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ICNZ submission on Certificates of Insurance Draft Guidelines

Thank you for the opportunity to submit on the draft *Guidelines for applicants for certificates of insurance for regulated offshore installations under Marine Protection Rules Part 102* ('guidelines'). ICNZ represents general insurers who insure about 95 percent of the New Zealand general insurance market.

Our submission is limited to the proposed requirements related to insurance found primarily on pages 10-13 of the guidelines. ICNZ does not take any position on the level of assurance required under Marine Protection Rules Part 102 or the scaled framework outlined in the guidelines.

ICNZ's concerns are that aspects of the proposed requirements and expectations could be incompatible with the realities of the insurance market, making sourcing relevant types of insurance very problematic. We note the types of relevant insurance (e.g. operators extra expense/OEE for well control situations) have evolved over the last 50+ years and current wordings reflect practical learnings and legal experience from around the world over that time. We are mindful that whilst insurers can provide some variations to standard policies to suit certain clients or jurisdictions, insurers are limited by commercial considerations, underwriting rules and their own prudential regulations in terms of what they can offer. Seeking policies with high limits and effectively no conditions, as envisaged in the guidelines (e.g. in Table 1), is a particularly challenging area.

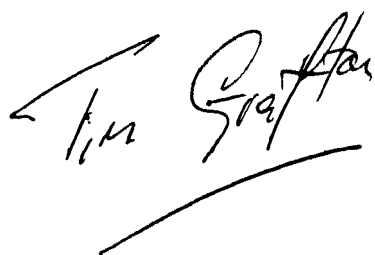
We understand the relevant types of insurance are generally provided by the Lloyd's market in London. Accordingly, for these insurance related requirements to be practical the detail of what is required under Part 102 and the expectations outlined in the guidelines need to be compatible with what can be provided from that insurance market. As such, any insurance specific wording in the guidelines, for example the suggested endorsements, should be developed in close consultation with the providers of these types of insurance (e.g. Lloyd's) to ensure they are workable. We would be happy to assist in providing relevant contacts at Lloyd's.

Having looked at the guidelines we also make a few specific observations on the drafting, which we suggest are given further consideration:

- Table 1 ('Acceptable MTA endorsement'):
 - We understand relevant insurance policies generally have a single combined limit, whereas the drafting of 1(a) and 1(b) appears to suggest separate limits for different liabilities under sections 385B and 385C of the Act (noting use of 'independent and overriding').
 - Refers to \$US when the rest of the guidelines refer to \$NZ.
- Table 2 ('Acceptable double insurance endorsement'). We note that double insurance clauses are common in the insurance industry. In seeking to ensure that relevant costs are not avoided as a consequence of double insurance clauses, it is important for the guidelines to recognise the legitimate function they have and not seek to override insurance industry norms, for example in relation to contribution between insurers in the event of double insurance. We also note Table 1 has a clause (4) that appears to relate to double insurance, begging the question of why a dedicated double insurance endorsement is also required.

Thank you again for the opportunity to submit on the draft of the guidelines. If you have any questions, please contact our Regulatory Affairs Manager on (04) 914 2224 or by emailing andrew@icnz.org.nz.

Yours sincerely,



Tim Grafton
Chief Executive



Andrew Saunders
Regulatory Affairs Manager