

Regulatory Impact Statement:

IPSA Review – Modernising Insurance Prudential Regulation

Coversheet

Purpose of Document	
Decision sought:	<i>Analysis produced for the purpose of informing final Cabinet decisions on the release of an exposure draft on proposed amendments to the Insurance (Prudential Supervision) Act 2010.</i>
Advising agencies:	<i>Reserve Bank of New Zealand</i>
Proposing Ministers:	<i>Minister of Finance</i>
Date finalised:	<i>1 July 2025</i>
Problem Definition	
The Insurance (Prudential Supervision) Act 2010 (IPSA or the Act) 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, which began in 2016 (the IPSA Review or Review). The Review found: • New Zealand’s insurance regulatory environment needs modernising, that is, the current regulatory regime has deficiencies in the tools provided by the Act and lacks certainty to ensure risks are properly managed within the insurance industry. • The insurance market and industry participants would benefit from closer alignment to international best practice.	
Executive Summary	
The Minister proposes to amend the Insurance (Prudential Supervision) Act 2010 (IPSA or the Act). IPSA is the legislation that governs how insurers operate in New Zealand. Introduction IPSA was introduced to promote the soundness and efficiency of the insurance sector, in light of the important role insurance plays in providing financial security to New Zealanders. When IPSA was introduced, it was agreed there should be a review to ensure that the Act was fit for purpose. The Reserve Bank of New Zealand (Reserve Bank or the Bank) began the review in 2016, but it was then put on hold and re-started in 2020. There have been five public consultations as part of the review, with the most recent an ‘omnibus consultation’ in 2023, which outlined a complete set of proposals for amending IPSA. This omnibus consultation considered previously-made industry views and	

additional analysis following the previous consultations which focused on specific sub-parts of the Act.

The Reserve Bank has now concluded the IPSA Review, finding clear deficiencies in the Act, especially in areas of risk management, governance, and supervision and enforcement tools. These recommendations were agreed by the Minister of Finance (the Minister) and form the basis for her Cabinet paper.

The IPSA Review, and its findings

The IPSA Review sought to modernise the legislation by considering how to promote the soundness and efficiency of the insurance sector. The Review began and was conducted following a shift in international expectations for what is considered international best practice.

Objectives

Cabinet agreed to review IPSA and agreed a terms-of-reference (CAB-16-MIN-0072, refers). The review's objectives can be summarised as:

- **Promoting soundness:** that is, promoting the resilience of New Zealand's insurance market to shocks.
- **Promoting efficiency:** efficiency is a multi-faceted objective, including minimising regulatory burden, improving competition, improving insurance products and ensuring allocative efficiency (resources are allocated to their most productive uses).
- **Greater consistency** with international guidance and other legislation: including the internationally recognised Insurance Core Principles and insurance requirements in comparable jurisdictions, as well as comparable domestic legislation.

In 2023, Cabinet agreed to expand the terms of reference for the Review to include consideration of changes to existing statutory purposes and principles (CAB-23-MIN-0397).

Findings

Since 2016, the Review investigated a number of internal and external reports relevant to the prudential regulation of insurers and sought to evaluate the Act through first-hand experience from Reserve Bank supervisors, as well as enforcement and resolution teams.

Of particular relevance for the Review was the IMF's 2017 Financial Sector Assessment Programme review (FSAP) of the legislation against International Core Principles (ICPs) and the 'Trowbridge-Scholten' report (T-S report), an independent report commissioned by the Reserve Bank, by John Trowbridge and Mary Scholtens QC, on the RBNZ's supervision of CBL Insurance Limited (now in liquidation).

The Review also provided an opportunity to compare our legislation across regimes in New Zealand (including the Deposit Takers Act) and with legislation in other jurisdictions (particularly Australia, the United Kingdom and the European Union).

The key findings of the Review which led to the recommended policy proposals are:

- New Zealand's insurance regulatory environment needs modernising, that is, the current regulatory regime has deficiencies in the **tools** provided by the Act and

lacks **certainty** to ensure risks are properly managed within the insurance industry.

- The insurance market and industry participants would benefit from **closer alignment to international guidance**.

The Review's findings were made with the following evidence:

- The IMF FSAP assessed New Zealand to have only passed 13 out of 26 of the internationally recognised Insurance Core Principles (ICPs). Identifying that our prudential requirements fall materially short of international standards, especially in areas of corporate governance, risk management and group supervision (that is, the supervision of entities that are part of the same corporate group).
- The T-S report found legislative gaps in areas of risk management, governance and group-entities, as well as supervision of solvency.
- Our operational experience and thematic reviews¹ have also found that IPSA currently lacks the tools to ensure good governance and risk management outcomes. Currently, IPSA's enforcement levers are limited, relying primarily on strict liability offences with large fines. It provides few options for addressing minor breaches that do not warrant, for example, a formal investigation or prosecution. The current regime often results in an inefficient "all or nothing" approach to enforcement.

Consultation

Significant public consultation has been undertaken with industry being supportive of the review and preparing for regulatory change. Multiple rounds of public consultation have been carried out since 2017, beginning with detailed topic-specific consultations:

- 2017: Issues Paper;
- 2021: Policyholder security;
- 2022: Regulatory Scope;
- 2022: Enforcement and Distress Management; and
- 2022: Governance and Supervision.

The consultation process finished with an omnibus consultation released in September 2023 which sought feedback on the full set of potential amendments.

Industry and a wide range of industry participants have been broadly comfortable with proposals made in the consultation and agree with the identified deficiencies with the Act. Industry recognises that change is required to support the continued soundness and efficiency of the insurance sector.

Concerns raised in the Omnibus consultation were largely in response to specific details, and in particular, how the Reserve Bank intends to operationalise the legislative reforms. Industry feedback on specific proposals is provided in section 2.

¹ These thematic reviews include the *Cross-sector thematic review on governance (2023)*, *Governance Thematic Review Insurer catastrophe risk survey (2020)*, *Thematic review of the appointed actuary role (2020)*, and the *Thematic review of life insurer conduct and culture (2019)*.

Recommended regulatory changes

In reflection of the Review's findings and after extensive consultation, the Reserve Bank recommended, and Cabinet agreed to a package of proposals. The final set of considerations can be divided into nine parts:

1. **Purposes and Principles**, that is, whether the purposes and principles reflect the primary aims of prudential regulation, considering consistency across legislative frameworks and Government priorities.
2. **Adjusting the regulatory scope**, that is, remove licensing requirements for insurers who only provide insurance to their parent company (e.g. power companies), and overseas reinsurers. Separately, also requiring licensing for New Zealand-incorporated insurers that only write overseas policies.
3. **New standards**, that is, empowering a broader suite of prudential requirements in the form of standards (a form of secondary legislation), in addition to the current standards on Solvency and on Fit and Proper (for directors or relevant officers). Many of these standards would formalise existing expectations that the Reserve Bank has on insurers.
4. **Strengthening the Fit and Proper regime**, that is, extending the current officers' regime to the Chief Risk Officer (CRO); requiring the Reserve Bank's pre-approval to appoint relevant officers; and notification requirements on insurers where they have concerns with directors or relevant officers.
5. **Simplifying the regulatory approvals regime** and aligning the change of control threshold (which triggers a regulatory approval) with that contained in similar legislation.
6. **Additional supervision powers**, including additional information powers, with the ability to undertake on-site inspections of licensed insurers without notice.
7. **Graduated enforcement powers**, creating a graduated approach to enforcement by introducing additional tools for minor breaches.
8. **Refined distress management provisions**, that is, adjustments to improve insurers' moratorium rights (where creditors' debt collection rights are paused to allow an insolvent entity to assess their financial position and obligations); and revising the threshold for statutory management.
9. **Additional minor amendments** to improve the Act, including updating penalty levels (e.g. criminal and civil pecuniary fines) to align with comparable regulatory regimes.

Policy options

Alternative options for specific proposals are outlined in *Section 2: Policy Changes and options analysis*.

The Reserve Bank also evaluated the package in terms of its overall impact on the Review's objectives. The Reserve Bank considered a 'No legislative change' option and a 'Gold plated' option, alongside the ultimately recommended 'Balanced' option. These options are evaluated in table 1.

Table 1: Evaluation of overall package against IPSA objectives

	No legislative change	Balanced	Gold plated
Description	No amendment Bill is progressed. RBNZ guidance on how existing requirements are met is reviewed and updated.	Legislative amendments are made to clarify expectations on insurers, focusing on necessary changes that are recommended across multiple sources. Move closer to internationally recognised frameworks specifically the Australian regime, where appropriate. No updates to the Act's purposes and principles.	Move closer to international principles where deficiencies in the New Zealand regime have been identified. Include ALL proposals from 'Balanced' option, adding additional changes in areas of solvency, insurers' assets in NZ and the Act's purposes and principles.
Objectives of IPSA review • Promotes soundness • Promotes efficiency • International and legislative alignment	Fails to meet objectives. The status quo has clear deficiencies in promoting the soundness of the insurance sector by failing to ensure insurers have clear and sufficient risk management protocols. Failing to make legislative changes would likely result in continued failure to meet international expectations. The IMF is next scheduled to assess New Zealand's financial sector	Meets objectives. The balanced option seeks to achieve the desired outcomes, thereby improving soundness, but with lower compliance costs and overall regulatory change than the 'gold plated' approach. This option comes closer to meeting international expectations, but would still fall short in certain areas, including the regulations relating to the protection of policyholders (e.g. priority during insolvency, a guarantee scheme	Meets objectives. This option focuses significantly on the objective to align the Act with international guidance and other legislation. This has benefits, especially for multi-national insurers by promoting one set of rules. However, it risks imposing higher compliance costs, especially on small domestically focused insurers. The new powers included in this option would require additional Bank

	regulatory frameworks in 2028. Amendments to operational guidance would, to some degree, support efficiency by helping to clarify current expectations.	or adding a policyholder purpose for the Act). This option seeks to balance the, at times, competing objectives of soundness and efficiency.	resources. This adds costs to the overall regime, which is inconsistent with the efficiency objective.
Overall evaluation	Not recommended. The option fails to achieve any of the desired outcomes. The current regime in totality is adequate, however, unnecessary costs would still remain on insurers and the regulator, as well as the insurance sector more generally.	Recommended. Still considered light touch by international standards, however, this option would directly respond to the main recommendations as part of the Review.	Recommended. The option meets desired outcomes and makes significant steps to being comparable with international guidance. However, it comes with high costs on industry (likely to be passed onto policyholders) and the Reserve Bank (as regulator).

On balance, although both the 'balanced' and 'gold plated' options would meet the objectives set out for the IPSA review, the 'balanced' option is preferred due to the higher expected costs on industry and the Reserve Bank of the 'gold plated' option.

The Minister's preferred option, as outlined in the Cabinet paper, is the 'Balanced' option.

Implementation and Constraints

The Minister, on advice of the Reserve Bank, has agreed to the release of an exposure draft of the updated legislation.

The Reserve Bank intends for this to be released in Q1 2026 for public consultation. It is then intended for the Bill to be considered for approval for introduction by Cabinet in mid-2026. A March 2028 commencement date for any amendment Bill is targeted.

As outlined previously, the new standards would be finalised and issued following the commencement date. Writing and issuing standards over an extended period of time (2028 to 2031+) will help to reduce implementation risks (Reserve Bank resourcing) and costs on insurers. Standards will be consulted on and drafted taking into account the principles of the Act, including the desirability of consistency in the treatment of similar institutions, maintenance of competition and the avoidance of unnecessary compliance costs.

Limitations and Constraints on Analysis

There are no material limitations or constraints on the final analysis. The Review was put on hold in 2020-2022, following the outbreak of COVID, and the prioritisation of staff to COVID-related work and the Reserve Bank Act Review.

The Review has been a lengthy process with multiple consultations and various staff assigned to it. However, prior work and consultation feedback has been well documented throughout.

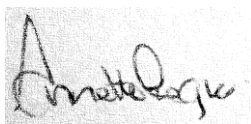
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23 July 2025

Quality Assurance

Reviewing Agency:

Reserve Bank of New Zealand

Panel Assessment & Comment:

I have reviewed the Regulatory Impact Statement and I am satisfied that the information and analysis summarised in the RIS meets the quality assurance criteria. Given the available evidence, the RIS represents a reasonable view of the likely costs and benefits of the preferred options and the alternatives considered.

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Section 1: Diagnosing the policy problem

Context

The Insurance (Prudential Supervision) Act 2010 (**IPSA**) is the legislation that governs how insurers operate in New Zealand. When IPSA was introduced in 2010, the legislation created a regulatory licensing regime for the New Zealand insurance sector. The proposals would amend IPSA.

The insurance sector in New Zealand – Insurers are generally NZ-based, overseas owned and the market is dominated by a handful of insurers.

When the Act was first introduced in 2010, there were 104 licensed insurers in New Zealand. In the past 15 years the sector has seen some consolidation. There have been roughly 45 transfers and amalgamations under the Act since 2016. Often a non-operating holding company will own and operate several “brands” with each having a licence. For example, IAG New Zealand operates brands such as AML, State and NZI. As at June 2025, there were 81 licensed insurers.

Of the 81 licensed insurers, approximately 60 were considered ‘small’ insurers with gross written premium generally being below \$200m a year. For context, the two largest insurers wrote \$4.1b and \$1.6b in gross written premium in 2024. 33 are overseas insurers (incorporated overseas) and 7 are ‘captive’ insurers (insurers owned and used by large companies to access reinsurance markets, serving only one policyholder e.g. a power gentailer).

Most large insurers that operate in New Zealand are domiciled in New Zealand with over 85% of all premiums being paid to New Zealand incorporated insurers. However, the majority are foreign controlled (that is, over 50% of the insurer is owned by overseas persons).

Around 20% of insurance policies are written by branches of overseas insurers (“branches”). This means that the insurer is a legal entity incorporated in another jurisdiction but operating in New Zealand.

New Zealand’s insurance sector is customarily split into Health Insurance, Life Insurance and General Insurance.² General insurance includes motor, house and land, and personal property insurance, and directors and officers (and other personal liability) insurance.

General insurance is the largest sub-sector accounting for approximately 60% of the market (measured by premiums received), followed by life insurance and health insurance, approximately 20% each.

The three insurance sub-sectors are dominated by a handful of insurers, with IAG and Suncorp dominating general insurance, and Southern Cross dominating health insurance. The insurance sector has features of an uncompetitive market. The sector is often considered moderately to highly concentrated depending on the subsector observed when measured using concentration ratios. “Concentration ratios” is the market share (based on premiums received) of the three (CR3) and five (CR5) largest insurers, and are provided in

² Public insurance is insurance provided by the state, specifically accident insurance (ACC) and natural hazards insurance (Natural Hazards Commission). Public insurance is also often included as a fourth sector. Public insurance is excluded from the analysis within this RIS as ACC and the Natural Hazards Commission are exempt from IPSA licensing.

table 2. For comparison, the four major banks (CR4) currently hold 85-90% of total assets within New Zealand's deposit taking sector.

Table 2: Concentration ratios – % of total premiums received

Metric	Life	General	Health
CR3	54%	63%	89%
CR5	74%	75%	96%
Concentration ¹⁰	Moderate	Moderate to high	High

Premium rates have increased considerably over the past 2-3 years primarily due to higher inflation and a re-evaluation of risk. In the last 3 years, dwelling and contents insurance premiums are both up approximately 50%, health insurance premiums increased approximately 26% and vehicle insurance increased approximately 34%. Life insurance is the outlier, only increasing 1% during the 3-year period. Life insurance is exposed to bespoke risks (mortality rates) as compared to general insurance, meaning premium increases can diverge between sub-sectors. In addition, life insurers appear to be offering more competitive pricing to retain customers.

With fewer large-scale claims since the Auckland flooding in 2021, it is expected growth in premiums – especially for general insurance – should settle. This is consistent with broader international expectations, despite costly climate-related events. Recent claims in North America (Californian fires, January 2025) may actually place downward pressure in the New Zealand market as reinsurers rebalance their risk portfolios.

