have a 76 percentage market share by premium income:

Ownership	Number of Insurers		2015 Premium (NZD millions)		2015 Assets (NZD millions)	
	Count	% Total	Amount	% Total	Amount	% Total
Australia	19	21	5,940	66	22,024	75
NZ	43	48	2,205	24	4,646	16
Others	28	31	874	10	2,576	9
Total	90	100	9,019	100	29,245	100

(Note: the table above is based on ultimate ownership of licensed insurers which may differ from the jurisdiction of incorporation in some cases.)

Eighteen of the 19 Australian insurers operate as branches. A large life insurer (18 percent market share by premium and 45 percent by assets) is an Australian branch, although the largest non-life insurer (44 percent market share by premium) is an Australian subsidiary. Moreover, the largest life insurer (29 percent market share by premium) is owned by an Australian bank. The insurance oversight team in the RBNZ needs to have interaction with the banking supervisor in APRA as well.

The RBNZ has exercised its powers in the legislation to exempt branches from complying with the RBNZ's governance and solvency requirements. Australian life branches have also been exempted by the RBNZ from the statutory life fund requirements. APRA therefore plays a key role as the home supervisor for these branch operations. APRA has undertaken on-site supervisory work for the larger Australian operations in New Zealand and the RBNZ has attended. There has also been cooperation with APRA on issues related to the impact of the Canterbury earthquakes. The RBNZ has cooperated with U.K. supervisors on a further Canterbury-related case.

There are 6 New Zealand-based insurance groups having overseas operations, in Australia, South Pacific, and Europe. One of the insurance groups has operations in 30 countries including Europe, Latin America, the Middle East, and Southeast Asia, with over 95 percent of its annual revenue derived from outside of New Zealand, mostly from Europe, although most of the business is written by the New Zealand licensed insurer rather than in group legal entities. The RBNZ has not established any supervisory colleges for its domestic insurers having overseas operations. It has not established a process to identify group-wide supervisors for these groups.

The RBNZ has entered into MoUs with APRA and U.K. PRA. It is also a signatory to the IAIS MMoU.

	<p>Given the interests of New Zealand and Australia in effective oversight of banks with operations in both countries, the Trans-Tasman Council on Banking Supervision (TTBC) was established in 2005. Today the Council is composed of the Australian and New Zealand Reserve Banks, the respective Treasuries, APRA, the Australian Securities and Investments Commission (ASIC) and the FMA. Its main role is to monitor and coordinate trans-Tasman home-host regulatory issues. A key goal is to promote the co-ordination and harmonization of trans-Tasman bank regulation where appropriate.<sup>10</sup> The scope of TTBC was extended to insurance in June 2014, to cover potential issues relating to financial stability, efficiency and integration through the wider financial sector. The work program proposed three areas where joint study could be undertaken in 2015/2016:</p> <ul style="list-style-type: none"> <li>• Cooperation on supervision.</li> <li>• Trans-Tasman crisis response preparedness.</li> <li>• Regulatory alignment.</li> </ul> <p><b>Cross-border Group-wide Supervision Arrangements</b></p> <p>The practice of group-wide supervision is not yet well established. In the case of branches, the RBNZ operates on the basis that the home supervisor is the lead supervisor. The RBNZ is a participant in the supervisory college for one Australian non-life insurer, one American and one Hong Kong insurer. It attends regularly the Australian supervisory college meetings. It has attended meetings for the other two non-Australian supervisor colleges via teleconference. The RBNZ has not contemplated establishing supervisory colleges as the lead supervisor for its insurance groups operating overseas.</p>
Assessment	Largely Observed
Comments	<p>New Zealand has an open and cooperative attitude towards supervisory cooperation, although its attitude is more reactive than proactive. Domestically, there are arrangements to discuss and share information among relevant authorities. Internationally, the RBNZ has well established procedures to cooperate with Australia whose insurers represent 66 percent of the New Zealand insurance market. Despite the large foreign participation in its market, the RBNZ's active participation in supervisory colleges is mainly limited to one.</p> <p>It is recommended that the RBNZ establish a process to more proactively evaluate the need to identify a group-wide supervisor, and the need to establish supervisory colleges for cross-border insurance groups. Regardless of the conclusion, the process will instill the discipline of ensuring clarity of supervisory responsibility. The RBNZ should initiate contacts with the host supervisors where New Zealand insurers have large market shares to understand the risks to New Zealand-owned operations in those markets. The RBNZ should also increase its</p>

