ICNZ Insurance Council of New Zealand

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Emailed to: ipsareview@rbnz.govt.nz

Dear Richard,

ICNZ submission on the IPSA review Issues Paper

Overview

1. Thank you for the opportunity to submit on the IPSA review issues paper.

2. We provide this submission for the Insurance Council of New Zealand ("ICNZ"), which represents 26 licensed insurers insuring over half a trillion dollars' worth of New Zealand's assets and liabilities. Though some of our member insurers underwrite life and health insurance, we limit our submission to general insurance products. Individual members take differing views to ICNZ on various aspects of the Issues Paper, and those members will submit to you separately on point.

3. If you have any questions about this submission please contact our legal counsel Nick Mereu by emailing nick@icnz.org.nz or by phone (04) 495 8008.

Some issues previously raised are missing from Issues Paper

4. We wrote to the Reserve Bank on 27 September 2016 to list some issues that, in our view, should be included for discussion in the Issues Paper. Some of those issues were included in the Issues Paper; some were not. We have not been given reasons why the absent issues were not included.

5. We raise those issues again here for completeness, but note our disappointment that keeping those issues out of the Issues Paper prevents the population of submitters on the IPSA Review from considering and submitting on those points. We understand if the Reserve Bank disagrees with our view on these, but we say it lacks transparency and accountability for a decision to be made on keeping those issues out of the Issues Paper without notice and without reasons. We note that at our meeting with the Reserve Bank on 10 May 2017 we were encouraged by the Reserve Bank to submit on additional issues that in our view should be included in the Review.

IPSA should be independently reviewed

6. The Reserve Bank should invite submissions on whether it is the appropriate body to conduct future reviews of IPSA. Most legislative or regulatory reviews are not conducted by the regulator responsible for applying that legislation and regulation. MBIE, for example, conducts reviews of the Commerce Act and financial services and financial adviser legislation rather than the Commerce Commission and the Financial Markets Authority respectively. Similarly, the Australian Treasury conducts reviews of legislation administered by the Australian Prudential Regulatory Authority. This issue is fundamental to IPSA's operation.

IPSA should allow for RBNZ to be subject to merits review

7. Merits review and appeal rights strengthen regulator accountability and incentivise high quality regulation. Introducing either into IPSA would also facilitate closer alignment with the Australian regulatory environment, which allows for merits review. The Issues Paper should have invited submissions on whether IPSA should provide for merits review or strengthened appeal rights for Reserve Bank decisions. Particular areas of Reserve Bank decision-making that could warrant merits review or appeal rights include, for example, licensing, removal of licensing, changes to conditions of license, and transfers and amalgamations.

IPSA should allow RBNZ to monitor and regulate disruptive changes to the insurance market

8. The insurance industry faces significant disruption in coming years. Advances in technology already allow consumers to buy insurance in real time, for flexible time periods, and for multiple risks that are not neatly categorised into traditional insurance lines of business. New Zealand consumers will have increasing access to insurance providers that are domiciled offshore.

9. We appreciate that in one sense the Reserve Bank's role is limited to ensuring the stability of insurance providers offering capital here in New Zealand, rather than focussing on where New Zealand consumers are sending their capital to hedge against their financial risks. However, we submit that the Reserve Bank needs to monitor disruptive changes to the insurance market in New Zealand and overseas to have a full appreciation for the impact those changes could have on the New Zealand capital providers and purchasers of insurance.

10. We submit the Issues Paper should have invited (and Reserve Bank should consider) submissions on whether IPSA should permit or require the Reserve Bank to monitor disruptive changes to the insurance sector. An open and public discussion of the Reserve Bank's role in this area goes to promote public confidence in the insurance sector and would show that the Reserve Bank is engaging in emerging issues. We expand on some aspects of this at the end of this submission.

Part 1 of the Issues Paper

11. We strongly support the Reserve Bank's supervisory philosophy. Supporting self and market discipline while taking a tailored, risk-oriented approach to adding and using more formal rules in the regime where necessary will best meet the outcomes sought in the IPSA Review terms of reference. We echo the IMF's finding on the high level of competence of Reserve Bank staff.