Prudential regulation in New Zealand

Insurance provides significant benefits for individuals, society and the Crown by transferring the cost of sudden and unexpected losses across time and the population. This risk transfer helps support a strong and resilient economy. As a result of these benefits, insurance has become a key component within the financial system (as well as individual/business's finances), supporting access to mortgages (property insurance), health services (health insurance), the running of businesses (general insurance) and as an estate planning tool (life insurance).

The prudential regulation of insurance is necessary to ensure that insurers have sufficient funds to pay claims to insurance policyholders even in adverse circumstances. Insurance policyholders pay for financial protection in advance, relying on insurers to have sufficient funds available when they need to make a claim. Insurers must accurately assess the risks they are covering, charge sufficient premium and invest the resulting assets prudently in order to meet claims.

Prior to the introduction of IPSA in 2010, New Zealand was one of the least regulated insurance markets in the world.³ The regulatory framework was severely fragmented with a number of different pieces of legislation containing often inconsistent prudential requirements. IPSA was introduced in response to this incoherence and required the Reserve Bank to be the regulator for the prudential regime due to its existing role regulating deposit takers. IPSA was designed to increase supervisory powers, but unlike other regulatory regimes, was designed to be 'light-handed'. The Act was designed to emphasis

³ The Insurance Council of New Zealand, First reading of the Insurance (Prudential Supervision) Bill. [Insurance \(Prudential Supervision\) Bill — First Reading - New Zealand Parliament](#)

self-regulation; for instance, insurers are expected to devise and adhere to their own fit and proper and risk management policies, subject to Bank oversight.⁴

IPSA's explanatory note and Parliament's debate on the Bill (prior to enactment) indicated that the Bank's involvement would focus on the licensing of insurers and dealing with an insurer in financial distress.

Policy problem

IPSA and the IPSA review

At the time the legislation was introduced, it was agreed that IPSA should be reviewed after around 5 years to ensure the legislation was fit for purpose.

Best practice regulation requires the regular review and evaluation of policy frameworks. In addition, there were several insurance market changes and regulatory shifts that meant a review of IPSA was necessary, including:

- International guidance on insurance regulation and supervision had been updated.
- The legislative regimes for deposit takers and Financial Market Infrastructure had undergone significant legislative change. Additionally, there has been changes in the market conduct regulation of insurers.
- The Reserve Bank had gained significant operational experience in respect of the application of IPSA.
- New Zealand had experienced a number of significant catastrophes with consequences for the insurance sector including the Christchurch/Kaikoura earthquakes.

The Review from the outset was designed to be run in an open and transparent manner, and actively seek input from industry, other stakeholders and interested government departments and agencies. The public consultation process is outlined below. In addition, a government departments' reference group was formed to feed into the process. This group was made up of members from the Financial Markets Authority (FMA), Ministry of Business Innovation and Employment (MBIE), Inland Revenue (IR), The Treasury (TSY), and the Natural Hazards Commission (NHC, formerly EQC). A representative of the Commerce Commission joined later in the process in 2024.

Consultation

There has been extensive consultation, with six public consultations as part of the review, and industry workshops and bilateral meetings throughout the review. The consultation documents were:

- [Issues Paper \(2017\):](#)
- [Scope of the Act and Overseas Insurers \(2020\):](#)
- [Policyholder security \(2021\):](#)
- [Enforcement and Distress Management \(2022\):](#)
- [Governance, Supervisory Process and Disclosure \(2022\):](#) and

⁴ Insurance (Prudential Supervision) Bill 2009, explanatory note pg 35.

- [Omnibus Consultation \(2023\)](#).

Consultations were supported by media releases including non-technical summaries, public webinars, and a series of workshops with industry associations and individual insurers. Public focus groups were also carried out in conjunction with the policyholder security consultation.

The Review's findings – the policy problem identified

The Review's evidence can be split into:

- External reports;
- First-hand experience; and
- Internal reports.

External reports

The IMF underwent a Financial Sector Assessment Programme review (FSAP) in 2017, which included the insurance industry.

The FSAP examines the stability and soundness of a country's financial sector and assesses the financial sector's contribution to growth and development. Assessments include an evaluation of the quality of supervision and regulation of the sector and an assessment of the crisis management framework. More than three-quarters of IMF member countries have undergone assessments.

The FSAP includes evaluating the legislation and supervision functions against internationally recognised Insurance Core Principles (ICPs). The assessment includes both conduct and prudential regulation.

The IMF's assessment "identified a significant number of shortfalls in observance of the Insurance Core Principles" (Executive Summary, pg 4).⁵ Of the 26 ICPs, New Zealand received a 13 out of 26 pass rating.

The IMF specifically called out shortfalls relating to:

- Supervisory risk assessment and regulatory reporting by insurers.
- Off-site supervision, macroprudential analysis and publication of aggregate information on the market.
- Setting standards on corporate governance, risk management and internal controls.
- Standards relating to insurer solvency and fit and proper.

Finally, the IMF noted there was scope for the RBNZ to increase transparency over how it used its powers and its approach to enforcement.

For context, New Zealand performed significantly worse than Australia and the United Kingdom. Australia, in their latest FSAP, received passes in 23 of 26 ICPs. Table 3 compares New Zealand's assessment with Australia and the United Kingdom. The Netherlands is also included as a country that is often observed as one with similar natural hazard risks as New Zealand.

⁵ The detailed assessment is released publicly and can be found at [New Zealand: Financial Sector Assessment Program: Detailed Assessment of Observance-Insurance Core Principles](#)

Table 3: Observance with ICPs – international comparison

	New Zealand	Australia	United Kingdom	Netherlands
Observed*	3	14	17	22
Largely Observed (LO)*	10	9	6	6
Partly Observed (PO)	13	3	1	0
Not Observed (NO)	0	0	0	0
Passed as a proportion of total (%)	50% 13 of 26	88% 23 of 26	96% 23 of 24	100% 28 of 28

**We have considered a pass rating as those standards that were found to be Observed or Largely Observed (minor shortcomings existing). Standards that were only Partly Observed or Not Observed (no substantive progress) were considered fail grades. The IMF do not specifically categorise standard observance as Pass or Fail.*

In addition to the IMF's review, the RBNZ commissioned an independent review by John Trowbridge and Mary Scholtens QC of its supervision of CBL Insurance (CBL) liquidation (**the T-S report**). CBL was placed into liquidation by the High Court in 2018 and was an NZX-listed company with a market capitalisation of approximately \$750m at the time of its suspension from the NZX.

The T-S report's key recommendations included that the Bank:

- Strengthen the governance obligations of insurers through greater scrutiny and accountability of boards, management and appointed actuaries.
- Increase resources to the supervisory team and the policy team to a level consistent with the Bank's goals, priorities and risk appetite.
- Modify the Solvency Standard and, if necessary seek to modify IPSA to strengthen the capital management and solvency framework for licensed insurers.

The T-S report, alongside its focus on the practical application of the Act, considered the structure and sufficiency of the Act. The report noted that the Act, in general, is well structured, but recommended that the:

- Powers of the Bank to issue prudential standards and regulations under the Act be reviewed in order to allow the Bank to extend or modify its prudential requirements of insurers in appropriate circumstances;
- Bank's ability to issue additional prudential standards be extended to cover, at a minimum, standards for governance and have clearer powers over standards for risk management.

In addition, the scope of IPSA was also called into question due to the structure and business of CBL. CBL was a provider of insurance to mostly overseas policyholders, but with about 1% of revenue from New Zealand. Currently, insurance businesses are only required to be licensed if they are liable under a contract of insurance to a New Zealand policyholder. As such, if CBL did not have any New Zealand business, it is arguable they would not need to be licensed in New Zealand. In addition, CBL operated with various entities within a group structure.

First-hand experience and internal reports

The Act was also thoroughly reviewed by the Reserve Bank's policy and legal teams, utilising our operational experience since it was enacted in 2010.

Our operational experience and thematic reviews also found that IPSA lacks the tools to ensure good governance and risk management outcomes. A summary of relevant thematic reviews, which have been released publicly, is provided in table 4.

Table 4: Thematic reviews

Thematic review	Key findings
Governance (2023)	- Strong and sustainable governance policies, processes and practices are essential drivers of effective governance, along with good organisational culture. - The roles and responsibilities of boards, board and committee chairs and their members need to be clearly defined, understood and remain fit for purpose.
Appointed Actuary regime (2020)	- The need for clarity and guidance around the Reserve Bank's expectations of the Appointed Actuary role. - The thematic found the need for better documentation and assurance in actuary appointments, conflicts of interest, and engagement between the Appointed Actuary and the insurer's Board of Directors and the Reserve Bank.
Life Insurer Conduct and Culture (2018)	- Extensive weaknesses in life insurers' systems and controls, with weak governance and management of conduct risks across the sector and a lack of focus on good customer outcomes. - The regulatory environment would benefit from a review of the treatment of overseas insurers and the statutory fund regime.

The IPSA review has also relied on first-hand experience from our supervisory and enforcement teams. Although commercial sensitivity is maintained throughout this report, it is clear the structure and powers provided for under the Act has at times limited the ability for these teams to achieve the purposes of the Act.

Overall, the licensing regime has been a significant improvement to the stability of the insurance sector since the Act was introduced in 2010. In general, the Act meets the minimum expected requirements to an adequate level, specifically the licensing and delicensing/liquidation of insurers and the solvency regime. However, the Act lacks clear expectations with regard to ongoing requirements under the Act, especially with regard to the appointment of officers, mergers and acquisitions and ongoing governance and risk management requirements. For many of these requirements, additional clarity through standards would likely go a significant way in easing the confusion and tension between the Reserve Bank and insurers.

In addition, IPSA's enforcement levers are limited, relying primarily on strict liability offences with large fines. IPSA provides few options for addressing minor breaches that do not warrant, for example, a formal investigation or prosecution.

Lack of clear expectations and limited tools (aside from those that may be disproportionate to the breach) often creates an unhelpful and tense environment between the regulator and those regulated. Maintaining a strong relationship is particularly crucial in a regime that relies on self-management and self-reporting.

Overall, in light of the deficiencies identified in the IPSA review, the recommended changes should:

- Introduce standards for risk management, governance and corporate-group regimes, that move closer to the international framework.
- Expand IPSA's supervisory and enforcement levers to promote ongoing compliance in an efficient manner.
- Make adjustments to existing regimes to modernise the legislation to promote a sound and efficient insurance sector, including creating clear and transparent requirements.

Options are grouped into the nine parts as outlined in part 1:

1. **Purposes and principles** – what are the primary aims of IPSA?
2. The **regulatory scope** – who is regulated?
3. **Prudential standards** – what requirements should be clearly outlined in secondary legislation?
4. **Fit and proper requirements** – does the current regime sufficiently promote effective risk management and accountability?
5. **Regulatory approvals regime** – when and for what purpose should insurers have to seek Reserve Bank approval?
6. **Supervision powers** – does the Reserve Bank have necessary information collection powers to monitor compliance with the Act?
7. **Enforcement powers** – do the current tools give the Reserve Bank the ability to support insurers to remedy breaches in a proportional manner?
8. **Refined distress management provisions** – are adjustments to improve insurers' moratorium rights (where creditors' debt collection rights are paused to allow an insolvent entity to assess their financial position and obligations) needed; and whether the threshold for statutory management needs revising.
9. Additional **minor amendments** to improve the Act, including updating penalty levels (e.g. criminal and civil pecuniary fines) to align with comparable regulatory regimes.

Options are assessed against the Review's objectives (provided below). These objectives overlap and are analysed with the purposes and principles of the Act in mind. Each specific policy may also have policy specific objective(s), that for transparency should be called out and assessed against, even if it overlaps with the objectives of soundness and efficiency. We have also outlined the evidence behind each option. For the most part, additional policy specific objectives are included by assessing which principle of the Act is of most relevance.

The options were assessed against:

- **Promoting soundness:** that is, promoting the resilience of New Zealand's insurance market to shocks.
- **Promoting efficiency:** efficiency is a multi-faceted objective, including minimising regulatory burden, improving competition, improving insurance products and ensuring allocative efficiency (resources are allocated to their most productive uses).
- **Greater consistency** with international guidance and other legislation: including the internationally recognised ICP and insurance requirements in comparable jurisdictions, as well as comparable domestic legislation and requirements.

The evidence used when assessing these options included:

- Consistency with the ICP as assessed by the IMF through its FSAP.
- Trowbridge-Scholtens, *Independent Review for the RBNZ of the Supervision of CBL Insurance Ltd*, May 2019.
- Internal reports, most notably the thematic reviews on *Governance (2023)*, *Appointed Actuary regime (2020)* and *Life Insurer Conduct and Culture (2018)*.
- First-hand experience supervising and administering IPSA. Including, operationalising the licensing regime, the appointments approval process, change of control provisions, the care and management and solvency standards, and the distress management regime.
- Consultation with industry and members of the public.

Section 2: Policy changes and options analysis

The option criteria are provided in Section 1 above. The options have been grouped into nine parts (broadly based on regimes within IPSA) with several individual policies being evaluated within each part.

The status quo and problem definition for each regime will be outlined before the policies are analysed. Options throughout Section 1 are evaluated with the same evaluation key, outlined below.

The evaluation criteria first test whether the status quo is meeting the objective and then outline the marginal change of the option from that starting point.

Key

Status quo

- - Multi sources (IMF, T-S Report, Operational Experience or other) have identified the objective is not being met, or one source has serious concerns that the policy is not meeting the objective.*
- A source has identified the objective is not being met, or multi sources raised concerns that the policy may not be meeting the objective.
- 0 No (or minimal) concerns have been raised on whether the objective is met.
- + The policy (or regime) appears to be meeting the objective adequately.**
- + + A source has identified that the policy or regime is meeting the objective well.**

**The T-S report's scope was specifically focused on the CBL liquidation, and therefore some parts of the Act were not reviewed. Therefore, for certain IPSA policies it may be difficult for more than one source to identify an issue. The 'serious concerns' leg of the evaluation is designed with this in mind.*

***As is common in reviews, policies and regimes that are failing to meet an objective are the focus. Often reports are silent on policies that are successfully achieving their objective. Therefore, for pragmatic reasons, a '+' flag is of lower threshold than the comparative '-' flag.*

Option evaluation

- ↑↑ The option materially improves whether the status quo meets the objective.
- ↑ The option improves whether the status quo meets the objective.
- ↔ There is no expected change to whether the policy (or regime) meets the objective.
- ↓ The option harms whether the policy (or regime) meets the objective.
- ↓↓ The option materially harms whether the policy (or regime) meets the objective.

1. Purposes and principles

A review of the purposes and principles was added to the Terms of Reference in 2024. As prior regulatory impact statements do not cover options to change the purposes and principles, further detail is provided as compared to the other regime changes.

Status quo

An Act's purposes describe the effect or the policy intention of the legislation, while principles guide the exercise of power. In short, the 'purposes' of the Act set the aims of the legislation, while 'principles' guide the exercise of power.

IPSA's current purposes are to:

- promote the maintenance of a sound and efficient insurance sector; and
- promote public confidence in the insurance sector.

IPSA's principles are wide ranging, but in summary include the following concepts.

The Reserve Bank must take into account:

- i. the importance of insurance to members of the public for managing risk;
- ii. the importance of maintaining sustainability of the insurance market;
- iii. the importance of dealing with an insurer in financial distress, in a manner that protects policyholder interests, and avoids significant damage to the financial system or the economy of New Zealand;
- iv. the importance of recognising that eliminating all risk of insurer failure is not a purpose of the Act;
- v. the importance of recognising the public are responsible for their own decisions;
- vi. the desirability of adequate public information;
- vii. the desirability of consistency in the treatment of similar institutions;
- viii. the need to maintain competition in the sector;
- ix. the need to avoid unnecessary compliance costs;
- x. the desirability of sound governance of insurers; and
- xi. the desirability of effective risk management by insurers.

Problem definition (or findings)

The existing purposes and principles appropriately identify the primary aims of prudential regulation of the insurance sector and the high-level principles that should be considered when the RBNZ uses its powers under IPSA.

