Reserve Bank of New Zealand
Te Pūtea Matua

Insurance (Prudential Supervision) Amendment Bill

Exposure draft: Consultation paper

15 April 2026

CONSULTATION PAPER

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Submission contact details

The Reserve Bank invites submissions on the exposure draft by 5pm on 7 July 2026. Please note the disclosure on the publication of submissions below.

Please address submissions and enquiries by email to: ipsareview@rbnz.govt.nz

Publication of submissions

We will publish your submission on the Reserve Bank's website.

We will make all information in submissions public unless you indicate that you would like all or part of your submission to remain confidential. If you would like part of your submission to remain confidential you should provide both private and public versions of your submission (the two versions should be identical apart from the redaction of confidential information in the public version). You should ensure that redacted information is not able to be recovered electronically from the public version, as it will be published as received.

If you want all or part of your submission to be treated as confidential, you should provide reasons why this information should be withheld if a request is made for it under the Official Information Act 1982 (OIA). These reasons should refer to the grounds for withholding information under the OIA. If an OIA request for redacted information is made, we will make our own assessment of what must be released taking your views into account.

We may also publish an anonymised summary of the submissions received in respect of this consultation paper.

1. Introduction - Outline of the Amendment Bill

We are seeking public comment on the attached exposure draft of the Insurance (Prudential Supervision) Amendment Bill (**the Bill**).

Exposure drafts aim to seek feedback on the detailed drafting of proposed legislation. In particular, how Cabinet's intended policy approach has been reflected in the Bill and any unintended consequences arising out of the current drafting.

The purpose of this consultation paper is to help stakeholders understand the exposure draft by summarising key aspects of the Bill (as well as providing some additional context, particularly in respect of policy that has changed since Cabinet's original decisions).

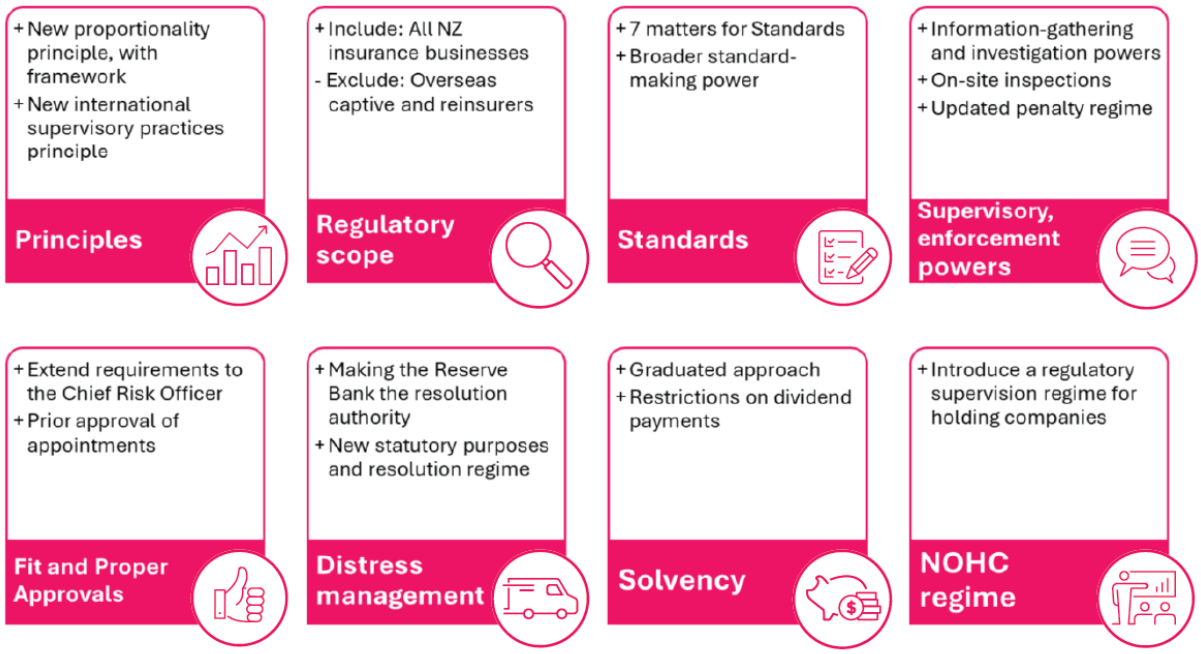
Background

The Insurance (Prudential Supervision) Act 2010 (**IPSA**) provides the legal framework for the Reserve Bank's regulation and supervision of the insurance sector. The Reserve Bank has recently concluded a review of IPSA (**the Review**).

The Review found that New Zealand's prudential regulatory framework for insurers needs modernising and that the insurance market and industry participants would benefit from closer alignment with international best practice.