12. We agree in principle (and anecdotally) that the Reserve Bank's implementation of IPSA has improved the soundness of the insurance sector without unduly constraining efficiency, and has done so on its current supervisory approach with its current level of resourcing. Overall, we believe the regime has and continues to work well.

13. However, we seek greater understanding of the evidence that led to these conclusions that IPSA has improved the soundness of the insurance sector. In particular, we submit there is a need for a more robust and transparent approach to setting objectives and quantitative and qualitative performance measures for IPSA, and for monitoring and evaluating the performance of both IPSA and the Reserve Bank against those objectives and measures.

14. The need for robust and transparent evaluation of the efficiency and effectiveness of regulation is categorical, regardless of the industry regulated or the degree of intensity of that regulation. Government has recently announced its expectations for good regulatory practice, requiring more systematic and robust monitoring and evaluation of New Zealand's regulatory stock by regulatory agencies like the Reserve Bank. We strongly support Government's expectations document and regulatory management strategy because it ensures the conversation about regulation does not have a beginning and an end, but is instead part of a continual feedback loop of policy, regulation, implementation, monitoring and review, to ensure the whole of economy stock of regulation is operating efficiently and effectively. We note Government's expectations and strategy originates from recommendations made by the Productivity Commission and the OECD.[1]

15. A discussion about what specific measures should be used to benchmark robust evaluation of IPSA's performance should happen now, so that a before and after analysis can be conducted during the next IPSA review.

[1] Both of which observed there was a need in New Zealand for systematic review of regulation and assessment of the effects of legislation to improve the policymaking process. See Productivity Commission 2014 report Regulatory Institutions and Practices and OECD 2015 Regulatory Policy Outlook.

16. If a more rigorous evaluation has already been conducted by the Reserve Bank but not disclosed to stakeholders, then we submit that the evaluation is relevant to the review of IPSA and must be disclosed to help stakeholders discuss and submit on the performance of regulation and of the Reserve Bank's enforcement of that regulation.

Entities required to be licensed

17. The Review should assess the current scope of IPSA in terms of the nature of insurance contracts and entities that are subject to IPSA. The Reserve Bank should be able to assess and reduce the possibility that material insurance business is carried on outside the scope of IPSA. This assessment and reduction of risk should not just happen through the IPSA review – the Reserve Bank should monitor and be able to take appropriate action under IPSA in respect of material insurance business on an ongoing basis. While we think the Review should consider the issues we raise below in the first instance, we suggest a designation power akin to the one that Financial Markets Authority may soon have in respect of financial advice, which we note below, may be appropriate.

18. We have four main areas of concern regarding the scope of the regime and licensing under it:
    a. **Types of contract that are currently deemed not to be insurance contracts under IPSA – including warranties, guarantees, and waivers**. IPSA has created the opportunity for people selling indemnity contracts for a fee to game IPSA by tailoring their contractual offering to be or look like a warranty, guarantee or waiver rather than an insurance contract. Our key concerns here are policyholder protection and competitive neutrality between the regulated community and the unregulated community. The product may look like insurance, and be sold like insurance, and indeed may be offered as an alternative to insurance, but it lacks the protections inherent in insurance through regulation under IPSA. While the Fair Trading Act's misleading and deceptive conduct provisions may provide some protection for consumers, that bar may be too high to satisfy. We are concerned that consumers may not appreciate the subtle but critical differences between an insurance contract provided by a licensed insurer, and an indemnity offered through a product that is not licensed insurance. We submit the Review should address the interface between exempt and non-exempt indemnities and, while we have not explored the issues in detail in this submission, we propose a possible solution in the form of a designation power for the Reserve Bank at paragraph 19 below.
    b. **Unlicensed (by the Reserve Bank) foreign insurance firms that insure New Zealand policyholders.** We understand that an increasing amount of insurance is being placed with this category of offshore insurer, and with disruptive technologies and purchasing through digital channels that may continue to increase in future. We submit the Reserve Bank should have a monitoring role to track its growth and to ensure that New Zealand policyholders have access to sufficient information to assess the risks and benefits in dealing with an unlicensed foreign insurer compared to a licensed insurer doing business in New Zealand, ideally through ensuring adequate disclosure.