However, the review (and subsequent reporting to the Minister) identified two possible concerns with the current purposes and principles (these are expanded on further below):

- Whether it provides consistency across the legislative framework.
- Whether they are appropriately calibrated given Government priorities.

Legislative framework

Since IPSA was enacted, the Reserve Bank's governance framework has been significantly changed by the passing of the Reserve Bank of New Zealand Act 2021 (**RBNZ Act**). The Reserve Bank has been given new statutory objectives, including a new financial stability objective - of protecting and promoting the stability of New Zealand's financial system.

Following these changes, we recommended, and Cabinet agreed to expand the original IPSA Review's terms of reference, set in 2016, to include the ability to make minor changes to IPSA's purposes and principles. Consulting and reviewing the purposes and principles provided the ability to consider IPSA's framework against the RBNZ Act, as well as the Financial Market Infrastructures Act 2021 (**FMI Act**) and the Deposit Takers Act 2023 (**DTA**), which were recently enacted.

The review and subsequent analysis found that there are material differences in the legislative structure of the DTA as compared to the FMI Act and IPSA. The DTA, within its purposes, directly links back to the RBNZ Act's financial stability objective by using the same language within its purposes. It subsequently has additional purposes relating to safety and soundness of each deposit taker, public confidence, avoiding or mitigating adverse effects and a subordinate additional purpose of financial inclusion. The DTA then has a list of principles that must be taken into account when the Reserve Bank exercises its functions under the DTA.

The FMI Act does not directly link to the RBNZ Act's financial stability objective. Instead, it provides for a broad list of purposes of the Act, including maintenance of a sound and efficient financial system, avoiding significant damage to the financial system, market efficiency concepts and the development of a fair, efficient and transparent financial market. While the FMI Act does not contain principles, references to a fair, efficient and transparent financial market are comparable to those principles contained in the DTA and IPSA.

As outlined previously, similar to the FMI Act, IPSA does not directly link back to the RBNZ Act's financial stability objective. Instead, it has a set of purposes relating to the soundness and efficiency of the insurance sector, and public confidence. However, IPSA contains a comprehensive set of principles that provide additional guidance to decision makers, similar to the DTA.

Table 4 below provides a high-level comparison of the similarities and differences in the legislative framework of the three Acts below.

Table 4: Comparisons across domestic legislation

	DTA	FMI	IPSA
Purposes:			
• directly aligns with the RBNZ Act's financial stability objective	✓	✗	✗
• include a focus on sector and/or market efficiency	✗	✓	✓
Principles:			
• are included in the legislative design	✓	✗	✓

There is nothing currently in the RBNZ Act or the sectoral legislation (including IPSA) that is directly in conflict. It is not uncommon for legislation to be framed in different ways. In addition, notwithstanding whether the sectoral legislation includes reference to the financial stability objective, the Reserve Bank must adhere to this overarching financial stability objective to protect and promote stability in New Zealand's financial system.

The different purposes and principles across the legislation that the Reserve Bank administers recognise the difference in size and impact each sector has on the stability of the financial system. For example, a well-functioning deposit taking sector is critical to the ongoing stability of New Zealand's financial system, which is recognised by the DTA's purpose. In comparison, the insurance sector, although fundamentally important, has (at least historically) had less of an impact on financial stability. Often banking crisis have a protracted nature of recovery in comparison to insurance related crises. IPSA's greater focus on efficiency and market solutions (self-management and disclosure) is likely reflective of this fact.

Government priorities

IPSA's purpose clause is designed as a policy purpose clause, that is, the clause signals the high-level policy approach intended by Parliament, thereby bridging the gap between policy and law. Similarly, principles are a way for Parliament to guide decision-makers when they are making operational decisions conferred to them by the Act.

Government priorities can change. Therefore, reviewing the principles (and to some degree the purposes) to ensure the Act is still meeting government goals, while remaining achievable and fit-for-purpose over the long-term, is required from time to time.

The Minister's Letter of Expectations provides helpful insights into Government priorities, stating an expectation to take competition into account when setting prudential regulations and in other upcoming policy decisions.

The inclusion of 'efficiency' as a current purpose appears to broadly meet the Government's current focus on promoting competition across the financial system. In addition, the maintenance of competition is included as a principle of the Act. Changes to an Act's principles or purposes to reflect Government priorities needs to be weighed up against the desirability of consistency (constantly changing how legislation is administered creates business uncertainty, often leading to a less efficient market), and the overarching purposes of prudential regulation relating to soundness and efficiency.

LDAC guidance – Simple and achievable decision-making frameworks are generally preferred

The Legislative Design Advisory Committee (**LDAC**), who advise on legislative design in New Zealand, cautions to be particularly careful when retrofitting a purpose clause to legislation as it can be very difficult to ensure that the purpose is consistent with the substantive provisions.⁶

⁶ Legislative Design and Advisory Committee (LDAC), Designing purpose provisions and statements of principle, Legislative Guidelines: 2021 edition. <https://www.ldac.org.nz/guidelines/supplementary-materials/designing-purpose-provisions-and-statements-of-principle#statements-of-principle-fe5f7dfa>

LDAC also warns that:

- **“Less may be more”** - when designing purposes and principles it is prudent to ensure that there are not too many to be taken into account, as it will result in unworkable and complex decision-making.
- **Creating unintended legal effects and risks of judicial review** - caution should be used when changing purposes and principles of existing legislation to prevent unintended legal effects on the interpretation of the amended legislation.
- **Need to be consistent with substantive provisions** - purpose clauses need to reflect, and be implemented through, substantive provisions. That is, the purpose needs to be achievable given the tools within the Act.

Options evaluation

Purposes

We have analysed four options for IPSA’s purposes:

- **Status quo [recommended]** – to promote the maintenance of a sound and efficient insurance sector and promote public confidence in the insurance sector.
- **Elevate ‘financial stability’ as a main objective** – this would align with the RBNZ Act’s financial stability objective and the DTA. A main ‘financial stability’ objective would be created with additional purposes of soundness, efficiency and public confidence.
- **Add policyholder security** – the current framework would remain, but promotion of policyholder security would be included as a purpose. This would align with the ICPs.⁷
- **Add financial inclusion** – the current framework would remain, but supporting New Zealanders having reasonable access to insurance products and services would be added as a subordinate purpose of IPSA.

⁷ This is distinct from a policyholder guarantee scheme which is common in overseas jurisdictions (including the UK and Australia). The previous Government, consistent with our advice, agreed to not progress work on a policyholder guarantee scheme.

Evaluation criteria	Option 1: Status quo	Option 2: Redefining the purpose to 'Financial stability'	Option 3: Adding 'Policyholder security'	Option 4: Adding 'Financial inclusion'
Promoting soundness	+	↑	↑	↓
Promoting efficiency	+	↓	↓	↓
Greater consistency (legislative frameworks)	-	↑	↓	↑
Additional policy specific objectives				
Government priorities and competition	+	↓	↓	↔
Effectiveness	-	↓	↔	↓
Overall	+	↓	-	--

Principles

We have identified four options (alongside the status quo) for changes to the Act's principles, which are:

- **Competition** – changing the competition principle from the desirability of 'maintaining' to 'promoting' competition in the insurance sector.
- **Proportionality** - the inclusion of 'desirability of taking a proportionate approach to regulation and supervision' as a principle of the Act.
- **International norms** - the inclusion of maintaining awareness of practice, guidance or standards of international organisations as a principle of the Act.
- **Policyholder interests** – expanding the scope of an existing principle to 'adequately protect the interests of policyholders', not just during insurer distress.

Evaluation criteria	Option 5: Status quo	Option 6: Promote competition	Option 7: Proportionality	Option 8: International norms	Option 9: Policyholder interests
Promoting soundness	+	↓	↔	↔	↑
Promoting efficiency	+	↑	↑	↔	↓
Greater consistency (legislative frameworks)	+	↓	↑	↑	↓
Additional policy specific objectives					
Government priorities	0	↑	↔	↔	↓
Effectiveness	0	↓	↓	↓	↔
Overall	0 Preferred option	↓	0	0	↓

Summary – what option delivers the highest net benefit?

Our preferred option is the status quo for both the purposes and principles of the Act.

Purposes

The current purposes of soundness, efficiency and promoting public confidence capture the key outcomes we expect from the insurance prudential regulation regime. That is, they balance the key provisions within IPSA that relate to soundness with the balancing consideration of ‘efficiency’.

Furthermore, the inclusion of ‘efficiency’ aligns with the Government’s current focus on promoting competition and innovation across the financial system as outlined in both the current Letter of Expectations (**LoE**) and Financial Policy Remit (**FPR**). Adding additional purposes risk diluting the current purposes.

The other purposes score relatively poorly with the promotion of efficiency and the consistency with government priorities on the promotion of competition. Options 2 and 3, would place greater weight on soundness by marginally prioritising stability in the sector over other balancing considerations, like efficiency or competition. Financial inclusion (Option 4) is generally viewed as an alternative balancing consideration. In this regard, adding an additional purpose of financial inclusion (i.e. the consideration of the insurance products and services available to persons and businesses) would result in the dilution of focus on the current purposes, that is the Act would need to weigh up more (potentially competing) purposes.

In addition, the alternative options score relatively poorly when evaluated against 'effectiveness'. Effectiveness being defined as, whether in practice, the decision-maker (the Reserve Bank) is able to achieve the purposes and give sufficient weight to the principles in light of the tools and powers conferred to the decision-maker (by IPSA). In this regard, we revert back to LDAC's comments to be particularly careful when retrofitting a purpose clause to legislation as it can be very difficult to ensure that the purpose is consistent with the substantive provisions. Option 3 scores the worst in this regard, because IPSA currently has few substantive provisions that seek to meet the purpose of 'Policyholder security' (the ring fencing of life insurer assets, and notification requirements relating to creditor priority are examples).

Financial stability similarly scores poorly as compared to the status quo because, of the 84 licensed insurers, only a handful of insurers are of sufficient size to have a considerable impact on the financial stability of the financial system (four insurers receive over \$1b in annual gross premiums), and similarly, roughly ten insurers would have a considerable impact on the financial stability of the insurance sector. Creating a primary purpose of financial stability, thereby demoting efficiency, could call into question whether placing requirements on smaller insurers (including operating with a licence) is consistent with the Act's purposes.

Principles

Changes to IPSA's principles would be a lower legal and operational risk option to further signify policy aims and provide a legislative mechanism for factoring these matters into Reserve Bank decision-making, for example, when drafting IPSA standards.

Option 2 (adding proportionality) and 3 (adding international norms) score relatively well across the evaluation criteria. Both are sensible, balancing considerations when making decisions under the Act. However, as illustrated by the poor effectiveness scoring, changing the current principles is unlikely to meaningfully improve the approach to regulation given significant overlap with other principles, including avoiding unnecessary compliance costs, consistent treatment of similar institutions, and policyholder interests during insurer distress.

In addition, there are already effective mechanisms in place for the Government to regularly state its policy priorities. Additional principles could complicate decision-making processes by adding further balancing considerations to those in the FPR, LoE and the current 12 IPSA principles.

Both the IMF and T-S report found no major concerns with the Act's purposes and principles, with the IMF's most recent FSAP assessment of New Zealand in 2016 giving us a pass mark ('largely observed'⁸) with regard to the statutory objectives of IPSA. The IMF noted the absence of 'policyholder protection' within the purposes; however, it found that:⁹

⁸ For a principle to be considered partly observed, the IMF observes that there are sufficient shortcomings to raise doubts about the supervisor's ability to achieve observance. We therefore treat a 'Partly observed' grade as constituting a fail grade, while 'Largely Observed' and 'Observed' as pass grades.

⁹ Pg 44, [New Zealand: Financial Sector Assessment Program: Detailed Assessment of Observance--Insurance Core Principles; IMF Country Report No. 17/121; May 2017](#)

“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.”

The IMF recommended that IPSA make explicit reference to ‘policyholder protection’ as either a purpose or principle. IPSA currently has a principle of policyholder interests during distress as a principle. In addition, we recommend adding a subpart objective of policyholder interests to the distress management section of IPSA in response to IMF’s concerns.

Consultation

There was a significant amount of feedback on this proposal. Respondents’ feedback was generally in consensus.

Some respondents noted that there is legal risk involved in changing statutory purposes and principles. The purpose and principles clauses have a pervasive impact on legal interpretation so changes might alter existing settled law and cause unintended consequences.

Respondents did not generally have strong views on whether or not to reference the Reserve Bank’s broader purpose. However, some felt that prudential supervision of insurance would do little directly to ‘promote the prosperity and well-being of New Zealanders and contribute to a sustainable and productive economy.’ Several respondents were keen to point out the difference between the insurance and banking sectors, arguing that insurance failure is less likely to be disruptive to the financial system. Because of this, they questioned whether IPSA was well-aligned with the RBNZ’s financial stability objective of financial stability.

All respondents wanted to retain efficiency (Option 1) in IPSA’s purposes, primarily as a counterweight to ‘soundness’. Some noted that this needs to be tailored to New Zealand’s insurance industry and should be thoughtfully considered when developing proposals that could impact competition, costs, or complexity.

Preferred option for Purposes and Principles:

Option 1 – Status quo, and Option 5 – Status quo.

The Minister has recommended the inclusion of the principles of ‘Proportionality’ and ‘International Norms’ to be included as IPSA principles. This is not our recommendation as it is unlikely to make a material difference to how prudential regulations are calibrated given the existence of other similar principles and the ‘efficiency’ purpose. Additionally, there could be costs, such as complicating the decision-making process (as warned by LDAC).

However, as noted above, there are benefits of greater consistency across the legislative frameworks that the Reserve Bank works under and the options may have efficiency gains. Therefore, the net costs (or benefits) are likely to be finely balanced.

2. The regulatory scope

Status quo

IPSA regulatory scope is largely set on how a ‘contract of insurance’ is defined and what it means ‘to carry on business in New Zealand’.

IPSA’s regulatory scope begins with the requirement that ‘Every person who carries on insurance business in New Zealand must hold a licence’. An entity that is not licensed is prohibited from holding itself out as a licensed insurer and cannot use certain words related to insurance.

A person carries on insurance business in New Zealand if the person is liable as an insurer under a contract of insurance to a New Zealand policyholder.

The definition of contract of insurance is intended to reflect the common law position. The definition is defined broadly, recognising the difficulty in defining insurance with precision. IPSA, therefore, allows the Reserve Bank to declare that a person is not carrying on insurance business in New Zealand in certain circumstances. This provision improves regulatory certainty. The power is commonly referred to as the “deem out” power. There is currently no corresponding power to “deem in” a person.

Problem definition (or findings)

In general, the regulatory scope works as intended.

However, some external stakeholders have argued that the regulatory boundary is not sufficiently clear, may be drawn too narrowly, and may not be flexible enough to deal with future developments in the insurance industry.

The regulatory scope of IPSA is set by capturing persons who are liable under a ‘contract of insurance’. A ‘contract of insurance’ is defined broadly as a contract which involves the transfer of risk from one party (the policyholder) to another (the insurer). The definition is then narrowed down by excluding some kinds of business (including derivative contracts, gambling contracts and some types of warranties and guarantees).

Stakeholders have raised regulatory boundary concerns, specifically, that certain products would fall (or are falling) outside the regulatory scope and create an unfair advantage, including:

- parametric insurance (or index insurance);
- discretionary benefit mutuals; and
- some types of guarantees and waivers.

Parametric insurance / index insurance

With parametric insurance, policyholders purchase the right to a fixed sum in response to a particular movement in an objective parameter or index (for example an earthquake of a certain magnitude or a particular level of rainfall). The payment is not dependent on the claimant providing evidence of loss or meeting a causation test, so claims can be assessed cheaply and quickly. It has characteristics of a financial derivatives product but may in the future be used increasingly as a replacement for traditional insurance.

Currently, IPSA is broad enough to capture certain forms of parametric insurance where, in addition to the trigger event occurring, there also needs to be proof of loss. If there is pay-out without proof of loss, then the product appears more derivative-like and is excluded from being an insurance contract.