In August 2025 Cabinet approved a package of proposals to modernise IPSA. These proposals reflect the Reserve Bank's consideration of stakeholder feedback from several consultations undertaken as part of the Review, as well as several new (largely administrative) proposals not previously consulted on.

Cabinet's decisions can be divided into eight parts:



Cabinet also authorised the Minister of Finance to make further decisions on minor and technical matters consistent with Cabinet's decisions.

Policy decisions

Cabinet's policy decisions and other background material are available here.

Following Cabinet's decisions, the Minister has agreed to further technical refinements consistent with these decisions. These refinements are also reflected in the Bill, and include:

- adding powers to transfer existing insurance contracts from an overseas insurer to a locally incorporated insurer
- clarifying the relationship between prudential requirements made through standards and the imposition of conditions of licence
- adding intention requirements to certain offences
- updating the statutory management regime to better align with the resolution regime in the Deposit Takers Act 2023 (**DTA**).

In addition, there are two outstanding policy decisions contained in the exposure draft that require further Cabinet approval. These relate to the regulation of non-operating holding companies (**NOHCs**), and multi-cell captive insurers.

Holding companies and NOHCs

We are now recommending *against* requiring NOHCs to be licensed at this time, but that prudential requirements may still be imposed on New Zealand holding entities (via the issuance of standards).

"Holding companies" is a broader concept than NOHCs, allowing for more flexibility in defining the type of holding company that may be subject to standards. The change in policy will also allow for better tailoring of requirements to different insurer business models, and avoid legislative and operational complexity and unnecessary compliance costs for low-risk holding entities. Further policy work on the appropriateness of a holding entity licensing regime will be undertaken over the medium to long term and may result in changes to IPSA at a later date.

Multi-cell captive insurers

Secondly, we now recommend pausing any changes to the way multi-cell captive insurers are regulated.

After further analysis, including a review of overseas frameworks, we consider that market conduct regulation would be better placed to regulate multi-cell captive insurers. This is because multi-cell captive insurers often provide other financial market services, including investment services. We will continue to liaise with the Ministry for Business, Innovation and Employment (**MBIE**) on the best way forward, outside of IPSA.

Cabinet approval of these two recommendations will be sought after this consultation in the first quarter of 2027. We welcome feedback on these policy changes as part of this consultation document (see Parts 3 and 5).

Transition

We invite feedback on the appropriate approach to transitioning from the existing IPSA provisions to the new prudential standards. Part 10 of this consultation paper provides an opportunity for submitters to provide comment on our current proposed approach.

As noted in Part 10, sufficient time will be needed for us to draft and consult on the new standards and for industry to transition to the new rules. We therefore propose to take a phased approach to development of the new standards.

Legislative comparisons and alignment

The provisions in the Bill are drafted with comparable provisions in other prudential regimes in mind—for example, requirements for deposit takers under the DTA and for financial market infrastructures under the Financial Market Infrastructures Act 2021 (**FMI Act**).

This supports a consistent approach to prudential requirements, promotes operational efficiencies for the Reserve Bank, and reflects best drafting practice. However, the frameworks adopted also need to be appropriately tailored to reflect the distinct risks, characteristics, and roles of each sector.

We welcome feedback on any areas where greater alignment with other prudential regimes would be useful, or where a more sector-specific approach is necessary.

In addition, financial regulation in New Zealand follows a 'twin peaks' model, with the Reserve Bank responsible for prudential regulation and the Financial Markets Authority responsible for market conduct regulation. This model clearly delineates the roles and responsibilities of each agency, although there are naturally areas of common interest. We have sought to reduce the compliance burden arising from this model through the changes in the Bill. For example, the changes to the 'obtaining significant influence' thresholds align with those in the Financial Markets Conduct Amendment Bill, which is currently progressing through Parliament. We have also sought, where possible, definitional alignment with the Contracts of Insurance Act 2024.

Timelines

The deadline for submissions is 7 July 2026. Following an analysis of submissions and any consequential amendments to the Bill, we will recommend that the Minister of Finance seek Cabinet approval to introduce the Bill into Parliament in 2027.

The expected timeline is outlined below:

Item	Date
Consultation feedback due	7 July 2026
Reserve Bank consideration of stakeholder feedback	Third and fourth quarters of 2026
Ministerial and Cabinet decisions	First quarter of 2027
Parliamentary process, including Select Committee consideration of the Bill	Through 2027 and 2028
Legislation in force	Fourth quarter 2028

Item	Date
Development of, and consultation on, standards and proportionality framework	From 2028
Standards to be issued and take effect	Completed by 2032

2. Clauses 1-6: Purposes and principles

Policy

Cabinet has not proposed any changes to IPSA's existing purposes of promoting a sound and efficient insurance sector and promoting public confidence in the insurance sector.