c. **Monitor the impact of disruptive technologies and consider a regulatory sandbox to ensure monitoring and appropriate regulation of innovation.** Importantly the Reserve Bank should ensure competitive neutrality between incumbents and disruptors by balancing the need to ensure the objectives of prudential regulation are met in relation to all market participants without overly constraining innovation. We will expand on this point at the end of the submission.

d. **Consumer confusion about the use of the term "insurance".** While section 219 of IPSA prohibits the use of specific words in names and section 16 of IPSA restricts representations of being a "licensed insurer", we submit that consideration should be given to extending this to a more general prohibition on activity and conduct by non-insurers representing themselves to customers as insurers. It is important for customers to be fully aware of whether they are engaging with an insurer or non-insurer (regardless of name and licensing). We note that similar holding out prohibitions exist under sections 20A to 20C of the Financial Advisers Act. In particular, the Reserve Bank should have discretion to prohibit particular entities from using words like "insurer", "insurance", "insurance company", and other related terms, where the use of those terms has the potential to mislead given the nature of the entity and the product(s) sold. As above, we are concerned about consumers being under the impression they are dealing with a licensed insurer rather than an entity that is not a licensed insurer. There may also be a role for greater education and disclosure to consumers. Either way, we submit this issue should be discussed as part of the Review.

19. For the concerns in subparagraphs a-c above, we suggest that IPSA should provide the Reserve Bank a deeming power to bring in material insurance business to the IPSA regime. IPSA currently provides for regulations that can expand the list of transactions or matters exempted from IPSA. We say the converse should also be possible. IPSA should allow the Reserve Bank (or the Minister through a regulation-making power) to deem activities to be subject to some or all of the IPSA regime, to the Reserve Bank's satisfaction, as the Reserve Bank sees fit. The Financial Markets Authority may soon be able to deem an activity to be "financial advice" under the Financial Services Legislation Amendment Bill and thereby bring that activity into the regulatory regime.[2]

20. An alternative, lighter-touch option to a deeming provision would be for the Reserve Bank to provide public guidance or notifications to the public on those activities, to clearly explain to the public what the nature of the activity is and what risks customers face by engaging in that activity when compared with a licensed insurer. Either way, we say the Reserve Bank needs to have a mandate to monitor the activity described above.

[2] See FMA's designation power in clause 46 of the Financial Services Legislation Amendment Bill, and in the New Financial Advice Regime Consultation Paper, at page 25, available at http://www.mbie.govt.nz/info-services/business/business-law/financial-advisers/review-of-financial-advisers-act-2008/exposure-draft-and-transitional-arrangements/consultation/consultation-document-new-financial-advice-regime.pdf.

Overseas insurers and statutory funds

21. Overseas insurers provide critical support to the New Zealand insurance market. This is borne out by the Reserve Bank's own figure of 70 percent of the premium placed with New Zealand incorporated insurers being derived from overseas companies. Further, for direct insurers, some types of risks to policyholders in New Zealand would not otherwise be able to be insured due to the nature or scale of the risk. Overseas insurers may also have economies of scale or other features that allow them to provide a different proposition to a New Zealand policyholder, allowing for product differentiation and greater choice for consumers of insurance in the New Zealand market. Direct insurers are also supported by reinsurance capital that is almost exclusively underwritten by overseas reinsurers. That support is integral to a robust direct insurance market in New Zealand.

22. While we strongly welcome overseas insurers to the New Zealand market, we also believe regulation in New Zealand should, wherever possible, be competitively neutral between domestic and overseas insurers and should protect the New Zealand policyholder as a priority. Not all ICNZ members share this view or the views expressed in this part of the ICNZ submission, particularly those insurers that are overseas insurers operating branches in New Zealand. Those insurers will submit to you directly with their views. The following paragraphs set out the view ICNZ has taken after hearing the varying perspectives of the insurers in its membership.