Discretionary benefit mutuals

Discretionary benefit mutuals offer products with insurance-like features. Members pay into a fund and if a member suffers a contractually defined loss, they are entitled to ask the trustees of the fund to indemnify them for the loss. The trustees then have discretion whether or not to do so, depending on the interests of the members as a whole (which is likely to reflect the present fund size).

IPSA's regulatory perimeter currently does not include discretionary benefit providers because these arrangements do not provide contractual right to an indemnity.

Guarantees and waivers

Finally, guarantees, warranties and payment waivers are similarly types of contingent liability contracts, which are excluded from the definition of 'contract of insurance'.

Industry have raised competitive neutrality concerns relating to guarantees and waivers. Concerned that these contracts written by an insurer are considered insurance contracts (and therefore regulated), while other providers might also write contracts with similar economic effect without attracting the same regulatory burden.

The concerns are understandable and highlights that defining a 'contract of insurance' is less an objective science, but rather a boundary set in relation to the risks that government fundamentally consider of sufficient materiality to be regulated. While recognising that certainty may be difficult to achieve it is still a worthy objective.

What criteria is used to compare options to the status quo?

The options were assessed against the three overarching assessment criteria objectives of:

- Promoting soundness
- Promoting efficiency, and
- Greater consistency (legislative frameworks)

In addition, the two policy specific objectives are:

- Transparency and certainty: Is it clear to insurers, the regulator and other market participants what the regulatory boundary is?
- Risk materiality: Are the material risks in the system sufficiently regulated?

What options are being considered?

Option one – status quo: Retain IPSA's current regulatory boundary

Option two – Retain core regulatory boundary definitions, but provide clarity for edge cases:

- giving the Reserve Bank a new power to make a declaration that certain types of business are insurance, where they meet the broad s 7(1) definition of insurance contracts but may sit on the boundary of the s 7(3) exclusions (this will provide some increased flexibility to deal with developments in the industry over time). Commonly referred to as a 'deeming-in power'.

- removing the requirement that an insurer must have a New Zealand policyholder in order to be 'carrying on business in New Zealand' (so insurers based in New Zealand but only writing contracts to overseas policyholders will need to be licensed under IPSA); and
- explicitly excluding overseas captives and reinsurance branches from licensing requirements (this is desirable on policy grounds and will help to reinforce the integrity of current definitions).
- require overseas insurers operating through branches to locally incorporate, where they meet a specified size and importance threshold.
- the ability for the Reserve Bank to adjust the regulatory scope to cover multi-cell captive insurers.

Option three – Broaden the regulatory boundary to explicitly include:

- index insurance; and/or
- discretionary benefit mutuals; and/or
- guarantees and waivers.

Evaluation criteria	Option 1: Status quo	Option 2: Retain core definitions but provide clarity for edge cases	Option 3: Broaden the regulatory boundary
Promoting soundness	0 Current definition is broadly working as intended.	↔	↑ Would result in a significantly widened range of contracts becoming insurance contracts.
Promoting efficiency	- There is some concern the boundary is too narrow, creating competitive inefficiencies.	↑ Would improve allocative efficiency by improving awareness of contracts that are included.	↓↓ Certain contracts would be regulated without a clear policy rationale.
Greater consistency (legislative frameworks)	0 Regulatory boundaries are a necessary part of all regulatory regimes.	↔	↓ Would be internationally unorthodox.
Additional policy specific objectives			
Transparency and certainty	0 Market participants are generally comfortable with the perimeter. However, some ambiguity has arisen in certain pockets.	↑ Would improve transparency and certainty by clarifying the regulatory boundary.	↓ Would likely include such a vast number of contracts, that would create additional boundary questions.

Risk materiality	0	↑ Yes, clarity provided that neither overseas captives nor branches of overseas insurers are 'carrying on insurance business in New Zealand'.	↓ ↓ The licensing regime would be significantly expanded to low-risk businesses.
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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

The preferred option (option 2): **Retain core definitions but provide clarity for edge cases**

- provides more transparency and certainty around the regulatory boundary; and
- reduces reputational risk by ensuring that New Zealand-based insurers with no overseas customers are captured by regulation.

In addition, option 2 enhances clarity around when an insurer is carrying on business in New Zealand by explicitly ruling out two boundary cases (overseas captives and branches of overseas reinsurers).

Finally, the option to allow the Reserve Bank to require overseas insurers operating through branches to locally incorporate, where they meet a specified size and importance threshold attempts to balance the importance of overseas insurers to the New Zealand market with the additional prudential risk that insurers not incorporated in New Zealand bring. Overseas insurers are essential for the sustainable and efficient operation of the New Zealand insurance market and support competition in the market. However, the operation of insurers as branches creates risks as there are limitations over the Reserve Bank's ability to regulate and supervise a branch of an overseas insurer. Reliance is placed on regulation by the insurer's 'home jurisdiction'. These risks increase with the size of the branch. An option of requiring branches to hold a proportion of their assets in New Zealand was initially considered to mitigate the supervisory concerns. However, following consultation this broad stroke approach would likely be unproportional and be administratively complex for insurers.

The recommended option (option 2) would promote efficiency by reducing administrative costs for most insurers and be more proportional to the regulatory concern.

3. Prudential standards

Status quo and problem definition

IPSA as primary legislation is necessarily principles focused and provides a set of desirable outcomes.

However, often these outcomes need to be coupled with a set of detailed expectations to support clarity for insurers. For example, having a requirement that licensed insurers must be subject to fit and proper policy for directors and relevant officers helps improve public confidence in the insurance sector. In practice, though, without further explanation of what it means to be a 'fit and proper' person and what the Reserve Bank looks for when assessing this, an insurer may find meeting these expectations costly and uncertain. IPSA currently provides for the issuance of two standards (that provide additional clarity of expectations):

- **Solvency standard** (which sets requirements relating to minimum amounts of capital, and the methods for determining the amount of capital that an insurer has).
- **Fit and proper standard** (which specifies matters that are relevant to the consideration of whether a person is a fit and proper person to be appointed as a director or relevant officer).

For other requirements, guidance is published by the Reserve Bank to help insurers understand the supervision requirements of IPSA and the requirements for licensing. There are 14 published documents in total. Guidance documents, unlike standards, are not legally enforceable.

It is of particular concern that IPSA fails to provide for standards on governance and risk management, given the importance of good governance to insurers' soundness.

Under IPSA, the appropriateness of an entity's governance arrangements is assessed when the entity applies to be licensed as an insurer, and as part of some supervisory approvals. All licensed insurers must have a risk management programme in place and are obliged to comply with that programme. However, IPSA provides limited mechanisms that enable supervisors to monitor and assess insurers' governance and risk management on an ongoing basis and at a more detailed level.

In addition, IPSA does not specifically require insurers to identify and manage risks to prudential compliance that may spring from outsourcing activities to external providers (who will not come under the direct scope of an insurer's own internal audit and compliance functions) or to deal with the risks that can arise from connected party transactions (which can create concentrated exposures or compromise risk assessment criteria). Introducing governance or risk management standards were key recommendations from T-S report and IMF. These standards will enable the Reserve Bank to introduce enforceable rules that set clear expectations for regulated entities.

It is common in comparable overseas jurisdictions to have standards that set clear requirements, especially for risk management and governance. For example, the Australian Prudential Regulation Authority (**APRA**) has multiple standards, including several relating to:

- Governance.
- Risk management.
- Financial resilience.
- Recovery and resolution.
- Reporting.

The Trowbridge-Scholtens report in recommending further standards be issued commented that:

Our primary governance finding is that the Governance Guidelines contain a suitable set of principles for governance at board level but that the [Reserve] Bank cannot assume that the Guidelines will be followed and therefore needs to establish processes for holding boards accountable for meeting them.

What criteria is used to compare options to the status quo?

The options were assessed against the three overarching assessment criteria objectives of:

- Promoting soundness
- Promoting efficiency, and
- Greater consistency (legislative frameworks).

In addition, the two policy specific objectives are:

- **Clarity** – whether the options would provide greater clarity to insurers about the Reserve Bank’s expectations.
- **Internationally aligned** – expectations are aligned with comparable international jurisdictions. This supports the setting of standards as well as making it easier for international insurance groups to comply with these standards.

What options are being considered?

Option one – status quo: Retain IPSA’s current use of guidelines, and not standards

Retain IPSA’s current use of guidelines that are not legally enforceable.

Option two – empower the Reserve Bank to issue standards relating to:

- Governance
- Risk management
- Data and disclosure
- Outsourcing
- Connected exposures
- Actuarial advice
- Distress management

and;

- provide a regulation-making power to enable the Minister of Finance to extend the scope of matters on which the Reserve Bank could set standards.

Option three – Retain the current mix of guidelines, conditions of licence and standards, but undertake an exercise to review and refine the content within the various instruments.

Note: Due to the number of options, the assessment table includes the options in column one, with the criteria along the top row.

Options for Standards	Evaluation Criteria				
	Promoting soundness	Promoting efficiency	Greater consistency	Clarity	Internationally aligned
1. Status quo	↔	-	-	-	-
	IPSA currently provides limited mechanisms for enabling supervisors to monitor and assess insurers’ governance and risk management on an ongoing basis. The adequacy of these arrangements is established primarily at licensing, with the obligation for ongoing compliance being evidenced primarily through director attestations. This results in a fragmentation of rules across legislation, regulations, and licence conditions, for which RBNZ has been criticised. The status quo largely meets the soundness objective (although improvements could be made). The soundness objective is satisfactorily met in most cases, as it allows the Reserve Bank to issue guidance relating to licensing conditions.				

Options for Standards	Evaluation Criteria				
	Promoting soundness	Promoting efficiency	Greater consistency	Clarity	Internationally aligned
	The guidelines are generally crafted as the minimum requirements for licensed insurers. However, the use of guidance as the instrument does risk inconsistencies and a lack of clarity. Specifically, if an insurer is meeting the minimum requirements under the Governance guidelines it is unclear for the insurer whether this means it is meeting their licence condition or whether the requirement under the Act is higher. For example, section 73 requires insurers to provide a copy of a risk management programme, however, the Act provides little colour as to the nature and scope of this document. Guidance can help provide colour but is not designed to (nor can it legally) be solely used to interpret the primary legislation. Likewise, it can be difficult for a supervisor to illustrate that an insurer is in breach of, for example, the governance requirement even if it is in direct conflict with the guidance. The lack of detail and specificity within the Act, along with the unenforceable nature of guidance, ultimately creates confusion and inefficiencies. New Zealand is an outlier internationally by relying on guidance so heavily, with enforceable standards being the norm overseas.				
	↑	↑	↑	↑	↑
2.a. Governance	IPSA's purposes note the importance of good governance. However, IPSA lacks any ability to prescribe appropriate governance structures and processes. Currently IPSA provides for regulatory review of an insurer's governance arrangements at the point of licensing. A formal governance standard would improve transparency as it clearly sets out the Reserve Bank's expectations, while also promoting consistency of approach across individual supervisors. Standards reduce inefficiencies by providing a better basis for the Reserve Bank to engage with the board of the insurer meaningfully and effectively, enabling governance issues to be addressed at an early stage. Clear standards would improve insurance sector soundness by providing a basis for supervisors to inquire as to how corporate governance is working in practice, identify weaknesses and seek improvement. The T-S report signals this potential benefit to soundness, recommending 'that the Bank's ability to issue prudential standards be extended to cover, as a minimum, standards for governance and clearer powers over standards for risk management', on grounds that 'governance is an essential component of effective risk management'. The use of standards is the international norm, for example, APRA's Prudential Standard CPS 510. However, the IMF did warn that 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. Necessary tailoring of the Governance standard will be critical in promoting efficiency.				

	Evaluation Criteria				
Options for Standards	Promoting soundness	Promoting efficiency	Greater consistency	Clarity	Internationally aligned
2.b. Risk management	↑	↑	↑	↑	↑
	Currently risk management is regulated by a requirement upon licensed insurers to have a risk management programme and seek the RBNZ's approval of any material change to the programme. A risk management standard, as compared to the status quo, would provide a clear and consistent mechanism for supervisors to detail and enforce effective governance settings. The standard would set out the responsibilities of oversight that the board has and create clear expectations regarding the procedures in place to monitor compliance and risk, including procedures to feed information back to the board to enable effective oversight. As outlined by the IMF, the current legal requirements on risk management and internal controls would benefit from being more prescriptive and enforceable. Standards would promote clarity and consistency and ultimately improve the supervision of insurers. Issuing a risk management standard would better align with ICP 1, the international norm for 'Objectives, powers and responsibilities of insurance supervision.				
2.c. Data and disclosure	↔	↑	↑	↑	↑
	IPSA already includes adequate powers for obtaining information from licensed insurers (and these proposals include information gathering powers for non-licensed insurers). A data and disclosure standard would streamline the approach for data collection, creating a clear expectation that applies consistently for insurers. The current information gathering powers can be arduous, requiring extensive, detailed and complex individual notices provided to different classes of insurers. Using a standard to determine which information could be published by the Reserve Bank would ensure the maintenance of transparency and provide clarity about how data gathered could be used. Standards, as compared to one-off notices, provides a convenient and transparent way of regulating steady-state information provision and disclosure. Soundness, when compared with the status quo, is unlikely to be affected as the change to a standard does not change the types of information requested and received. It would instead improve the efficiency, transparency and clarity of the requests.				
2.d. Outsourcing	↑	↓	↑	↔	↑
	The outsourcing of core functions can create material risks to insurers. The T-S report recommended that the Reserve Bank consider introducing rules on outsourcing, noting issues where the failed insurer CBL outsourced fundamental insurance functions (underwriting, pricing, claims management), leading to potentially unmanaged risks.				

Options for Standards	Evaluation Criteria				
	Promoting soundness	Promoting efficiency	Greater consistency	Clarity	Internationally aligned
	A new outsourcing standard would improve international alignment. The standard would, to some degree, be guided by Australia's equivalent standard, CPS 231. Using CPS 231 as a guide supports consistency, which is especially important for many large insurers who offer services or are part of cross-jurisdiction insurance groups. The outsourcing standard would likely apply to only large insurers whose failure may have wider financial stability risk. An outsourcing standard would promote soundness by improving the monitoring and mitigation of business or regulatory risks arising from outsourcing activities to external providers. There is an awareness that due to the specific nature of this risk (that is, it likely only applies to large insurers) that an outsourcing standard risks being detrimental to the objective of promoting efficiency. With this in mind, the Outsourcing, Connected Exposures and Distress Management standards are likely to be considered and consulted over a longer period of time before publication to ensure risks around efficiency are managed. There is no current equivalent outsourcing requirement applied to insurers, therefore clarity is unlikely to be affected.				
2.e. Connected exposures	↑	↓	↔	↑	↑
	While connected exposures (related party transactions) can be regulated by condition of licence, a standard meets the objective of promoting soundness by enabling the Reserve Bank to limit investments in related parties and ensure that those investments take place on market terms, in a more consistent (across insurers) and transparent way. Related party transactions are a source of risk, especially in group structures (e.g. to finance weaker members of a group on non-commercial terms). The standard would place restrictions to ensure appropriate governance of contracts with related parties and limit levels of exposure to related parties. A new connected exposures standard would align with international norms and, to some degree, be guided by Australia's equivalent standard, 3PS 222. See Proposal D. Outsourcing for similar 'efficiency' risk.				
2.f. Actuarial advice	↔	↑	↔	↑	↑
	All licensed insurers are required to have an appointed actuary. An appointed actuary would set out the responsibilities and expectations of the appointed actuary's role, the role of actuarial advice more generally, and what the corresponding reporting arrangements should be. The standard would therefore improve clarity and improve efficiency by reducing any conflicts the appointed actuaries is perceived to have (i.e. their responsibilities to the entity against those under the standard). A thematic review of the appointed actuary role was undertaken in 2018 and highlighted the lack of clarity and guidance around what the Reserve Bank				

Options for Standards	Evaluation Criteria				
	Promoting soundness	Promoting efficiency	Greater consistency	Clarity	Internationally aligned
	expects of the appointed actuary role and highlighted a risk that the role's impartiality could be affected. The review provides the groundwork for an actuarial advice standard. International alignment is improved through the introduction of an actuarial advice standard. Although there is no comparable standard within other legislative frameworks (greater consistency), it is common internationally (e.g. APRA's CPS320).				
2.g. Distress management	↑	↓	↑	↑	↑
	The recent work on the general insurance industry stress test has emphasised the need for insurers and the Reserve Bank to be prepared for a stress event and have a recovery plan in place to maximise insurers' ability to respond to a systemic crisis. The standard would introduce a resolution planning/preparedness requirement. In setting the requirements, we will monitor international practice as it evolves in this area. The standard would improve consistency and clarity by setting an expectation on all, or more likely a group of insurers, to produce a resolution plan during business-as-usual (BAU) times. A plan set during BAU times is designed to promote a successful resolution process, particular for systemic entities, thereby improving soundness of the insurance sector. Resolution plans, especially for systematically important insurers, is the international norm with ICP 12.4 'requires at a minimum, a resolution plan for any insurer assessed to be systemically important or critical if it fails'. Industry agreed in principle to the proposal but were wary of how onerous the requirements would be, especially if it applied to all insurers, or if the timelines to produce a plan were unreasonable. These concerns, if materialised, would be detrimental to the efficiency objective. These concerns have been noted and will be referred to when drafting the standard. Nevertheless, they are still risks to the efficiency of IPSA. See Proposal D. Outsourcing regarding 'efficiency' risk.				
2.h. Ability to extend the scope	↔	↑	↑	↔	↔
	The Reserve Bank's use of legislative instruments was reviewed thoroughly in 2021 (specifically viewed through the deposit takers' lens), and it was found that balance is needed between transparency, accountability and flexibility. This option, which would allow the Minister of Finance to extend the scope of matters on which the Reserve Bank can set standards, would help to ensure there is sufficient accountability to elected officials. Accountability improves efficiency by ensuring those best placed to make decisions do so. However, it also provides for standards to be adjusted in a timely manner, which are consistent with the purposes and principles of IPSA. A similar power exists in the DTA.				