However, Cabinet agreed additional principles should be added. Specifically, the desirability of taking a proportionate approach to regulation and supervision, and maintaining awareness of guidance or standards of international organisations. In line with the same "proportionality" principle in the DTA, a requirement for the Reserve Bank to prepare and publish a proportionality framework has been added (this proportionality framework will demonstrate how the Reserve Bank will take the proportionality principle into account when developing standards).

Specifics

Administrative and content overview (Clauses 1, 2, 3 and 5)

Clauses 1 to 3 set out the proposed (if enacted) title of the Amendment Act, the commencement provision for the Act, and the legislation that the Amendment Act would change. Feedback on the timing of commencement (clause 2) can be included as part of any transition approach feedback.

Purposes and principles (Clause 4)

Clause 4 contains proposed changes to IPSA's principles. The principles guide the exercise of powers and duties conferred on the Reserve Bank under IPSA, whereas purposes signal the high-level policy approach and outcomes intended by Parliament.

The principles currently in IPSA include: the importance of risk management, the need to maintain competition, and the need to avoid unnecessary compliance costs. The two new principles within section 4 of IPSA, that align with similar principles in the DTA, relate to:

- the desirability of taking a proportionate approach to regulation and supervision
- maintaining awareness of practices of overseas supervisors, and awareness of guidance or standards of international organisations.

In addition, the Reserve Bank's requirement to prepare and publish a framework for how it will take the proportionality principle into account when developing standards can be found in new section 56D which is added by clause 27. The Reserve Bank would be required to undertake consultation on the proportionality framework before it is published.

The Bill introduces new distress management purposes. Discussion of these can be found in Part 8.

Interpretation (Clause 6)

Clause 6 amends several definitions in IPSA. Key definitional changes are highlighted in the relevant Parts of this document, but we note in particular:

- the inclusion of the *chief risk officer* in the definition of "senior manager"
- recognising the use of a two-tiered solvency approach (that is, recognising both a prudential margin, and a solvency margin can be imposed on an insurer through a condition of licence or standard)
- the definition of "prudential obligation" (which insurers must comply with to be entitled to a licence), which means an obligation imposed by the Act, standards, conditions of licence, directions, or the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

Q1 Do you have any feedback on the amendments to the Act's principles?

Q2 Do you have any feedback on the new definitions contained in the Bill?

3. Clauses 6-22: Licensing regime

Policy

The definition of 'contract of insurance' (section 7), together with the definition of 'carrying on business in New Zealand' (section 8), determines whether a person is required to obtain a licence under IPSA.

Cabinet agreed to make several amendments to who is required to hold a licence. These changes respond to boundary issues and regulatory gaps that have emerged since IPSA was enacted, and are intended to ensure the licensing perimeter remains risk-based.

Cabinet has also made changes to licence offences (that is, offences relating to carrying on insurance business without a licence) to protect the integrity of the regime and support public confidence in the insurance sector.

Finally, the requirements that a licensed entity must comply with are being updated. The Bill shifts to a clearer and more transparent rules-based approach through standards (a form of secondary legislation). Standards are intended to clarify insurers' obligations, strengthen supervisory engagement, and enable the Reserve Bank to more effectively take action where there is non-compliance.

Specifics

Regulatory perimeter (Clauses 7 and 8)

Captive insurers and reinsurers

Clause 7 removes the licensing requirement for overseas reinsurers.

Clause 7 also removes the licensing requirement for overseas captive insurers. A captive insurer is an insurance company that provides insurance services solely to its parent entity and/or related parties.

Cabinet had previously agreed that multi-cell captive insurers would also be exempt from licensing requirements. A cell captive insurer seeks to replicate the characteristics of a captive insurer by ring-fencing assets and liabilities so the cell's sole purpose is to provide insurance services to the cell user. A multi-cell captive insurer is an entity with more than one such cell arrangement, with each cell's assets and liabilities segregated from those of the other cells.

On further consideration, we consider additional policy work is required to confirm the most appropriate approach to regulating multi-cell captive insurers. Cabinet approval for any change to the earlier decision would need to be sought following this consultation.

Licensing all New Zealand-incorporated insurers, and declaring transactions to be insurance contracts

Clause 8 requires all New Zealand-incorporated insurers to be licensed, regardless of whether they have New Zealand policyholders. Currently, New Zealand incorporated insurers with no New Zealand policyholders are not required to be licensed.

In addition, clause 8 allows for a regulation to be made that declares certain transactions to be insurance contracts under IPSA. The power allows a regulation to provide clarity to market participants and to future proof IPSA for technological and commercial innovation in the provision of insurance.