23. We appreciate that regulation creating a "one size fits all" approach may be prohibitive and impractical in a market that benefits from competition between insurers of varying sizes, legal forms and governance structures. Regulation should first focus on addressing tangible or material risks of harm to the New Zealand policyholder created by differences between the regime applicable to domestic insurers and that applicable to overseas insurers. Certain risks may be identifiable but also manageable and acceptable to the Reserve Bank without requiring further regulatory intervention to redress the imbalance between overseas and domestic insurer. Where the Reserve Bank is so satisfied, we believe the Reserve Bank should be transparent about its reasons for exempting the overseas insurer. So, we note and agree with the Reserve Bank that a "one size fits all" approach may not be practical, and we support a principled approach with appropriately tiered requirements wherever that enables regulation to be more competitively neutral than the status quo.

24. We begin with assessing the status quo. We note the Reserve Bank currently exempts overseas insurers from certain aspects of the regime. There may be material risks to New Zealand policyholders caused by the Reserve Bank's exemption from New Zealand solvency standards for all overseas non-life insurers. This may be problematic given catastrophe risk solvency requirements on New Zealand insurers are unprecedented. New Zealand insurers need to hold sufficient reinsurance cover for a 1 in 1000-year catastrophe, whereas insurers in most other jurisdictions need only hold for a 1 in 200-year catastrophe. ICNZ has objected many times about the 1 in 1000-year capital retention requirement. We understand there may be good reasons, such as scale, for exempting particular overseas insurers from the 1 in 1000 requirement, but we would support transparency and close scrutiny of the reasons for

exempting all overseas non-life insurers from this standard. On the face of things, the discrepancy has the potential to be competitively unfair. As above, using language of "satisfaction" in IPSA gives the Reserve Bank a broad discretion to determine what satisfies it. As above, more transparency on the Reserve Bank's view of the risks posed and the reasons for exempting overseas insurers from parts of the regime would be welcome.

25. Status quo aside, we think it would be helpful, generally, to begin by mapping all of the possible risks caused by differences between the regime applicable to overseas insurers to that applicable to domestic insurers.[3] The particular regulatory, legislative and policy response stakeholders support will very much depend on the specific risk to be addressed, so for example a concern about major catastrophes hitting New Zealand and Australia at the same time may warrant a different approach to a situation where financial market shocks cause financial stress to the parent. Solvency standard exemptions aside, there is one other discrete area where we agree there may be a tangible risk to New Zealand policyholders: where a New Zealand policyholder with a valid claim cannot access the funds of their overseas insurer because of a preference in that insurer's parent jurisdiction. We agree the Review should address this issue.

26. (Depending on the results of the more detailed analysis of the particular situation(s) that could lead to a shortfall in funds for New Zealand policyholders from overseas insurers), we accept possible solutions could include a review of existing exemptions for overseas insurers, a preference for New Zealand policyholders over the assets of the New Zealand entity, or an "assets in New Zealand" requirement.

27. We do not support restrictions on legal structure. We support the ability for branch operations to be licensed to conduct insurance business in New Zealand. Branch operations allow overseas insurers to operate and administer their businesses efficiently when compared with local incorporation, for a number of reasons aside of the operation of the IPSA regime.

28. We also do not support establishing statutory funds in non-life insurance. We do not see statutory funds as being the most appropriate response to enhancing the soundness of the non-life sector. The costs of establishing, administering, funding and maintaining that regime would outweigh the benefits when compared with the status quo, and those costs would be borne through increased premiums to New Zealand policyholders without delivering material additional benefits compared with the status quo. Given recent increases in the cost of insurance caused by increases government levies (particularly the Earthquake Commission premium increase and the Fire and Emergency New Zealand levy), artificially adding additional costs could lead to a lower uptake of insurance by New Zealanders, increase the protection gap, and expose the economy to greater risk than if the market had not been distorted so significantly by government intervention.

[3] We acknowledge the Reserve Bank may have already conducted this exercise leading in to the Issues Paper, with the specific risks mentioned in the Issues Paper being the material ones identified.