Options for Standards	Evaluation Criteria				
	Promoting soundness	Promoting efficiency	Greater consistency	Clarity	Internationally aligned
3. Retain but review existing instruments	↔	↓	↓	↑	↓
	A review of the guidelines, conditions of licence and standards would help to clarify expectations on insurers to some degree. However, concerns regarding the enforceability and consistency would remain.				
	Only reviewing existing instruments would continue to mean New Zealand is out of step with overseas jurisdictions, including Australia, and expectations set out in the ICPs.				
	Compared to the status quo, there is a minor improvement in clarity.				

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

The preferred option (option 2): **Empower the Reserve Bank to publish a set of standards**

The preferred option includes producing all the standards set out in 2(a) to (h) above. The package best meets the objectives identified. In particular, empowering the Reserve Bank to publish a set of standards:

- Improves transparency and clarity of expectations that the Reserve Bank has on insurers.
- Is internationally orthodox
- Is consistent with current practice for insurers (fit and proper, and solvency) and for deposit takers.

Processes for the publication (or amendment) of standards are well-known and go through a full consultation process.

Option 2 contains the risk that the standards are not appropriately calibrated and result in the imposition of unnecessary compliance costs and requirements on insurers. Ensuring that the standards are calibrated with IPSA's principles in mind reduces this risk.

4. Fit and proper requirements

Status quo

IPSA requires insurers to develop, implement, and comply with their own fit and proper policy, in accordance with a Fit and Proper Standard issued by the RBNZ.

Insurers must provide the Reserve Bank with a fit and proper certificate within 20 working days of the appointment of a director or relevant officer. Licensed insurers are also required to reassess each director or relevant officer at least once every three years.

The fit and proper requirements apply to directors and 'relevant officers', being the Chief Executive Officer (CEO), the Chief Financial Officer (CFO), and the appointed actuary.

Problem definition (or findings)

In its operational experience the Reserve Bank has identified possible limitations if the Reserve Bank has concerns regarding the fitness of an appointment. Its only option in this scenario is to seek to remove the appointee using powers in IPSA. Removal of directors or relevant officers can be costly for insurers, as such, it is preferable to address any issues before an appointment is made. Currently, insurers are required to notify the Reserve Bank, but approval is not required.

Additionally, IPSA requirements are currently inconsistent with the ICPs with regard to fit and proper requirements. The ICPs require insurers to notify regulators if they become aware of information that casts doubt on an officer's fitness and propriety. This requirement is not present in IPSA. IPSA has no ongoing fit and proper requirements although a fitness and propriety re-assessment is required every 3 years.

The current scope of relevant officers does not include the Chief Risk Officer (CRO). The CRO is generally responsible for the risk management function, including setting an insurer's risk tolerance and assessing an insurer's risk position and risk exposures. Given the CRO's responsibility relating to risk, it would be appropriate to have the CRO included in the fit and proper regime.

Director duties and NZ Branch CEOs

Since the aftermath of the Global Finance Crisis, there has been a worldwide shift to imposing personal liability on directors of both deposit takers and insurers. Directors have the overarching responsibility for ensuring compliance with prudential obligations. The UK and Australia have introduced complex executive accountability regimes. The DTA has taken an alternative option to the uplift of director duties, adopting a simpler approach by requiring Directors to exercise due diligence to ensure that the deposit taker complies with its prudential obligations.

We consider whether a similar uplift in duties on directors of insurers (and on the CEO of New Zealand branches of overseas insurers) is appropriate.

What criteria is used to compare options to the status quo?

The options were assessed against the three overarching assessment criteria objectives of:

- Promoting soundness
- Promoting efficiency, and
- Greater consistency (legislative frameworks)

In addition, the two policy specific objectives are:

- **Accountability** – the controls and accountability are appropriate and well defined.
- **Effective risk management** – the desirability of effective risk management by insurers.

What options are being considered?

Option one – status quo: Retain IPSA’s fit and proper regime, and current duties on directors and officers.

Option two – update the fit and proper requirements and director duties

2.a) Extend the fit and proper requirement to the Chief Risk Officer

2.b) Introduce a requirement for licensed insurers to obtain the Reserve Bank’s prior approval for the appointment of directors or relevant officers.

2.c) Introduce a requirement for licensed insurers to notify the Reserve Bank where they have fit and proper concerns of directors or relevant officers.

2.d) Introduce a Due Diligence duty for directors of NZ licensed insurers and NZ CEOs of branch insurers.

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Accountability	Effective risk management
1. Status quo	-	↔	-	-	-
2.a) Extend requirements to the Chief Risk Officer (CRO).	↑	↔	↔	↑	↑
2.b) Pre-approval of the appointment of relevant officers.	↑↑	↓	↑	↔	↔

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Accountability	Effective risk management
	pre-approval blurs the boundary between the Reserve Bank and the insurer's Board's responsibilities. The risks of increased inefficiency in the <i>process</i> for appointments is present. However, the ability to raise concerns at the right time provides a more efficient way to ensure suitability of appointments over the long run, thereby improving insurance sector soundness. We are cognisant of the costs to insurers of delaying the appointments process and therefore see value in introducing a specified timeframe that the Reserve Bank would have to approve/reject an appointment. We see a 20-working day requirement for the Reserve Bank as an effective way of reducing uncertainty for industry and streamlining the process. A 20-working day requirement, which commences after the Reserve Bank has received all of the required information, would align with the process for deposit takers. The approach would be consistent with that under the DTA and is common overseas, including Australia and the United Kingdom.				
2.c) Requirement to notify the RBNZ of fit and proper concerns.	↑	↑	↑	↑↑	↑↑
	As outlined by the IMF's recommendation for ongoing monitoring and effective self-discipline, a self-reporting requirement provides a strong basis to support soundness in the sector by recognising the importance of own risk management while providing the Reserve Bank sufficient oversight of concerns, so that plans can be put in place to mitigate risks. Self-reporting regimes are common internationally and are seen in the DTA. Self-reporting is an effective way of improving self-discipline for insurers that results in improved accountability and improved risk management.				
2.d) Introduce a due diligence duty.	↑	↓↓	↔	↑	↔
	The proposal would impose a duty on directors of NZ-incorporated insurers (or the NZ CEO of an overseas insurer) to carry out due diligence to ensure that the insurer complies with its prudential obligations under IPSA. The duty would be similar to the requirement under the DTA. A due diligence requirement on directors would improve accountability of prudential requirements, by placing active requirements on directors of insurers. This would provide clear incentives for directors to take steps to ensure the ongoing soundness of the insurer. Industry raised concerns that the proposal would be unnecessary given current regulatory measures in place. Industry considered the requirements would impose unnecessary compliance costs. Industry provided strong evidence that existing requirements, in relation to the Companies Act, means the improvement in accountability and soundness is likely to be marginal.				

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

The status quo does not meet the objectives of IPSA. However, changes need to be well considered because they are likely to lead to increased (but not necessarily unjustified) increase in compliance costs.

The preferred option is *option 2: Updated fit and proper requirements and statutory duties*. However, *option 2.d) due diligence duties* on a net basis does not sufficiently provide a net benefit when considering the flow on costs and consequences on industry of a due diligence duty. This sub-option is therefore not recommended.

In response to industry concerns regarding the uncertainty a pre-approval of appointments requirement could have, the Reserve Bank should be obliged to decide whether to approve within 20 working days of receiving all required information.

The preferred option that best meets the objectives identified are:

- 2.a) Extend the fit and proper requirement to the Chief Risk Officer
- 2.b) Introduce a requirement for licensed insurers to obtain the Reserve Bank's prior approval to the appointment of directors or relevant officers.
- 2.c) Introduce a requirement for licensed insurers to notify the Reserve Bank where they have fit and proper concerns of directors or relevant officers.

5. Regulatory approvals regime

Status quo

Where an insurer is undertaking a restructuring, it is important that supervisors can ensure the restructure will not significantly weaken the governance and financial strength of the insurer, thereby having the potential to weaken sector soundness or efficiency.

Currently, IPSA requires regulatory approval for any of the following transactions:

- Confirmation that an insurer should keep its licence following a change in control.
- Change of corporate form (e.g. a mutual firm becoming a company).
- Policy portfolio transfers between insurers.
- Amalgamations of insurers.

Problem definition (or findings)

Our operational experience with the statutory approval processes is that it can often be too rigid, resulting in misalignment between the level of scrutiny and the risk of the change. This rigidity means it is often difficult for supervisors to take a risk-based approach to approvals.

One of the main issues is with the assessment of change of control transactions. For example, in some cases where a change of control is unlikely to have significant practical impact on the operations of an insurer, our obligation to review the insurer's compliance with the full range of licensing requirements can be unduly onerous for insurers. Meanwhile, in

other cases, a change of control has a very similar effect to a transfer of business, but the legislation sets out a narrower range of considerations.

We have also identified some issues with the scope of existing requirements. Transfers of business to a licensed insurer from a non-licensed insurer are not currently within the scope of the legislation. The threshold for 'change of control' notification is also high (50% of voting rights). For an insurer where shareholdings are diffuse, significant influence or even effective control might be obtained with a significantly lower shareholding.

Proposed changes for the insurance conduct regime administered by the FMA could result in inconsistency in regulatory approvals between the two regimes. Simplifying and aligning these requirements should result in a lower cost process for the insurer and better use of resources by both regulators.

Finally, IPISA's current statutory approval process captures transactions involving corporate reorganisations of overseas insurers (e.g. new holding entity inserted above the New Zealand licensed insurer) which already receives approval from an overseas regulator. These transactions are often of low risk from a New Zealand perspective. However, the Reserve Bank is required to go through a full assessment process, which often adds comparatively little value, beyond the home regulator's assessment.

What criteria is used to compare options to the status quo?

The options were assessed against the three overarching assessment criteria objectives of:

- Promoting soundness;
- Promoting efficiency; and
- Greater consistency (legislative frameworks)

In addition, the two policy specific objectives are:

- Proportionality – the process should provide supervisors with the ability to assess transactions in a proportional manner.
- Unnecessary compliance costs – the desirability to avoid unnecessary compliance costs.

What options are being considered?

Option one: Status quo

Option two: New proportional approvals process, with updated control requirements

- a. A new process in which insurers are required to seek Reserve Bank approval before all significant restructuring transactions (change of significant influence, change of corporate form, transfer or amalgamation). The Reserve Bank may approve, decline or approve with conditions. In making its decisions, the Reserve Bank may consider:
 - whether, after the transaction, all insurers involved will continue to meet licensing conditions;
 - policyholder interests; and
 - any other relevant matters.

- b. Require notification to (rather than approval from) the Reserve Bank prior to significant influence being obtained or giving effect to amalgamation, where the transaction relates to an overseas insurer.
- c. In addition to current requirements, the approval process would apply where a transfer of business was taking place from a non-licensed insurer to a licensed insurer.
- d. 'Change of control' requirements set at 50% of voting rights would be replaced by 'acquisition of substantial interest' requirements, which would apply where a party was obtaining 25% of voting rights or the ability to appoint 50% or more of the insurer's directors.

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality	Avoiding compliance costs
1. Status quo	-	-	-	--	-
	Our operational experience with the statutory approval processes is that the process can often be too rigid, resulting in misalignment between the level of scrutiny applied by the Reserve Bank and the risk created by the proposed change. This rigidity makes it difficult for supervisors to take a risk-based approach to approvals. The lack of proportionality in the approval's regime impacts the regime's ability to successfully achieve the other objectives. As noted by the ICPs, proportionality underpins all prudential regulation. Without it, unnecessary compliance costs on the regulated sector and administrative costs on the regulator are imposed.				
2.a) New process: Consolidate process, provide notice of approval and attach conditions to approval.	↑	↔	↔	↑	↑
	The new process is designed to be more streamlined and transparent. The three instances (control, corporate form and business transfers) where approvals are required will be consolidated into one process. This streamlined approach should reduce compliance costs on the regulated sector. The Reserve Bank will provide notice that the transaction requires approval before taking effect. The regulator will notify the licensed insurer of its decision within a reasonable time (a qualitative measure - instead of setting a specific time period) after receiving all necessary information. Allowing some flexibility promotes proportionality, by allowing simple or low-risk regulatory approvals to be approved quickly, while more time and resources can be applied to higher risk approvals. The ability to apply greater scrutiny to higher risk transactions improves soundness of the insurance sector in the long run.				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality	Avoiding compliance costs
2.b) Notification for branches	↓	↔	↔	↑	↑
	IPSA currently does not differentiate between transactions involving New Zealand incorporated licensed insurers and overseas incorporated licensed insurers ('branches'). Transactions involving branches are generally of lower risk as the insurer would have already received oversight from an overseas regulator. The proposal would lower compliance costs for branches in New Zealand, allowing branches to proceed with the change in control, corporate form change or business transfer without waiting for Reserve Bank approval. The change does create some inherent risks, especially if it impacts a large number of New Zealand policyholders or otherwise the stability of the insurance sector in New Zealand. This could have material impacts on the soundness of the insurance sector - although most branches are very small, a handful are large and dominate certain parts of the insurance landscape in New Zealand. For example, a 2020 change of ownership of a large life insurer took 18 months for approval. The proportionality objective is improved through this option, by reducing the scrutiny on largely low-risk small insurers.				
2.c) Require approval where a licensed insurer acquires business from a non-licensed insurer	↑	↔	↑	↔	↔
	Significant growth, especially through expansion, can create soundness and efficiency concerns for the insurance market. Currently, licensed insurers require approval where a licensed insurer acquires business from a licensed insurer. However, acquisition of insurance business from non-licensed insurers can create the same risks on soundness, therefore, this change would expand the current requirements to those similar risks, thereby improving soundness. Similar existing threshold requirements will apply to these types of transactions too, which would improve consistency for transactions that are economically similar.				
2.d) Lower the threshold for change of control to 25%	↑	↑	↑	↔	↓
	IPSA provides an approval process for changes of control of an insurer. The current 'change of control' threshold is based on a person (directly or indirectly) obtaining 50% or more of the voting rights in a licensed insurer. However, depending on the ownership structure of an entity, it may also be possible for a person to have significant influence of the insurer in situations where they hold less than 50% of the voting rights. The new threshold improves consistency and efficiency across the financial services sector by aligning with the comparable DTA threshold, and amendments introduced in the Financial Markets Conduct Amendment Bill, to be supervised and enforced by the FMA after enactment.				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality	Avoiding compliance costs
	Lowering the threshold would require more transactions to seek approval therefore greater scrutiny would be applied to more transactions, improving soundness. However, the option risks increasing compliance costs for those transactions that are captured by the change but that in reality the acquirer does not have significant influence. Operational efficiency (including a streamlined proportional process) will assist in minimising these costs.				