The Bill amends the definition of "contract of insurance" in the Contracts of Insurance Act 2024, the Financial Markets Conduct Act 2013, and the Fair Trading Act 1986 so that it aligns with the definition in IPSA. The amended definition also captures transactions declared by regulations to be contracts of insurance, unless regulations under those Acts specify otherwise. These changes are intended to support alignment between conduct and prudential regulation.

Licence offences (Clauses 10, 11 and 12)

Clauses 10 and 11 contain offences relating to licence requirements. These clauses increase the maximum penalty for carrying on insurance business in New Zealand without holding a licence, and for persons who are not licensed and who hold themselves out as having a licence. A m*ens rea* element has been added to these offences, reflecting their seriousness.

Mens rea is where the prosecution is required to prove that not only did a defendant engage in the prohibited act, but that the defendant did so with the specified intent. *Mens rea* requirements are common for criminal offences and are considered particularly important for serious offences.

Clause 11 amends the description used for when an entity is holding itself out as licensed. This is consistent with current drafting best practice, as seen in other regulatory regimes (for example, the DTA), but is not intended to change the current policy.

Clause 12 increases the penalty for providing false or misleading information when applying for a licence. The false or misleading information must relate to a material particular for the penalty to apply.

Licence requirements (Clauses 14, 15, 16 and 18)

Clauses 14, 15 and 16 change how insurers are licensed and regulated. The reliance on the section 19 requirements (including that insurers are operating in a prudent manner) is replaced with a requirement that insurers comply with prudential obligations. Prudential obligations are defined as including standards and conditions of licence.

Existing licensed insurers will not be required to be re-licensed under the amendment Bill, unlike the commencement of other regulatory regimes that introduce entirely new licensing regimes (like the DTA).

Clause 16 clarifies that the Reserve Bank may change an insurer's prudential margin and/or solvency margin through conditions of licence. Where an insurer's prudential margin or solvency margin is not specified in its licence conditions, the default position is the level set out in the solvency standard.

Similarly, clause 18 clarifies that the requirement on a licensed insurer to report likely breaches of their solvency margin applies to both the prudential and solvency margin.

Assignment of liabilities (Clause 22)

The Bill would grant the Reserve Bank the power to impose requirements relating to whether an insurer must be incorporated in New Zealand. These types of requirements are often referred to as 'branch' requirements (see Insurance Core Principle 7.0.10[1]). This power is contained in clause 27 (see the discussion on standards in Part 5 of this document).

As part of this power, the standard could prohibit the branch of an overseas insurer from carrying on insurance business in New Zealand in excess of certain thresholds. Clause 22 grants the Reserve Bank the ability to direct a licensed insurer to assign liabilities to one or more NZ incorporated entities in order to comply with the standard relating to branches.

Q3 Do you have any feedback on the amendments to the licensing perimeter and licensing regime?

Q4 Are there any additional powers the Reserve Bank should have to support an insurer to transition to New Zealand incorporation?

4. Clauses 23-26: Fit and proper, and regulatory approvals

Policy

Under IPSA, licensed insurers are required to develop and comply with their own fit and proper policy (including by making their own 'suitability' assessments in relation to directors and relevant officers). The current requirements do not sufficiently promote engagement between the Reserve Bank and insurers on whether an insurer has identified appropriate key officers or provide the Reserve Bank the tools to promote compliance with fit and proper requirements.

Cabinet therefore agreed to replace the existing regime with a pre-approval regime.

We have noted industry concerns that a pre-approval regime may affect entities' recruitment timeframes for new directors and relevant officers. Cabinet therefore agreed to require the Reserve Bank to notify entities of its decision within 20 working days of receiving all required information.

[1] IAIS-ICPs-and-ComFrame-December-2024.pdf

Specifics

Director and relevant officer appointments (Clause 23 and 26)

Clause 23 would require an insurer to obtain the Reserve Bank's approval before appointing a new director or relevant officer. The Reserve Bank would be required to provide notice of its decision within 20 working days of receiving all relevant information. For an overseas licensed insurer, the existing requirement to notify the Reserve Bank and provide a fit and proper certificate would remain. The Reserve Bank would also have the power to exempt an overseas licensed insurer from this requirement.

In addition, clause 23 would require licensed insurers to notify the Reserve Bank of fit and proper concerns in relation to directors or relevant officers.

Clause 6 amends the definition of 'relevant officer' to include an insurer's chief risk officer.

The appeals process for licensing and fit and proper decisions is contained in clause 26.

As part of the Bill, the group fit and proper policy requirements would also shift from being an explicit requirement within IPSA, to being contained in the fit and proper standard. Other changes include:

- moving the content of fit and proper certificates into standards from the primary legislation
- giving the Reserve Bank the power to suspend directors or relevant officers where approval is not obtained, in addition to its existing removal power.