Role of key officers and key control functions

29. IPSA's requirements in this area are appropriate and our members have not raised any issues of uncertainty or inconsistency in application of the standards. The lack of prescription and flexibility inherent in the regime as a result are appropriate. We support further consideration in the Review, however we do not see a need for substantive change to the legislation (except perhaps for greater reserve powers for the Reserve Bank) in this area, and would support more guidance being provided by the Reserve Bank to supplement the legislation.

Enforcement regimes

30. We agree in principle with enhancements to the enforcement regime that give the Reserve Bank a more granular set of enforcement mechanisms so that the Reserve Bank can respond more proportionately to matters before it. The additional options listed in paragraph 94 of the Issues Paper look appropriate.

Distress Management

31. In principle, we support additions to the Reserve Bank's distress management framework to facilitate quick exit of small insurers from the market and to transfer insurance business from an insurer in distress to another insurer. We note:
    a. High upfront prudential obligations reduce the risk of needing to use the distress management provisions in practice.
    b. The current regime has not been tested to date which can partly be attributed to the soundness of those upfront regulations.
    c. AMI Insurance provides a case study of good distress management, despite not strictly 'testing' IPSA's distress management provisions.
    d. Insurer distress can take infinite forms; thus, we support a more comprehensive toolkit in principle so that the Reserve Bank can respond appropriately and proportionately.
    e. More invasive powers will need clear definition and additional process protections for the "distressed" insurer to ensure the risk of regulatory over-reach is minimised.

32. We have made additional comments about the interface of distress management provisions with solvency requirements at paragraph 33 below, and the distress management of overseas insurers at paragraphs 22-28 above.

Solvency requirements

33. We agree that the Review should consider the Reserve Bank's current approach to capital requirements and address ways to clarify the Reserve Bank's prudential response to deteriorations in insurer solvency. On the latter point, the Reserve Bank could simply provide guidance about how it could respond to a section 24 notification. Likewise, the way the Reserve Bank uses conditions of licence to apply minimum insolvency margin requirements could be elaborated on in public guidance.

34. In particular, our members agree that more clarity about the Reserve Bank's response to deterioration of solvency levels would be appropriate. While insurer distress can be unique on each occasion and fall outside the ex-ante contemplation of a regulatory regime, our members are of the view that greater use of Reserve Bank responses to declining insurer ratios to minimum solvency capital would be useful. Some insurers are of the view that competitive neutrality demands a clear, transparent, standardised ratio applicable to all insurers. For example, if an insurer nears or drops below 1.2 times their minimum solvency capital, the Reserve Bank's response would be triggered. Other insurers are of that view that a one-size fits all approach may not be appropriate given the nature and scale of different insurers in the New Zealand market, and that each insurer's board should be able to set its own ratio. So, for example if the insurer board has set its ratio at 1.1 times minimum solvency capital and the insurer nears or drops below 1.1 times their minimum solvency capital, then the Reserve Bank's response would be triggered.

Regulatory approvals

35. We agree that the Review should assess the framework for approvals. Our members have not raised any issues with this aspect of IPSA, and support consistency with regulatory approval frameworks in other legislation. In particular, we support greater consistency in the nature of approvals required and in the definition of control between IPSA and the Takeovers Code.

36. We submit the Review should also consider either whether the level of signoff within a licensed insurer is proportionate to the significance of the approval sought, or whether timeframes granted for submitting matters for regulatory approval is appropriate when applied to overseas insurers. Some of our overseas insurer members have encountered difficulties when seeking signoff for approvals from directors on their overseas board. Getting approval from overseas insurer boards can be time-consuming and can be attributed lower priority for those directors given the relatively small size of business in New Zealand. We consider there should be some room for lenience from the Reserve Bank available under IPSA in these circumstances.

Disclosure and financial strength rating requirements

37. Some insurers strongly disagree with the need to obtain and disclose a financial strength rating. Their view is that ratings are historically unreliable and relatively meaningless as a measure of financial strength, and that consumers do not actively rely on rating differences between insurers when deciding which insurer to buy insurance from. The insurers who are of this view may submit on this point to you directly.