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

The preferred option: **Option two –update the fit and proper requirements and director duties**, which best meets the evaluation criteria.

A new streamlined approach that allows for better targeting of resources to higher-risk transactions and appointments is preferred. The evaluation, however, highlights some compliance cost risks.

As is common when additional proportionality is sought some operational discretion may be necessary – this recognises the difficulty in trying to adequately legislate the differences in risk and business profile that each insurer has. However, added operational discretion can risk over regulation if legislation is too broad without necessary guard ropes. Operational efficiency and legislative boundaries (including defining the relative officers and significant influence thresholds) supports mitigation of these costs.

In reviewing the costs and benefits, the impact on soundness of option 2.b) Notification for branches for transactions outweighed the benefits to proportionality and compliance costs.

The new power to limit the size of branches (see part 2 ‘The Regulatory Scope’) should help to mitigate concerns regarding branches. However, this mitigant should not be overstated, as local incorporation is a fundamental corporate change for insurers that the Reserve Bank would only require it in specific scenarios.

In recognition of these continued concerns regarding the net cost of the proposal, the preferred option is amended to require notification to the Reserve Bank by an overseas insurer licensed under IPSA, whether they are the acquiror or the target. But approval would be required for New Zealand licensed insurers as either the acquiror or the target. Notification (for overseas licenced insurers) and approval (for New Zealand licenced insurers) would be required when 25% or more of voting rights or the ability to appoint 50% or more of directors of the insurers is obtained by another, or when amalgamation occurs.

6. Supervision powers

Status quo

Supervisory powers can be considered as the day-to-day powers that are designed to support the regulator to ensure insurers are meeting their requirements. The powers are therefore focused on allowing the regulator to assess compliance with prudential requirements (information gathering and investigation powers).

The current supervisory powers allow the Reserve Bank to gather information from licensed insurers.

In addition, the Reserve Bank may appoint an investigator if it has reasonable cause to suspect that the licensed insurer:

- is failing or is likely to fail a solvency margin; or
- is not being (or has not been) conducted in a prudent manner; or
- is operating fraudulently or recklessly; or
- has failed to comply with any requirement to supply information; or
- is likely to fail to comply with any direction.

When appointed, an investigator can obtain information and exercise powers to enter and search places.

At present, the Reserve Bank undertakes the assessment of insurer compliance against prudential requirements primarily through desk-based monitoring (off-site inspections) but may carry out on-site inspections (on the regulated entity's premises) only with the consent of the regulated entity. This approach differs from international practice and comparative domestic regimes, including the AML/CFT, Deposit Takers, and the conduct regimes.

Problem definition (or findings)

The information gathering and investigation powers are largely working as expected. However, identified through operational experience and consultation, the current information gathering and investigation powers are designed for investigating licensed insurers but not for investigating entities that might be carrying on insurance business without a licence.

Where we suspect an entity may be carrying out insurance business without a licence, we are not able to compel that entity to provide us with information to assist us in confirming (or refuting) those suspicions.

The Reserve Bank's current inability to conduct on-site inspections without notice is comparatively unique when compared with other international regulators and other domestic regimes. On-site inspections have been a useful facet of AML supervision, including the interactions with staff of the regulated entity.

Finally, both the IMF and the T-S reports identified and recommended that IPSA empowers the Reserve Bank to direct insurers (as part of the tools available under their direction powers) to prevent the licensed insurer to renew existing business. Currently, the Reserve Bank are able to direct insurers not to write new business but is silent on whether this includes renewal of existing business. As illustrated in the CBL liquidation, this inability to direct insurers not to renew can risk being detrimental to policyholders and creditors.

What criteria is used to compare options to the status quo?

The options were assessed against the three overarching assessment criteria objectives of:

- Promoting soundness
- Promoting efficiency, and
- Greater consistency (legislative frameworks)

In addition, the two policy specific objectives are:

- **Proportionality and compliance costs** – only impose costs that are proportional to the risks they seek to manage.
- **Assessing compliance with prudential requirements and the regulatory boundary** – Supervisors have the tools to verify compliance of licensed insurers and that insurance business is not being conducted without a license.

What options are being considered?

Option one – status quo: Retain the current approach which primarily focuses on information gathering requests to licensed insurers

Option two – additional information gathering and supervision powers

- a. Extending the Reserve Bank's current information-gathering powers and investigation powers to unlicensed insurers who are suspected of falsely holding themselves out as licensed insurers
- b. A power for the Reserve Bank to conduct on-site inspections of licensed insurers without notice
- c. A power for the investigator to require directors or employees to answer questions as part of a formal investigation
- d. A breach reporting regime, whereby licensed insurers must report material contraventions of prudential obligations to the Reserve Bank
- e. A power for the Reserve Bank to require licensed insurers to publish a supervisory warning to policyholders
- f. Additional powers relating to enforcing the solvency standard, specifically:
 - i. Allowing for more than one control level and for powers to be released at different solvency levels, with the levels set by solvency standards.
 - ii. Introducing a power for the Reserve Bank to impose dividend restrictions on licensed insurers to mitigate the risk of financial difficulties.
 - iii. Introducing a default solvency margin (\$0) to apply to licensed insurers.

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality	Avoiding compliance costs
1.) Status quo	-	-	-	-	0
	The status quo provides the Reserve Bank powers to collect information from licensed insurers and undertake investigations. However, the regime does not provide adequate powers to ensure the regulatory boundary is monitored, thereby negatively impacting soundness in the sector (that is, it risks insurance contracts not having adequate regulatory oversight). Inability to properly monitor the regulatory boundary also raises efficiency concerns, through the unequal treatment of entities carrying on insurance business in New Zealand. In addition, the powers under IPSA have not kept up with international and domestic developments regarding what tools are appropriate for a supervisor to respond to scenarios in a proportionate but appropriate manner. This inability to have the right tools for the job creates inefficient scenarios where moral suasion is used, which often results in unclear expectations or legal uncertainties for licensed and unlicensed insurers.				
2.a) Information gathering and investigation powers for unlicensed insurers	↑	↑	↑	↔	↓
	This change would promote soundness and remove the risk of unequal treatment between insurers by providing the Reserve Bank an improved ability to monitor the regulatory boundary and ensure those entities that are required to be licensed are. Respondents, as part of the two rounds of consultation on the matter, were generally supportive of the proposals. Respondents were primarily licensed insurers who are rightly concerned the market for insurance should remain competitively neutral (an aspect of the efficiency objective). Some respondents had concerns regarding the scope of the power (that the power was too wide) and argued that a reasonable threshold needs to be established. The proposed power has been refined in response to these concerns and will relate to those businesses who may be suspected of carrying on insurance business in New Zealand without a licence. An additional safeguard would be to limit the power to instances where it is necessary or desirable for the purposes of performing or exercising the Reserve Bank's functions, powers, or duties under IPSA.				
2.b) On-site inspection powers without notice	↑	↑	↑↑	↔	↔
	A balanced supervisory approach between desk-based monitoring (off-site inspections) and on-site inspections provides a strong base for verifying information and interacting with regulated entity staff. In our experience working with the Australian Prudential Regulation Authority (APRA), who undertake regular on-site inspections with deposit takers, on-site inspections can often provide a unique perspective as to the compliance of regulated entities that written documents cannot. On-site inspections would be used in the normal course of supervision. Without this power, the RBNZ have to rely heavily on issuing broad written notices				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality	Avoiding compliance costs
	requiring information. Written notices are often very time consuming (as multiple requests are often made until the desired information is provided) and may not result in the right type of information being provided. An inspection power would allow the Reserve Bank to improve soundness within the insurance sector by inspecting the insurer's risk modelling in a quick and interactive manner. Past experience with CBL has illustrated the desirability of knowing early on (through BAU supervision) the risk modelling insurers are using. Inspections without notice will only be used where it is reasonable and proportionate. Additional safeguards will also be put in place to promote efficiency. For example, inspections will be at reasonable times, at a regulated entity's place of business and undertaken by qualified staff. The Financial Market Conduct Amendment Bill includes a similar provision, as does the Deposit Takers Act and Health and Safety at Work Act. Although international and domestic alignment is not a key objective, the learnings from domestic and international practices can be used to ensure the power is used appropriately and with necessary safeguards.				
2.c) Answer questions as part of a formal investigation	↑↑	↔	↑	↔	↔
	This power would enable the investigator, appointed in cases where the Reserve Bank suspects a licensed insurer is in breach of IPISA, to require a director or employee of the insurer to answer questions under oath in connection with the insurer. Proposals to require information, including this option, engages section 14 of the Bill of Rights Act which affirms that everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind and in any form. The right has been interpreted as including the right not to be compelled to say certain things or to provide certain information. However, there is a strong justification for this power due to the substantial benefits it provides to the soundness of the insurance sector, through its ability for an investigator to receive accurate information in a timely manner. As outlined in the T-S report, receiving accurate and timely information is pivotal to helping ensure soundness in the sector, especially once the high hurdle of the appointment of an investigator has been met and the Reserve Bank has considered it necessary to pursue. Section 121 or 131 information requests are the alternative, however, notices in writing can be cumbersome to serve on insurers and receiving information through this medium can be untimely, especially during a critical part of the insurer stress timeframe. Failure to comply with information requests under an investigation currently comes with potential imprisonment (of 3 months), illustrating the serious risk to the Act's purposes of an investigation.				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality	Avoiding compliance costs
	This power meets the objective of consistency as it would align with that contained in the DTA. Similar to the proposal, the DTA power is only available during an investigation.				
2.d) Breach reporting regime	↑	↔	↑	↔	↔
	A breach reporting regime would require insurers to monitor ongoing compliance with prudential obligations and notify the Reserve Bank where it believes there has been a breach of a prudential obligation in a material respect. Breach reporting regimes can be important in reducing the information asymmetry between regulators and regulated entities. It also improves sector soundness by promoting self-discipline - a key pillar in ensuring market soundness (alongside market discipline and regulatory discipline). Reiterating the importance that institution's own processes and risk frameworks are ultimately the responsibility of the insurer's senior managers and directors through this regime cannot be underestimated. This option would improve consistency across regimes, as a similar power is included within the DTA. It is not expected that this option would materially increase compliance costs. Ongoing monitoring is already expected of insurers, and reporting to the Reserve Bank of material breaches is already common. Nevertheless, a specific statutory obligation on insurers would create clearer and consistent responsibilities to all insurers.				
2.e) Requirement publishing of warnings	↑	↑	↑	↑	↔
	A statutory framework for warnings would provide the Reserve Bank with the ability to require an insurer to publish a warning it has received from the Reserve Bank. Publication might take the form of a notice on the entity's website. Written warnings from the Reserve Bank are made when there is strong evidence of non-compliance (but they are not necessary to take a prosecution or other strong action). Warning powers promotes efficiency as compared to the status quo as they can be tailored to ensure the response is proportional to the damage or risk incurred. Alternative options, including penalties, may be disproportionate to the breach, while market awareness may be desirable. This option strengthens greater consistency as often breaches may occur across the conduct and prudential regimes, with warning powers already being used in the Financial Markets Conduct Act and the DTA.				
2.f) Solvency standard relating changes	↑	↑	↑	↔	↔
	The three specific changes are all designed to provide clarity to insurers and the Reserve Bank regarding powers relating to the solvency standard.				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality	Avoiding compliance costs
	It is likely that all three are able to be practically achieved without changes to the primary legislation. This could be achieved through amended conditions of licence (ii. dividend restrictions and iii. solvency margins) or specific language used within the solvency standard (i. references to two solvency levels). However, the methods create confusion and are untransparent. For example, the solvency standards issued under IPSA have two defined control levels – the prescribed capital requirement (PCR), which is the solvency margin which marks the boundary above which there are no particular capital related concerns over the insurer, and the minimum capital requirement (MCR), which marks the point of non-viability for an insurer. However, currently IPSA refers to one control level (i.e. the PCR), and all powers are ‘unlocked’ if the insurer breaches the PCR. Having two clear levels within IPSA reduces the concerns insurers may have regarding the Reserve Bank’s use of liquidation powers, for example, if a breach of the PCR occurs. The option supports soundness, efficiency and proportionality by being clear that information, investigation and corrective powers would be available for likely or actual breaches of the PCR level and liquidation powers would be available for likely or actual breaches of the MCR.				

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

All options contained in Option 2 – additional information gathering powers best meets the evaluation criteria and are a net benefit as compared to the status quo.

7. Enforcement powers

Status quo

IPSA was originally designed as a light-touch supervisory regime that primarily relied on insurers’ internal processes and key personnel, such as the insurer’s appointed actuary and their report on the insurer’s solvency. Light touch regulatory regimes, however, require clear escalation triggers and powers to address issues when they do arise.

This means it is important that supervisors have a range of enforcement tools so that they can respond to non-compliance in a progressive manner and in a way that is proportional to the risk involved.

This is recognised in the ICPs that call for “a range of actions or remedial measures... applied commensurate with the severity of the insurer’s problems... [and] a progressive escalation in actions or remedial measures that be taken if the problems become worse or the insurer ignores requests from the supervisor” ([ICP 10.2-10.4](#)).

Problem definition (or findings)

IPSA currently contains a wide range of criminal penalties and resolution powers. Whilst these penalties and powers are appropriate for serious contraventions of regulatory requirements, the Reserve Bank has found through operational experience that the powers are often not proportionate to more common compliance issues. This 'all or nothing' approach is neither efficient nor proportionate.

We have previously consulted on *Options Paper 3: Enforcement and Distress Management 2022*, which included a proposed set of tools that would be applied in proportion to the severity of the compliance issue:

- *Written warnings* – a tool for the Reserve Bank to signal serious concerns. (status quo)
- *Remediation notices and plans* – allows the Reserve Bank to require regulated entities to take specific action to remedy breaches or to prepare a plan setting out how they intend to remedy the breach. Currently remediation powers are limited to requiring a recovery plan as part of a direction.
- *Enforceable undertakings* – a binding agreement between an insurer and the Reserve Bank, often used in lieu of prosecution – a type of legal settlement. Enforceable undertakings are not currently a power in IPSA.
- *Infringement notices* – for smaller penalties the Reserve Bank can issue a notice requiring payment. Insurers can either make payment of the notice or request the matter is dealt with through the courts. Offences of relatively mild nature are best suited for infringement notices. Infringement notices are not currently contained in IPSA, but there are instances of their use in the RBNZ Act.
- *Civil pecuniary penalties (CPPs)* – penalties imposed by a court operating on civil procedures with lower evidentiary requirements and burden of proof, as compared to criminal penalties. CPPs are often used for technical breaches or breaches where blameworthiness is unclear. CPPs are not currently contained in IPSA, but are used in the FMI Act and DTA.

Increasing the amount of penalties was consulted on during the 2022 and 2023 consultations.

Respondents were broadly supportive, but a few had concerns about the written warning and infringement notice tools. In particular, some respondents argued that the Reserve Bank's requirement for insurers to publish a written warning should only be used for serious offences, and should be used sparingly.

Generally, industry supported the proposed tools on the basis of their proportionality, and that there are appropriate safeguards and procedures in place. With regard to the increased penalty amounts, respondents agreed they should be reviewed, but some felt that the proposed increases were too high.