Regulatory approvals (Clause 24)

The Bill amends the regulatory approvals framework for transactions involving insurance businesses to make it simpler and more efficient. It aligns more closely with the approvals regime under the DTA and proposed changes in the Financial Markets Conduct Amendment Bill.

The amendments would:

- replace the existing separate approval processes for specific transaction types with a single set of provisions applying to all significant transactions
- lower the threshold for requiring Reserve Bank approval (or notification) from 50% or more of voting rights in a licensed insurer to 25% or more, or where a person can appoint at least 50% of directors
- require an overseas insurer to notify (rather than obtain approval from) the Reserve Bank if a person obtains significant influence over that insurer
- require approval where a licensed insurer acquires business from a non-licensed insurer.

Clause 24 also sets out the consequences of failing to obtain approval, and the process for seeking approval.

Q5 Are there any additional changes that would help operationalise the new pre-approval regime for directors and officers, and the regulatory approvals regime?

5. Clause 27: Broader range of IPSA standards

Policy

Currently, there are standards for solvency and fit and proper requirements. The exposure draft reflects Cabinet's decision to empower the Reserve Bank to issue standards covering a broader range of prudential requirements.

The ability to issue new standards would allow the Reserve Bank to clarify insurers' obligations, strengthen the framework for supervisory engagement, and support a more graduated set of enforcement options in the event of non-compliance. This would also provide insurers with greater certainty, promote efficiency in the sector, and align with international best practice. Standards generally set out more granular, technical requirements than primary legislation. They are also simpler to amend than primary legislation, making them better suited to addressing a changing risk environment.

In addition, because standards are a form of secondary legislation drafted by the Reserve Bank, they are subject to stronger checks and balances than Reserve Bank-published guidelines (for example, they can be disallowed by Parliament in certain circumstances).

Specifics

Subject matter of standards (clause 27)

Clause 27 allows standards to be issued relating to:

- Section 56E Governance, including board composition and responsibilities, and whether an insurer must be incorporated under New Zealand legislation
- Section 56H Risk management, including policies and processes for specific risks
- Section 56I Disclosure of information
- Section 56J Contingency and recovery plans
- Section 56K Actuarial advice
- Section 56L Other matters, including outsourcing and related party exposures
- Section 56L(c) Any matters prescribed in regulations (regulations are another form of secondary legislation that is made by the Governor-General on the advice of the Minister of Finance).

Clause 27 also clarifies that the solvency standard may include two solvency margins: a prudential margin and a solvency margin.

Clause 27 provides that the governance standard may address whether an insurer must be incorporated under New Zealand legislation, and the organisational structure of an insurer and its insurance group. This is intended to give effect to Cabinet's decision to allow the Reserve Bank to require overseas insurers operating through a New Zealand branch to incorporate locally if they meet a specified size and importance threshold. The standard would set out the detail of that threshold.

Holding entities

The Bill would allow standards to apply to the New Zealand holding entities of licensed insurers. Cabinet previously agreed to introduce a licensing regime for NOHCs. See Part 1 for further details.

Proportionality framework

The Bill (new section 56D) would require the Reserve Bank to prepare and publish a proportionality framework setting out how the Reserve Bank takes the proportionality principle into account when developing standards.

A similar requirement can be found in the DTA, that proportionality framework can be found on our website.[2]

We would be required to consult persons substantially affected by the framework before publishing it.

Procedural matters relating to standards

Procedural matters relating to standards are also contained in the Bill (see new section 56B). These requirements include:

- Notifying the Minister of Finance of the prudential policy that the Bank intends to implement through the standard.
- Consulting the other members of the Council of Financial Regulators (CoFR).
- Consulting persons substantially affected by the standard.
- In the case of the solvency standard, having regard to relevant overseas standards for the purposes of ensuring the standard does not apply in an unreasonable manner.

These procedural requirements are also in the DTA. In addition, the Reserve Bank is already required to assess and publish on the regulatory impacts of any policy made under prudential legislation, including IPSA (see sections 255-257 of the Reserve Bank of New Zealand Act 2021).

The proposed standards would be developed once the empowering amendments to IPSA are enacted (estimated to be in 2028). Any proposed standards would be consulted on thoroughly with industry and other stakeholders.

Q6 Do you agree with the proposed procedures for issuing standards? If not, please explain why.

Q7 Is the scope of matters that standards may cover sufficiently clear? If not, what should be added or removed?

Q8 Do you have any feedback on the requirements on the Reserve Bank when preparing and publishing a proportionality framework?

[2] A proportionality framework allows for diversity while promoting financial stability - Reserve Bank of New Zealand - Te Pūtea Matua

6. Clauses 28-46: Graduated supervision powers

Policy

Cabinet has agreed to provide the Reserve Bank with a broader set of tools for monitoring the financial health of an insurer and to verify insurer compliance with prudential obligations.