38. ICNZ supports obtaining and disclosing financial strength ratings. ICNZ historically required a rating as a requirement of membership and made recommendations to Government about which rating agencies should be allowed to provide ratings. Efficacy aside, we acknowledge ratings are intended as consumer protection mechanisms and so there is value in the presence of a rating irrespective of its efficacy, merely because a consumer can recognise the insurer has a rating. We also acknowledge the degree of scrutiny rating agencies place on insurers, and consider this provides an important support to insurer self and market discipline.

39. While we support continuing the requirement to obtain and disclose financial strength ratings, we believe there is a case for improving the efficiency of disclosure and particularly for reducing cost to insurers while achieving the same level and efficacy of disclosure for consumers. We note:
    a. Insurers incur significant costs in changing their documentation and notifying consumers individually when their financial strength ratings change.
    b. Intermediaries, not insurers, have a direct relationship with the insured and are responsible for conveying rating information.
    c. Section 64 of IPSA treats the insurer as having complied with the disclosure requirements if the intermediary so complies, but does not exonerate the insurer or hold the broker liable if the broker fails to comply. The Reserve Bank should consider whether this inconsistency should be rectified. A similar issue where insurers were previously and unfairly liable for broker errors in relation to Fire Service levies was recently addressed and remedied through the Fire and Emergency New Zealand Act 2017.[4]
    d. Electronic disclosure should be encouraged with improvements in digital insurance service provision and increasing consumer take-up of insurance products through digital channels.
    e. The "in writing requirement" in section 64 of IPSA would need to be clarified to permit electronic disclosure in this fashion.
    f. Notification to individual policyholders could be replaced with notification to the public through the insurer and Reserve Bank's websites. Ratings could be simply be centralised, for example through the existing Reserve Bank register of insurers with current rating information disclosed, and with standardised wording on the insurer's policy wording and renewal documentation that directs consumers to that centralised register of ratings. This would save on the costs for each insurer to have to change their documentation and disclose to consumers every time their rating changes.

40. Financial strength ratings aside, we do not consider there needs to be consistency between insurer and bank disclosure requirements. Banks and insurers are very different financial institutions, and the financial system risks are very different from and pale in comparison to the risks posed by banks due to the size and nature of the respective risks. The New Zealand insurance market is too small to warrant additional disclosure requirements, which in our view will only add compliance costs without delivering any additional benefits to the consumer of insurance.

41. The information currently collected by the Reserve Bank through the Quarterly Insurer Survey would be useful information to publish on an aggregated basis, so if there is to be any increase in publication activity our view would be experience needs to be gained publishing that information that is currently collected, and understanding the utility to the public of that

[4] See subpart 4 of the Fire and Emergency New Zealand Act 2017 in general and sections 91, 92, and 111 in particular. ICNZ's submissions on point are available at http://www.icnz.org.nz/issues-submissions/submissions/

information before changing IPSA. For similar reasons, we do not see the value for New Zealand consumers in disclosing the additional information recommended by IMF.[5]

42. We also believe the Reserve Bank would benefit from conducting research among policyholders to better understand what information they require and in what format to assist their confidence in the strength of an insurer.

Regulatory mechanisms

43. Our members have not identified any practical issues with the current regime in terms of the mechanisms by which various regulations are delivered. In saying that, we are happy to consult on particular proposals for adjusting existing standards through IPSA, regulations and guidance as we believe that an appropriate balance needs to be struck in the regime. We look forward to specific proposals from the Reserve Bank in the next stage of consultation on the Review.

Other matters

Digitalisation

44. This transformation will reduce some parts of the risk pool, but overall the risk pool will grow because the capacity to mitigate risks will be outweighed by more insurable risk and more extreme risks due to interconnectivity and digitalisation. Digitalisation creates cross-border issues as the Internet has no borders, so this gives rise to questions about the need for international standards. If there are no standards, then the least regulated, least cost jurisdiction will become the location where underwriting business may be conducted.

45. Technology and innovation in the digital age are resulting in a larger reorganization of the economy, changing the nature of personal and business risks, and changing consumer buying patterns. Insurers want to be on the frontline of innovation to meet the expectations of consumers, which necessitates that regulatory frameworks reflect modern day realities. As a member of the Global Federation of Insurance associations, ICNZ has contributed to the development of a set of four guiding principles for innovation in insurance. These are set out below and we would want the Reserve Bank to be guided by these principles when considering the public policy implications of innovation and technological changes in the insurance market.