What criteria is used to compare options to the status quo?

The options were assessed against the three overarching assessment criteria objectives of:

- Promoting soundness
- Promoting efficiency, and
- Greater consistency (legislative frameworks)

In addition, the policy specific objective is:

- **Proportionality** – enforcement tools are proportional to the harm involved.

What options are being considered?

Option one - Status quo - IPSA contains a wide range of criminal penalties for breaching legislative requirements.

Option two - Additional tools to create a graduated enforcement regime:

- enforceable undertakings - a tool for creating binding agreements with insurers, particularly useful for settlements to avoid other enforcement action.
- remediation notices and plans - allows the Reserve Bank to require regulated entities to take specific action to remedy breaches of their prudential obligations or to prepare a plan setting out how they intend to remedy breaches.
- civil pecuniary penalties - for infractions that fall short of a criminal conviction.
- infringement notices - smaller penalties where the Reserve Bank can issue a notice requiring payment. Insurers can either make payment of the notice or request the matter is dealt with through the courts.
- Increase penalty level to an amount set with regard to the potential financial impact of the penalty and the ability to pay the penalty, the potential gain by offending and comparability with similar legislation (DTA and FMI Act). The proposed maximum:
 - Fine for a business: \$2.5m
 - Fine for an Individual: \$300k
 - Prison sentence: 18 months

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality
1. Status quo	-	-	-	--
	The current range of penalties is limited, with IPSA not providing the necessary tools for supervisors to respond to non-compliance in a way that is proportional to the harm involved. This leads to ineffectual and inefficient responses.			
2.a) Enforceable undertakings	↔	↑	↑	↑
	The power would allow the Reserve Bank to accept voluntary enforceable undertakings from regulated entities. Enforceable undertakings promote efficiency by providing a flexible enforcement tool compared with pursuing court proceedings. Enforceable undertakings would involve the regulated entity volunteering to pay compensation to a person, take specific action to address a contravention of prudential requirements or pay an amount to the Reserve Bank in lieu of a pecuniary penalty. Additionally, enforceable undertakings promote efficiency by improving self-discipline and responsibility of the regulated entity. Proportionality is improved in this option as enforceable undertakings provide useful flexibility in negotiations, while potentially avoiding litigation. Although we do not expect a material decline in soundness,			

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality
	enforceable undertakings may facilitate regulatory forbearance by providing an easier alternative when, in fact, prosecution was the more appropriate course of action. If the entity subsequently fails to fulfil its undertakings, the Reserve Bank can apply to the High Court for an order to comply with the undertaking and/or to pay compensation or take further action. An enforceable undertaking regime is also used for deposit takers. The Reserve Bank is putting processes and frameworks in place to equitably consider undertakings, noting the differences in the insurance and deposit taking sectors.			
2.b)	↑	↑	↑	↑
Remediation notices	The power would allow the Reserve Bank to issue remediation notices and require regulated entities to take specific action to remedy breaches of their prudential obligations or to prepare a plan setting out how they intend to remedy breaches. The current power to require an insurer to produce a 'recovery plan' would be integrated into a single power within IPSA. Breaches of prudential obligations include both technical breaches and more serious breaches. Remediating breaches swiftly is a key part of ensuring a sound insurance sector. The power to issue remediation notices allows the Reserve Bank to take a more active role in working with insurers to remediate breaches in a timely manner. Experience has shown that when a regulated entity works with the Reserve Bank to remediate breaches, these breaches are resolved in a timelier manner, thereby improving sector soundness. The power to issue remedial notices and plans is included in the DTA. Lessons learned as part of preparing for the issuance of notices under the DTA can support the operationalisation of this for the insurance sector – improving (operational) efficiency.			
2.c)	↑	↑↑	↑	↑
Civil pecuniary penalties	The option would allow the Reserve Bank to apply to the High Court for a finding of a contravention and a civil pecuniary penalty (CPP). Like the FMI Act and DTA, CPPs would be used for breaches of standards and licence conditions. Analysis within the 2020 review of the deposit takers regime found a net benefit in using CPPs as the main tool for enforcing standards (instead of difficult-to-use criminal penalties). As a result of this finding, the DTA introduced the ability for the Reserve Bank to apply these penalties. The Ministry of Justice note that CPPs are appropriate replacements for 'lower-tier' criminal convictions and fines in the case where there is less 'moral blameworthiness'. They also noted that CPPs are appropriate to			

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality
	incentivise compliance where there is a financial incentive not to comply. A fine may be 'written-off' as a 'cost' of doing business. In the context of IPSA, this reasoning supports the option proposed. Breaches of standards can be technical in nature and in certain circumstances not blameworthy or intentional. Instead, the regulated entity may not have put the processes in place to ensure the breach does not occur. For example, the fit and proper standard requires ongoing compliance with the requirement that the director or relevant officer does not have any conflicts that affects the person's ability to perform their role. The insurer may deem a breach of this nature necessary to hold onto current staff. An ability to impose CPPs for breaches of standards would support the objective of efficiency by incentivising insurers to put in place processes to ensure standards are not breached, especially for those breaches that may be difficult to prove necessary mental state (<i>mens rea</i>). CPPs support proportionality by ensuring a proportional penalty is imposed on insurers, especially for those breaches that are hard to prove but have significant soundness implications (e.g. solvency and governance). The maximum CPP will be set at \$500,000 for individuals and \$2.5m for businesses, which is half of what is set in the DTA.			
2.d)	↑	↑	↑	↑
Infringement notices	The power would allow the Reserve Bank to issue infringement notices, which would allow the Reserve Bank to impose low-level penalties for relatively minor breaches. The scope of infringement notices would be narrow and proportional to the type of breach and include failing to provide data or respond to notices in a timely manner. The current proposal would set the maximum quantum of the fine at \$10,000 (the same as the DTA). As previously noted, respondents to consultation on this option were supportive of the overall policy but had concerns that the Reserve Bank should not overuse this power and should use it sparingly. We note that the use of other tools, specifically written warnings, are likely to be used in the first instance for one-off technical breaches, thereby improving proportionality and efficiency in the system. The DTA and the RBNZ Act allow for the use of infringement notices.			
2.e)	↑	↔	↑	↔
Criminal Penalty levels	The penalty regime has not been updated since IPSA was enacted. This means that penalties are disproportionately lower under the IPSA regime than for other regulated entities (noting that penalty levels were recently reviewed and updated for FMI's, deposit takers and under the FMA's conduct regime).			

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Proportionality																				
	A range of considerations were taken into account when setting the penalty levels, including the likelihood of a breach, the ability to pay and the need and effectiveness of a deterrent. The changes would be in excess of inflation but set relative to similar legislation, that is, set lower than the DTA but comparable with the FM Act. In light of our operational experience through the CBL liquidation and T-S report, stronger incentives are desirable. We have sought to ensure the penalties are commensurate with the harm caused by the offence and an effective deterrent. There are currently 34 separate offences under the Act. It is envisaged that those related to failure to disclose information and using prohibited words would be covered under the infringement notice regime (e.g. ss 64, 72, 124, 218 and 219). Pecuniary penalties would likely apply to breach of licence conditions and standards (e.g. ss 23, 24, 29, 57). Finally, those more serious breaches, or breaches that require blameworthiness, would have their penalty levels adjusted as reflected in Table A. Specific serious offences could include carrying on insurance business in New Zealand without a licence, failure to seek or comply with transfer or amalgamation approvals, failure to comply with risk management requirements and financial strength ratings. Specific offences that require blameworthiness include providing misleading information for licence purposes and failure to report on the insurer's business, operation or management when requested.																							
	<table><tr><th><u>Table A</u></th><th>Existing IPSA fines</th><th>Proposed penalties (estimated)</th></tr><tr><td rowspan="3">Maximum fine for business</td><td>\$1m Serious</td><td>\$2.5m Serious</td></tr><tr><td>\$500k Mid-level</td><td>\$1.5m Mid-level</td></tr><tr><td>\$100k Low-level</td><td>\$250k Low-level</td></tr><tr><td rowspan="3">Maximum fine for individual</td><td>\$200,000 Serious</td><td>\$300,000 Serious</td></tr><tr><td>\$50,000 Mid-level</td><td>\$100,000 Mid-level</td></tr><tr><td>None Low-level</td><td>\$30,000 Low-level</td></tr><tr><td>Accompanying maximum prison</td><td>3 months</td><td>18 months</td></tr></table>				<u>Table A</u>	Existing IPSA fines	Proposed penalties (estimated)	Maximum fine for business	\$1m Serious	\$2.5m Serious	\$500k Mid-level	\$1.5m Mid-level	\$100k Low-level	\$250k Low-level	Maximum fine for individual	\$200,000 Serious	\$300,000 Serious	\$50,000 Mid-level	\$100,000 Mid-level	None Low-level	\$30,000 Low-level	Accompanying maximum prison	3 months	18 months
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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Option two – Additional tools to create a graduated enforcement regime best meets the evaluation criteria as compared to the status quo.

8. Resolution

Status quo

The IPSA resolution regime is designed to deal with insurers that are in difficulty. IPSA provides the Reserve Bank considerable discretion to exercise important resolution powers and make significant resolution related decisions. This discretion allows the Reserve Bank to apply an appropriate and flexible response to any resolution scenario. For example, the Reserve Bank through powers contained in IPSA may encourage or help facilitate the insurer to:

- Continue as a going concern (restoration plans and directions)
- Restructure (administration powers, and statutory management applications)
- Make an orderly market exit (liquidation).

IPSA was introduced as a light-handed, risk-based prudential regime, with minimum standards for insurers and a comprehensive distress management regime. Insurers, however, were required to obtain a license, which was the primary means for the Reserve Bank to supervise the institution.

The Reserve Bank often considers the IPSA regime as a ‘births and deaths’ approach to prudential regulation. That is, it provides clear rules and oversight for entry and exit into providing insurance services in New Zealand but provides limited oversight for ongoing supervision.

The statutory management provisions allow the Reserve Bank to recommend the appointment of a ‘statutory manager’ to take over a corporate body in distress, in order to preserve the public interest by facilitating resolution or an orderly windup.

Statutory management is potentially an important tool for resolution. It provides a mechanism to restructure an insurer experiencing difficulties, with a view to both creditor interests and the broader public interest. However, statutory management also confers considerable powers on the statutory manager to restructure a private entity, with a significant impact on creditor and shareholder rights.

Problem definition (or findings)

As outlined, the distress management provisions are generally considered appropriate for a modern regime. However, through IPSA’s 15 years since enactment, certain concerns regarding the distress management provisions have been highlighted, and subsequently consulted on as part of the IPSA Review:

- As the distress management provisions provide the Reserve Bank considerable discretion, guidance in the exercise of this power could promote clarity and accountability.
- The statutory management regime allows the Reserve Bank to absolve itself of accountability. That is, once a statutory manager is appointed the Reserve Bank’s responsibilities or accountabilities are unclear.
- The current trigger for statutory management is unnecessarily high, and it may not be appropriate for a statutory manager to be appointed where an insurer’s failure would cause significant harm to policyholders in a particular area (as there may be doubt as to whether it meets the threshold of ‘significant’ harm to the economy of New Zealand).

- Once an insurer is placed into resolution, parties with contracts with the insurer are able to close out positions in financial assets or cease providing critical services to the entity in resolution (for example, call centre services or reinsurance services).

The Reserve Bank currently has an ability to issue a direction to an associated person of a failed insurer to undertake specified actions (e.g. to address failure to comply with directions or requirements under IPSA or to address any financial difficulties).

In 2017, when dealing with CBL, a direction to an associated person of the failed insurer was not able to be issued as the associated person itself had not failed and was not likely to fail to comply with a direction or other requirement of IPSA.

What criteria is used to compare options to the status quo?

The options are assessed against the three overarching assessment criteria objectives of:

- Promoting soundness
- Promoting efficiency, and
- Greater consistency (legislative frameworks)

In addition, the two policy specific objectives are:

- **Interests of policyholders and the public interest** – IPSA provides for the ability to adequately protect the interests of policyholders and the public interest.
- **Limit the risk of damage to the financial system or the economy of New Zealand** – IPSA provides for the ability to 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

What options are being considered?

Option one - Status quo. IPSA continues to contain a regime for statutory management that is a modification of the generic regime contained in the Corporations (Investigation and Management) Act 1989 (**CIMA**).

Option two – Adjustments to the CIMA-based resolution regime, which include:

- a) Designating the Reserve Bank as the resolution authority.
 - and providing the Minister of Finance (MoF) with a direction power in relation to any use of public funds in the event of entity failure.
- b) adding a distress management objective.
- c) Extending the scope of direction powers to enable the Reserve Bank to direct licensed insurers not to renew existing contracts of insurance
- d) Introducing two provisions to support moratorium rights, which apply during statutory management – a type of '*ipso facto*' provision and a 'short term stay provision', which support the insurer to continue to operate during resolution.
- e) Revising the threshold for statutory management of a licensed insurer.
- f) Adding an ability to issue standards that extends to associated person of a failed insurer, where doing so would assist in dealing with the difficulties faced by the licensed insurer (without the associated person being required to have failed or be likely to fail with complying with a direction or other requirement of IPSA).