<sup>10</sup> See the RBNZ website: <http://www.rbnz.govt.nz/regulation-and-supervision/banks/relationships>

	engagement with insurers with substantial overseas operations.
<b>ICP 26</b>	<p><b>Cross-border Cooperation and Coordination on Crisis Management</b></p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities such that a cross-border crisis involving a specific insurer can be managed effectively.</p>
Description	<p>As noted under ICPs 3 and 25, the New Zealand insurance market is dominated by foreign players, in particular Australian-owned insurers owing to both historical ties and geographic proximity. Therefore, the RBNZ maintains a strong bilateral relationship with APRA. This close relationship and interconnectedness of financial markets provided the impetus for legislating for trans-Tasman cooperation. The TTBC has an established role to monitor and coordinate trans-Tasman home-host regulatory issues, including crisis management preparedness. The TTBC has been extended to include insurance in 2014 in principle, although the agreement hasn't been officially amended. RBNZ officials have recently begun discussion with APRA about crisis management and resolution issues.</p> <p>The commitment to cooperation is enshrined in legislation of respective countries. Section 68A of the RBNZ Act requires that the RBNZ support Australian authorities in meeting their statutory responsibilities in prudential regulation and financial system stability, and to the extent practicable avoid any action that is likely to have a detrimental effect on financial system stability in Australia. Equivalent provisions were incorporated in Australian legislation: the APRA Act 1998, the Banking Act 1959 and the Financial Sector (Transfer of Business) Act 1999.</p> <p>The RBNZ has exempted Australian branch operations in New Zealand from New Zealand solvency requirements, and, in common with other licensed insurers, they are not required to hold assets in New Zealand. They represent nearly a quarter of the total industry by premium income. In developing trans-Tasman banking regulation in 2004, the RBNZ recognizes the differences between the supervisory approaches adopted by the respective countries:<sup>11</sup></p> <p>Australia's framework emphasises intensive supervision by APRA and has a depositor preference regime covering deposits in Australia for all locally incorporated authorised deposit-taking institutions. This is in addition to the disclosure and other requirements imposed on banks under the provision of the Corporations Act 2001 in Australia.</p> <p>NZ emphasises disclosure and oversight through its corporate governance regime, including a pivotal role for bank board directors and market disciplines. New Zealand does not have depositor preference. The approach is intended to complement and not duplicate the work of APRA in its oversight of Australian-owned banks' New Zealand operations.</p>

<sup>11</sup> See: <http://www.rbnz.govt.nz/regulation-and-supervision/banks/relationships/trans-tasman-banking-regulation-july-2004>

	<p>In light of the possibility of national preference policy adopted in insolvency legislation by overseas jurisdictions, regulation 7 of the Insurance Prudential Supervision Regulations requires that the financial rating disclosed by an overseas insurer must contain a statement by the rating agency to highlight the existence of the overseas policyholder preference, and whether there is material disadvantage to New Zealand policyholders. In the case of Australian life branches, New Zealand policyholders are part of the Australian statutory fund, having the same degree of protection as Australian policyholders. On this basis, it is deemed that there is no overseas policyholder preference.</p> <p>In relation to provision of information that may be needed in a crisis, section 121 of IPISA allows the RBNZ to require insurers to provide any information, data, or forecasts about any matters relating to the business, operation, or management of the insurer, for the purpose of prudential supervision. The RBNZ has the same power to compel information from associated persons of the insurer (section 122) and any other persons who the RBNZ has reasonable grounds to believe to be in possession of relevant information or data [section 124(1)]. Section 124(2)(b) indicates that RBNZ may specify “the time by which, and the manner in which, the information, data, or forecasts must be supplied.” However, the RBNZ has not yet defined its information needs for crisis management.</p>
Assessment	Partly Observed
Comments	<p>The largest non-life insurer in New Zealand (which is locally incorporated) has a 44 percent market share. There would be a serious impact on the New Zealand market should it be in distress, similar to the AMI situation during the Canterbury earthquakes. In addition, New Zealand policyholders of foreign branches may be in a vulnerable position in the light of possible overseas policyholder preference. Effective cross-border crisis management is a key issue to New Zealand policyholder protection and financial stability. The RBNZ is in the early scoping phase of developing its policy relating to managing insurers in crisis.</p> <p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• Due to the high level of cross border activities, the RBNZ should prioritize its crisis management policy and procedures, and also study how best to achieve IPISA’s principle of policyholder protection in crisis.</li> <li>• Due to the high catastrophe risk in the New Zealand market, the RBNZ should require insurers to establish and maintain contingency plans and procedures based on their specific risks in use for going- and gone-concern situations.</li> </ul>