These changes are designed to support a more proactive, risk-based, and transparent approach to supervision, and align with the Reserve Bank's approach to supervision of other sectors (e.g. deposit takers) as well as international practice.

Specifics

Infringement notices (Clauses 31 and 32)

Clauses 31 and 32 update the supervision regime by introducing powers for the Reserve Bank to issue infringement notices for low-level breaches. These powers relate to breaches of disclosure and supply of information requirements. Infringement notices are a type of criminal offence that do not result in criminal convictions. They are designed to deter relatively low-level offences without overburdening the courts.

Supply and reporting of information (Clause 40)

Clause 40 reflects Cabinet's decision to provide the Reserve Bank with a broader set of tools for monitoring the financial health of an insurer and to verify insurer compliance with prudential obligations – tools that are also available to the Reserve Bank under the DTA. The tools outlined in clause 40:

- extend the Reserve Bank's information-gathering and investigation powers to unlicensed insurers to protect the regulatory perimeter
- introduce a power for the Reserve Bank to conduct on-site inspections of business premises of licensed insurers without notice. The power may only be exercised at a reasonable time and manner, and at places of business
- introduce a breach reporting regime for licensed insurers to monitor compliance with prudential obligations and report material contraventions
- introduce an express power to require licensed insurers to publish Reserve Bank's warnings to policyholders
- clarify the Reserve Bank's power to issue a direction to an associated person (e.g. a parent entity) of a failed licensed insurer so that a direction can be issued to help manage the failed insurer's situation without the associated person itself being in difficulties or being non-compliant
- introduce a power for the Reserve Bank to issue remediation notices for breaches.

Investigation powers (Clauses 41, 42 and 43)

Clauses 41, 42 and 43 amend the investigation powers under the Act, including enabling an investigator to require directors or employees to answer questions under oath as part of a formal investigation.

Q9 Do you have any feedback on the provisions relating to infringement notices, supply and reporting of information and investigations powers?

7. Clause 47: Enforcement powers and penalties

Policy

Cabinet agreed to introduce additional enforcement powers to provide the Reserve Bank with the ability to respond proportionately to varying degrees of non-compliance.

The powers would be broadly aligned with the new enforcement tools in the DTA and would support a proportional and transparent framework to non-compliance.

Specifics

Enforcement regime (Clause 47)

The enforcement regime changes contained in clause 47 introduce:

- a power for the Reserve Bank to accept enforceable undertakings from licensed insurers and other persons
- civil pecuniary penalties to replace lower tier criminal penalties for breaches of standards and conditions of licence.

Clause 47 also contains procedural matters relating to civil pecuniary penalties and infringement offences. Defences currently contained in section 217 of IPSA are retained but are moved to section 137AD. However, these defences would not apply to those offences with *mens rea* requirements.

Mens rea requirements have been added to the following offences:

- a person who carries on insurance business in New Zealand without holding a licence
- a non-licensed person who holds themselves out as a licensed insurer
- contravening remedial notices, failing to give an amended remedial plan and failing to take steps to comply with a remedial plan
- disclosure of any confidential information, data, document or forecast, and breaching further limits relating to disclosed information
- the making of false declarations and representations to the Reserve Bank
- banned persons continuing to participate in insurance business.

These offences would require that the person would have known or be reckless as to whether they knew about the requirement.

Penalties

Cabinet also agreed to update the penalties under IPSA to better align with penalties for other regulated entities under similar legislation. Penalties are divided into criminal, civil and infringement notices. Penalty levels for criminal offences are broadly set based on whether the offence was considered a low level, a mid-level or a serious offence.

Penalty Reference	Body Corporate	Individual
Criminal – Low level	Fine not exceeding $250,000	Fine not exceeding $30,000
Criminal – Mid-level	Fine not exceeding $1,500,000	Fine not exceeding $100,000 or imprisonment for a term not exceeding 9 months (or both)
Criminal - Serious	Fine not exceeding $2,500,000	Fine not exceeding $300,000 or imprisonment for a term not exceeding 18 months (or both)
Infringement Notice (IN)	Fee of $10,000, Court imposed fine not exceeding $25,000	Fee of $1,000 Court imposed fine not exceeding $2,500
Civil Pecuniary Penalty (CPP)	Fine not exceeding $2,500,000	Fine not exceeding $300,000

The penalty levels for individual offences have been updated throughout the Bill to be broadly consistent with those contained in the table, subject to the circumstances under each offence. In particular, see clauses 10 and 11 for licensing offences, clauses 23 and 24 for offences relating to regulatory approvals, and clauses 28-46 which relate to information and supervision offences.

Q10 Do you agree with the scope of offences that have *mens rea* requirements? If not, please explain why?

Q11 Do you agree with how the penalties table has been applied to individual offences? If not, please explain why?