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Interests of policyholders and the public	Limit damage to the financial system and the economy of NZ
1. Status quo	0	0	-	-	0
	As previously noted, the distress management regime is largely fit for purpose, and only minor adjustments are likely to be necessary. The comparable regime in the DTA contains additional powers which could be considered helpful within a modern regulatory regime. However, cost benefit analysis should be undertaken before any DTA powers are carried over into IPSA. The current regime prioritises financial system soundness and efficiency over policyholder interests (soundness and efficiency are purposes of IPSA). Certain changes could be explored that support policyholders' interests without being detrimental to the purposes of IPSA or otherwise could improve public confidence in the insurance sector (a purpose of IPSA). Two examples where changes could be focused are the high bar for statutory management and concerns regarding the continuation of essential services following an insurer being placed into resolution/statutory management.				
2.a) Designate the Reserve Bank as the resolution authority, provide the MoF a power to direct the statutory manager in relation to public funds.	↔	↑	↑	↔	↔
	This option would formally designate the Reserve Bank as the 'resolution authority' and would require making consequential changes to distress management powers under IPSA, including: - providing that the Reserve Bank may, once resolution has been initiated, appoint a resolution manager; and - providing the Reserve Bank with clear obligations to oversee the resolution manager. The change would require the Reserve Bank to remain accountable throughout the process and would be similar to the Reserve Bank's role in deposit taker proceedings under the DTA. The Minister is able to commit public funds under the Public Finance Act in the event of an entity failure. A direction power when providing these funds would support the management of any risk to the financial position and interests of the Crown.				
2.b) Distress management objective	↔	↓	↑	↑	↑
	This option would add objectives to the distress management provisions, which would guide the exercise of powers under the distress management regime. The objectives would be centred on: Dealing with a licensed insurer in distress in an orderly manner.				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Interests of policyholders and the public	Limit damage to the financial system and the economy of NZ
	- Avoiding significant damage to the financial system or the New Zealand economy by maintaining the continuity of systemically important activities carried out by licensed insurers and mitigating any loss in confidence in the financial system. - Protecting policyholder interests and the public interest. - Minimise the costs (including value in the insurer, creditor interests and Crown financial risk) of dealing with a licensed insurer in distress, where not inconsistent with the other objectives. This option supports the consistent application of the powers provided to the Reserve Bank under the distress management provisions. The option helps to guide the exercise of power under the distress management provisions. Specifying the objective of protecting policyholders helps support the recognition that policyholder protection through resolution is of key importance (alongside the other objectives). Both the DTA and FMI Act use subpart objectives or principles and purposes to guide decision makers. This promotes consistency as to what the Reserve Bank should consider when exercising its powers. Operational experience throughout the DTA has found that, at times, limiting the number of purposes, principles and objectives can support decision makers in focusing on the matters of greatest importance. However, the resolution process can require different priorities. Therefore, in this scenario, the benefits of consistency, policyholder interests and limiting financial damage outweigh the potential cost to efficiency in process.				
2.c) Direct distressed insurers not to renew existing contracts	↑	↔	↑	↔	↔
	The Reserve Bank has the power to give directions to licensed insurers in specific scenarios that relate to the breach of regulatory requirements. This includes the power to direct insurers to cease entering new contracts of insurance. However, the Reserve Bank is prohibited from directing an insurer not to renew existing contracts. The Reserve Bank has found that this limitation unduly restricts its ability to require at-risk insurers to reduce their capital exposure and cash outgoings. Both the T-S Report and the IMF expressed similar concerns. Harm to policyholders can be mitigated, through the requirement for the Reserve Bank to consider distress management objectives (discussed above) before issuing a direction to cease renewals, or other drafting to require the Reserve Bank to take into account policyholder interests when issuing directions to insurers.				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Interests of policyholders and the public	Limit damage to the financial system and the economy of NZ
	Industry feedback was mixed on this proposal, with a recommendation for an explicit requirement to consider policyholders when a direction not to renew is provided.				
2.d) Support moratorium rights which apply during statutory management	↑	0	↑	0	0
	The option would introduce two provisions relating to supporting moratorium rights, <i>ipso facto</i> provisions and a short term stay provision. <i>Ipso facto</i> – The option provides that contractual rights (such as terminating the provision of services) cannot be enforced against the entity solely because it has been placed into statutory management or certain powers in statutory management have been exercised in relation to the entity (even where the contract includes a clause that would contain these rights). The option would align the provisions in the DTA and the FMI Act. <i>Short term stay</i> - The option imposes a short term “stay” on the exercise of close out rights under derivatives contracts (financial agreements entered into by insurers to manage risk) against the entity in resolution. The stay would prevent the counterparty to a financial agreement from exercising a right to terminate (or close out) the financial position. For example, if a life insurer has entered into an interest-rate swap and subsequently goes into resolution the counterparty to the swap would not be able to close-out or settle the transaction (that is, demand payment of any outstanding amount) for a specified period of time. This would align with provisions under the DTA and the FMI Act and is intended to prevent the disorderly close out of derivative positions against an entity in resolution (which may compound its existing shortfall of assets to liabilities and increase unhedged financial exposures).				
2.e) Revise the threshold for statutory management to include localised events	↑	↓	0	↑	↑
	Currently, the Reserve Bank can recommend statutory management where it is satisfied on reasonable grounds that: - An insurer is being run fraudulently or recklessly; or - The conditions for issuing directions are met and the failure of the insurer may cause significant damage to the financial system or the economy of New Zealand (or both); and				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Interests of policyholders and the public	Limit damage to the financial system and the economy of NZ
	The public interest, the financial system or economy of New Zealand or any policyholders cannot otherwise be protected under IPSA or the Companies Act 1993. The threshold that is bolded above is considered very difficult to meet. For example, one might imagine a post-earthquake scenario in which an insurer's failure would cause significant harm to policyholders, or the provision of insurance, in a particular area but there might be doubt as to whether that counted as 'significant' for the economy of New Zealand as a whole. The option would revise the significant damage threshold to include significant damage to a specific group or geographic area. This risk to soundness is particularly prevalent given the market for insurance in New Zealand is fragmented with many insurers specialising in specific risks (e.g. health or property insurance) or regions. This option widens the possible use of the statutory management appointment process to more scenarios. This has potential efficiency costs (that to some degree can be mitigated), but the option does have high positive impacts on the soundness of the sector – as outlined in Section 1, New Zealand is increasingly relying on a handful of insurers; the inability to place these into statutory management in certain scenarios could have severe impacts on the insurance market as a whole and public confidence. Although the status quo should allow the Reserve Bank to appoint a statutory manager in most desirable scenarios, removing any doubt through this option should promote policyholder interests and soundness more generally. The option risks creating inefficiencies where statutory management is overused. Statutory management can be expensive and results in certain powers shifting from directors and shareholders to an appointed statutory manager. However, these risks are mitigated by leaving the threshold relatively high. In addition, the test would still require this to be a tool of last resort, when no other tool could achieve the same or a better outcome.				
2.f) Issued directions to associated persons	↑	↑	↔	↔	↑
	The option would improve market soundness by allowing the Reserve Bank to make directions to an associated person directly, instead of directing the licensed insurer in relation to that associated person. This improves the timeliness of actions during times of particular high risk on the insurer. Safeguards would be present as directions are only able to be issued once a licensed insurer has failed or is failing. New Zealand's insurance market is made up of many large 'groups', where the licensed insurer is reliant on, or vulnerable to, other members of its group. This was evident in the CBL example. An ability to direct an associated person of the failed insurer would therefore help promote the soundness of the insurance market, the efficiency (and timely nature) of the Reserve Bank's powers during high-risk scenarios and would limit damage to the financial system and the				

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Interests of policyholders and the public	Limit damage to the financial system and the economy of NZ
	economy in New Zealand, specifically because many of these groups are cross border groups.				

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Option two – Adjustments to the resolution regime best meets the evaluation criteria as compared to the status quo.

9. Additional minor amendments to improve the Act

Status quo

Consultation

The Financial Markets (Conduct of Institutions) Amendment Act 2021 (COFI) introduced a new conduct licensing regime for insurers, which recently came into effect. The regime, administered by the FMA, licenses financial institutions (banks, insurers, non-bank deposit takers) to ensure they are treating consumers fairly.

As part of this, the FMA are required to consult with the Reserve Bank before making licensing decisions. Currently there are no reciprocal requirements in IPSA. However, in practice it is customary for the Reserve Bank to consult with the FMA as a joint regulator and co-member of the Council of Financial Regulators (CoFR).

A requirement for the FMA to approve certain transactions including change of control is currently being introduced to the House under the Financial Markets Conduct Amendment Bill. This would result in some overlap between the statutory approvals processes between the two regulators. A consultation requirement and information sharing would reduce the risk of insurers having to provide both the FMA and the Reserve Bank the same information, and/or receiving inconsistent responses.

Appeal rights

IPSA currently contains a right for a director or relevant officer (CEO, CFO, and appointed actuary) to appeal the Reserve Bank's decision to remove a director or relevant person. The appeal is made to the High Court.

However, IPSA is silent on the rights of a person (which includes businesses) to appeal decisions relating to the:

- issuance of a licence; or
- imposition or change of a person's condition of licence; or
- the appointment of directors or relevant officers (see options proposed in the Regulatory Approvals Regime sector, above); or
- any decision made under the regulatory approvals regime.

The recently enacted DTA sets out broader rights of appeal and requires the Reserve Bank to consult with the FMA before making a licensing decision (issuing, declining or cancelling) or issuing standards.

What criteria is used to compare options to the status quo?

The option were assessed against the three overarching assessment criteria objectives of:

- Promoting soundness
- Promoting efficiency, and
- Greater consistency (legislative frameworks)

In addition, the policy specific objective is:

- **Robust process** – that decisions made under IPSA follow a robust process and provide affected parties with the right to natural justice (opportunity to be heard and for decisions to be unbiased)

What options are being considered?

- **Option one - status quo** – Consultation occurs informally and scope of explicit appeal rights limited
- **Option two - consultation requirements are formalised, as are a wider scope of appeal rights.**
 - Introduce an obligation for the Reserve Bank to consult with the Council of Financial Regulators when making decisions under the proposed statutory approval process for significant transactions and before issuing or cancelling a licence under IPSA. In addition, introducing a requirement for the Reserve Bank to notify the Minister of Finance.
 - A greater scope of appeal rights, including decisions made relating to appointments and issuance of licenses and changes in licence conditions.

Evaluation criteria	Promoting soundness	Promoting efficiency	Greater consistency	Robust process
1. Status quo	0	0	-	0
	The current process for decisions is robust, and consultation with other regulators and impacted parties is a matter of course. However, with the introduction of COFI and the new appeals regime contained in the DTA, there is good reason to revisit the regime within IPSA and consider whether additional tools may improve (or at minimum formalise) the decision-making process.			
2.a) Expanded consultation requirements	↔	↑	↑	↑
	In the omnibus consultation, we had indicated that this option would not proceed. However, the Financial Markets Conduct Amendment Bill has been introduced to the House and contains powers for the FMA to approve certain transactions. This creates overlap between those transactions that are approved by the FMA and the Reserve Bank, such as change of control approvals. Expanded consultation requirements should limit the need for insurers to provide information to both regulators, thereby promoting efficiency (and lower compliance costs on the regulated industry).			

	In addition, consultation requirements utilise expertise from both agencies and supports the making of consistent and predictable decisions. The option has been extended to include all CoFR members. CoFR was formed with these types of collaborative interdependencies in mind. Industry is comfortable with the proposal.			
2.b)	↔	↔	↑	↑
Expanded appeal rights	The expanded supervisory and enforceable powers outlined necessitates the need for greater appeal rights for insurers. The DTA provides a sound appeals regime for prudential decisions, therefore, alignment in this instance is appropriate. This option would also promote robust process, by incentivising the Reserve Bank to get decisions right from the start. As illustrated by the T-S report, the Reserve Bank recognises that Parliament has provided a set of strong tools by seeking clear, and difficult to contest, evidence on matters before proceeding. The expanded appeal rights help to continue to ensure the Reserve Bank is necessarily certain when using the strong enforcement and investigation powers within the Act.			

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Option two - Consultation requirements are formalised, as a wider scope of appeal rights best meets the evaluation criteria as compared to the status quo.

10. Options not progressed but considered

Status quo

As part of the IPSA Review there were several proposals that we consulted on but have not progressed due to net negative cost-benefit. For completeness, those of particular significance are outlined below, and a summary table showing the cost benefit analysis for each is provided.

The options were assessed against the three overarching assessment criteria objectives of:

- Promoting soundness
- Promoting efficiency, and
- Greater consistency (legislative frameworks)

What options were considered?

Solvency

- Introduce a power for the Reserve Bank to impose supervisory adjustments to licensed insurer's solvency calculations.*

We have had past supervisory difficulties when insurers, more specifically the insurer's appointed actuary, take an aggressive approach to measuring the

underwriting risks of the insurer. The power to impose supervisory adjustments, which would assist in addressing these issues, was recommended in the T-S Report.

Industry had strong concerns over this option, arguing the calculations were the responsibility of the insurer.

On balance, the option was not progressed because the Reserve Bank has existing powers to increase the solvency margin that the insurer must hold though licence conditions, which for most scenarios would mitigate the concern. In addition, the proposal to empower an actuarial advice standard (proposal 24) may enable the Reserve Bank to apply greater scrutiny to the appointed actuary. We also have some concerns that introduction of the power may, in practice, result in insurers or their appointed actuaries shifting risk management responsibility to the Reserve Bank. We consider these costs to outweigh the benefits of the proposal.

b. Introduce a requirement for overseas insurers (branches) to hold assets in New Zealand.

This proposal would require overseas general insurers to hold assets in New Zealand, equivalent to the New Zealand solvency capital requirements. The rationale for this proposal is that an 'assets in New Zealand' requirement may reduce risks associated with cross border insolvency. As added protection, IPSA would outline that these assets should be used to meet New Zealand liabilities before those to other creditors.

Existing branches suggested the requirement may deter entry or cause them to leave the market, thereby impacting competition and pricing in the market.

In light of the potential impacts on branches of overseas insurers, on balance, the option was not progressed. Concerns remain regarding the effectiveness of the solvency regime. However, requiring branches to incorporate in New Zealand may in selected cases mitigate some of these ongoing concerns.

c. Revise the coverage of the statutory fund that currently applies to life insurers

Life insurers are required to ring-fence life insurance assets from the rest of the insurer's business as a way to protect the long-term interest of life insurance policyholders. IPSA requires all life insurers to have at least one statutory fund and requires that new premiums and the returns on investment assets be reinvested in the statutory fund.

As part of a desire to improve efficiency in the sector, we considered whether removing the requirement to add premiums from yearly renewal term (YRT) contracts to the statutory fund would provide life insurers greater operational flexibility. However, stakeholders indicated that removal of YRT policies from the statutory fund regime would actually create costs and compliance burden, as they would need to restructure existing statutory funds. On further review, our assessment is that the statutory fund regime is adequate for life insurers, and the costs of change outweigh the benefits.

d. Introduce certain policyholder protections, including preference during insolvency, penalties being paid to policyholders, disclosure of preferences against policyholders, documenting when policyholder rights are affected by a transfer.

The proposals relating to policyholders were designed to support confidence in the insurance sector and provide greater protection for policyholders. However, although the objective was commendable, the proposals were likely to result in additional compliance costs or otherwise greater confusion for policyholders. For the most part, the protections available to policyholders are well calibrated, for example:

- IPSA currently requires insurers to disclose overseas policyholder preference during insolvency. Expanding this disclosure requirement is unlikely to be helpful to policyholders.
- Disclosure of changes in policyholder rights can already be achieved through the Reserve Bank imposing a condition of approval for transfers.
- A policyholder preference in insolvency would likely be complicated and risks insurers exiting the New Zealand market, thereby reducing insurance services to policyholders in New Zealand.

	Evaluation Criteria		
Proposed change	Promoting soundness	Promoting efficiency	Greater consistency
a. Supervisory adjustments	↑	↓	↔
b. Assets in New Zealand	↑	↓	↔
c. Changes to the Statutory management fund and underwriting assets	↔	↓	↔
d. Additional policyholder protections	↔	↓	↔

Section 3: Delivering an option

How will the new arrangements be implemented?

The IPSA review has been progressed in a transparent and collaborative manner with industry, with multiple rounds of formal (consultation documents) and informal (workshops and bi-laterals) consultation. Industry have been supportive of the review to date, but have identified the need for an exposure draft to ensure the legislative drafting clearly and accurately reflects the agreed upon policies. Given the breadth of changes and the sensitive nature of some of the changes (on-site powers and questioning under oath) we agree with this assessment and therefore recommend that an exposure draft be released.

The exposure draft would be a draft of the amendment Bill giving effect to the policy decisions and would be released for public consultation in January 2026, with consultation lasting approximately 8 weeks.

If, following consultation on the exposure draft, policy changes are required, we recommend that Cabinet have a second opportunity to make any further substantive policy decisions or changes to existing decisions, prior to the Bill being introduced and discussed in the House of Representatives.

We recommend that the Bill come into effect in mid-2028, at the earliest.

The Reserve Bank would need to operationalise the changes proposed in this paper. This would include:

- The preparation and issuance of new standards.
- Progressing any necessary regulations.
- Providing a framework and issuing guidance on the Reserve Bank's revised approach to supervision and enforcement.
- Working with insurers to ensure they understand and meet the requirements in new standards.

Frameworks and guidance for the additional supervision and enforcement powers would ideally be issued publicly by the time the changes come into effect. Of most significance would be guidelines relating to the graduated supervision and enforcement approach, and the calling in of groups for licensing. As drafting guidelines relating to group structures require considerable resources it is unlikely a full Group licensing regime would be operational before 2032.

Policy work would commence on the publication of standards following the passing of the Bill. The proposed standards would be divided into separate tranches, with those of most importance (e.g. risk management and governance standards) being issued first. A proposed timeline of when the standards are published is provided below. Policy work and consultation would be required before publication, as outlined below:

- **2030:** Publication of i.) risk management and ii.) governance standards.
- **2032:** Publication of iii.) Data and disclosure iv.) Distress Management and v.) Actuarial advice standards
- **2034:** Publication of vi.) Outsourcing vii.) Connected Exposures

How will the new arrangements be monitored, evaluated, and reviewed?

The Reserve Bank has a key regulatory stewardship role outlined in the RBNZ Act, which specifies that a function of the RBNZ is to keep under review the law, policies, and practices that are relevant to its other functions. This stewardship function requires us to be kaitiaki of the financial system and ensure that the prudential requirements applied to insurers are fit for purpose and working as intended.

Industry and other public sector agencies will have a continued role in reviewing the new arrangements through:

- The exposure draft consultation;
- Consultation on standards; and
- Well-established forums, including CoFR and the CoFR Insurance forum.