Guiding Principles for Innovation and Insurance

1. Market participants want their products and services to meet the expectations of consumers in the digital age, especially consumer demands for new ways of interacting with service providers.
2. Public policy should endeavour to create technology-agnostic regulatory oversight that maintains a high level of consumer protection and that ensures market participants have the flexibility to react, adapt and innovate to improve products and services, and/or meet shifting consumer expectations.

[5] See IMF's FSAP Detailed Assessment of Observance Insurance Core Principles at pages 111-116.

3. Holistic and transparent regulatory changes need to occur across jurisdictions that will create environments that are conducive to innovation, and that are proportionate, minimally intrusive and applied evenly to all market participants in order to foster competition and collaboration.
4. As technology is reorganizing the economy, insurance providers want to fulfil their traditional risk management and financial security functions that are indispensable for the incubation and proliferation of those innovations that will make way for the creation of new economic and social realities.

Regulatory convergence

46. Entry of innovative products and services carries implications for the conduct regulator too. Although that is outside the scope of the IPSA Review, it is noteworthy that the FMA is looking to enable robo-advice under its delegated authority which we regard as a welcome move. However, what this illustrates is that it will be important for both the prudential and conduct regulators to align in their approaches to enabling innovation. It would be counter-productive to see a divergence in approach which could result in mixed market signals and possibly significant amounts of investment being undertaken only to be wasted because of regulatory divergence.

47. We believe there would be merit in both regulators aligning their views on regulatory sand-boxes for start-up insurtech offerings. In this regard, we would be concerned to see competitive neutrality preserved while ensuring appropriate supervision to ensure policyholder protection as well as sector protection.

Some cross-border issues

48. Cross-border issues that present themselves in a digitalised world. New entrants to the New Zealand market could emerge (or may indeed have done so) depending on their global strategies, digital expertise and large amounts of personal data that enable them to offer products globally regardless of where they are located. To date, where we have raised this issue with the Reserve Bank, the response has been to say that it has not observed this as presenting itself as an issue to date. We believe the IPSA Review offers an opportunity for forward thinking to avoid reactive responses when possibly matters are too late to retrieve.

49. Separate, but related, cloud-based storage systems containing massive storage capacity are increasingly being used by the sector. Outsourcing data processing and storage capacity gives firms substantial flexibility to scale business solutions and to transform capital expenditure on IT systems into operational expenditure. may be located beyond the reach of the New Zealand regulator. Cyberattacks have shown that no system is immune to penetration, so at an international level there is potential for systemic loss and there is the broader question of whether users retain full control of their data.

50. Distributed ledger technology or “blockchain” is largely in the pilot stage in the insurance sector, but its application to the enforcement of regulatory limits, automated reporting to investors and supervisory authorities with increased reliability and at reduced costs is

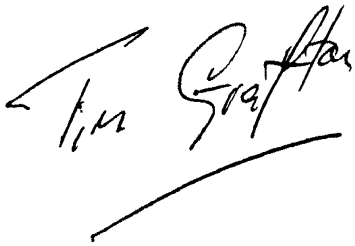
acknowledged. There are though jurisdictional issues around the law applicable to DLTs and also the legal recognition that DLTs are true and accurate.

51. These may not be considered matters for the IPSA Review per se, but it does point to the need to reflect on the limitations of IPSA and consideration of wider issues. Such reflection would be important to avoid the impression that a Review has been comprehensive.

IFRS17

52. Much of the data the Reserve Bank collects from insurers is based on traditional measures used by the industry. As you will be aware, new key metrics will emerge like insurance contract revenue and insurance finance income replacing the familiar terms of written and earned premium. This will bring about fundamental changes to the current reporting base and how these relate to the capital requirements set by the Reserve Bank. Although these changes will not be implemented till 2021, again they signal a significant shift that is not mentioned in the IPSA issues review paper.

Yours sincerely,



Tim Grafton
Chief Executive