8. Clauses 48-62 and Schedule 2: Distress management

Policy

A credible and effective distress management framework is an important part of the regulatory regime for insurers. In particular, while insurer distress can often be addressed through private insolvency or restructuring procedures like liquidation or voluntary administration, there can still be circumstances where regulatory intervention may be necessary. For example, where an insurer failure would cause significant damage to confidence in the sector, or policyholders and the public interest cannot be adequately protected though other means.

Cabinet has agreed to amendments to improve the workability of the distress management regime in IPSA and to better align it with the crisis management regimes in the DTA and FMI Act.

Specifics

Distress Management purposes (new section 137AM added by clause 48)

The Bill establishes new purposes for the distress management regime for insurers. In summary, these new purposes relate to:

- adequately protecting the interests of policyholders and the public interest
- avoiding or minimising significant damage to the financial system or New Zealand economy
- enabling a licensed insurer that is in resolution to be dealt with in an orderly manner
- to the extent not inconsistent with the preceding purposes, supporting the effective and efficient management of public financial resources by avoiding or minimising the need to rely on public money.

The inclusion of these purposes aims to provide greater clarity about the objectives of the distress management regime.

Directions (clause 51)

The Bill extends the scope of direction powers under IPSA to enable the Reserve Bank to direct a licensed insurer to not renew existing contracts of insurance. It also allows the Reserve Bank to issue directions relating to dividend policies and payments. These changes aim to ensure that the Reserve Bank has clear powers to issue directions of this sort (which may be necessary to effectively manage the distress of an insurer).

Resolution trigger (new section 174 added by clause 62)

The resolution trigger refers to the test that must be met before the Reserve Bank may recommend that a licensed insurer be placed into resolution.

The Bill extends the trigger to include situations where the failure of a licensed insurer may cause significant harm to a significant number of policyholders, or to a particular group of policyholders. This is a minor change from Cabinet's decision, which referenced a particular geographical area. The Minister agreed to this change due to the drafting complexity involved in defining the size of the geographical area.

However, for the trigger to be met the Reserve Bank will also have to be satisfied on reasonable grounds that the public interest, the financial system or economy of New Zealand, or any policyholders of the insurer cannot be adequately protected under other provisions of IPSA or under the Companies Act 1993.

Resolution authority (new sections 181-184 added by clause 62)

The Bill provides that the Reserve Bank is the resolution authority when an insurer is placed into resolution. This makes the Reserve Bank responsible for ensuring that the resolution is carried out in a way that furthers the new distress management purposes discussed above.

The Bill also makes a variety of other changes resulting from the Reserve Bank being the resolution authority. In particular, it allows the Reserve Bank to appoint a resolution manager to exercise certain powers in relation to the distressed insurer, requires the Reserve Bank to supervise the resolution manager, and allows the Reserve Bank to exercise certain powers directly (whereas under the existing statutory management regime resolution powers are all exercised by the statutory manager).

These changes aim to clarify that the Reserve Bank is ultimately accountable for resolution outcomes, and to provide an enhanced governance regime around the conduct of insurer resolution. They also more closely align the resolution regime in IPSA with the resolution regime in the DTA.

Shifting from a statutory management regime to a DTA style resolution regime (new sections 170-199C added by clause 62, and Schedule 2)

IPSA currently contains a statutory management regime, which is largely based upon the statutory management regime in the Corporations (Investigations and Management) Act 1989 (CIMA).

The changes associated with making the Reserve Bank the resolution authority do not fit naturally in a statutory management regime. For example, in statutory management powers are exercised in relation to the distressed insurer exclusively by the statutory manager, and the Reserve Bank does not have explicit statutory duties to supervise the statutory manager.

In addition, the statutory management regime that is currently in IPSA cross refers to a large number of provisions that are currently in CIMA (rather than setting these out in IPSA itself).

Given this context, the Bill replaces the current statutory management regime in IPSA with a resolution regime modelled on the resolution regime in the DTA (which also allows the Reserve Bank to appoint a resolution manager to exercise certain powers in relation to a distressed entity, requires the Reserve Bank to supervise the resolution manager, and allows the Reserve Bank to exercise certain resolution powers directly).

The Bill also sets out all of the relevant provisions in full rather than cross referring to provisions in CIMA, and makes a variety of other minor and technical changes.

This shift from a statutory management regime to a DTA style resolution regime has required a substantive amount of drafting changes, and made the distress management provisions fairly long relative to the rest of the Bill. However, it is important to note that this length is largely a result of no longer cross referring to a large number of CIMA provisions in IPSA and more closely aligning with the drafting of the DTA resolution regime (i.e. the length is largely driven by drafting considerations rather than the extent of substantive policy changes in the Bill).

Notwithstanding this, we would be interested in submitters' views on whether this change may have had any unintended consequences, and if there are any areas where the current drafting of the resolution regime should be adjusted to better reflect the context of insurance.

Restriction on resolution trigger, and stay on certain rights in relation to derivatives (new section 178 added by clause 62, and clauses 8-12 of Schedule 2)

The Bill prevents the exercise of certain contractual rights against the insurer solely because the insurer has entered into resolution or has been subject to resolution powers (the "restriction on resolution trigger"). This provision will help ensure that critical services to a distressed insurer remain in place, supporting the resolution process.

The Bill also includes a provision that imposes a short "stay" on the exercise of certain rights in relation to derivatives when an insurer is placed into resolution. This stay can be shortened or (if certain conditions are met) extended by the Reserve Bank. It aims to avoid the disorderly closing out of derivatives contracts when an insurer is placed into resolution (as this could hinder a resolution by compounding the financial distress of the insurer and/or stopping the insurer from being able to hedge certain forms of risk).

Both the "restriction on resolution trigger", and stay on certain rights in relation to derivatives, are also included in the DTA and FMI Act.

Ministerial direction power (new sections 193-195 added by clause 62)

The Bill creates a power for the Minister of Finance to (subject to certain conditions) direct the Reserve Bank where this is necessary to manage a risk to public funds in a resolution. This power aligns with the scope of an equivalent direction power for the Minister of Finance in the DTA.

Q12 Are there any changes you would suggest to how the distress management purposes or changes to direction powers have been set out in the Bill?

Q13 Do you have any comments on the new resolution provisions in the Bill?

Q14 Are there any resolution provisions that you think might not be appropriate for insurers or require further tailoring to the insurance context, including for statutory funds?

9. Other amendments and consequential amendments

Other miscellaneous amendments are included in the exposure draft to modernise IPSA and align with other prudential legislation and international best practice. These include:

- requiring the Reserve Bank to consult with the FMA before issuing or cancelling a licence and making decisions to approve transactions under IPSA
- that a person may appeal to the High Court on a question of law
- the process for banning certain persons from participating in insurance business.

The Bill also contains a set of consequential amendments to other Acts. These are included in the exposure draft (please see Schedule 3).

10. Transitional arrangements

We are seeking feedback on transitional arrangements and the commencement of the changes contained in the exposure draft.

We expect that amendments that do not relate to standards—including most supervisory and enforcement tools, the fit and proper approvals regime, and the significant transactions approvals regime—will be able to take effect on the general commencement date for the Amendment Bill in late 2028. We would expect any required regulations under the Act to be made post-enactment but prior to commencement or soon after.

However, for provisions in IPSA that will be replaced by obligations in standards, these will continue in force until the relevant standard comes into effect. We expect that the process of drafting, consulting on, and issuing standards will take time and that a phased approach will be necessary.

Re-licensing of existing insurers is not proposed as, unlike the DTA, the Amendment Bill does not bring into effect a completely new prudential regime for insurers. However, there may be some entities undertaking insurance business who do not currently require a licence but will be required to be licensed once the relevant amendments come into force. We welcome any comments or suggestions on the appropriate transitional arrangements for these entities.

Q15 Do you have any feedback on how best to implement and manage the transition to standards and the change in regulatory perimeter?

Q16 Do you have any other comments or feedback on the Bill?

Consultation questions

Q1 Do you have any feedback on the amendments to the Act's principles?

Q2 Do you have any feedback on the new definitions contained in the Bill?

Q3 Do you have any feedback on the amendments to the licensing perimeter and licensing regime?

Q4 Are there any additional powers the Reserve Bank should have to support an insurer to transition to New Zealand incorporation?

Q5 Are there any additional changes that would help operationalise the new pre-approval regime for directors and officers, and the regulatory approvals regime?

Q6 Do you agree with the proposed procedures for issuing standards? If not, please explain why.

Q7 Is the scope of matters that standards may cover sufficiently clear? If not, what should be added or removed?

Q8 Do you have any feedback on the requirements on the Reserve Bank when preparing and publishing a proportionality framework?

Q9 Do you have any feedback on the provisions relating to infringement notices, supply and reporting of information and investigations powers?

Q10 Do you agree with the scope of offences that have *mens rea* requirements? If not, please explain why?

Q11 Do you agree with how the penalties table has been applied to individual offences? If not, please explain why?

Q12 Are there any changes you would suggest to how the distress management purposes or changes to direction powers have been set out in the Bill?

Q13 Do you have any comments on the new resolution provisions in the Bill?

Q14 Are there any resolution provisions that you think might not be appropriate for insurers or require further tailoring to the insurance context, including for statutory funds?

Q15 Do you have any feedback on how best to implement and manage the transition to standards and the change in regulatory perimeter?

Q16 Do you have any other comments or feedback on the Bill?