

REGULATION OF INSURERS IN NZ

Background

In December 2007 the New Zealand Finance Minister announced a new prudential regulation framework for all insurers – general, life and health – with the Reserve Bank of New Zealand as the regulator. The new system was expected to be brought into force in 2010. There is presently limited prudential regulation for general insurers in New Zealand and the new regime will represent a significant change for relevant stakeholders.

Draft Insurance (Prudential Supervision) Bill

After a period of consultation in 2008, the Reserve Bank has now released a draft Insurance (Prudential Supervision) Bill for stakeholder consultation.

The draft Bill provides that its purpose is to promote the maintenance of a sound and efficient insurance sector and also to promote public confidence in the insurance sector.

The key regulatory requirements for insurers in the draft Bill are:

- establishing a system for licensing insurers;
- imposing prudential requirements;
- conferring powers on the Reserve Bank to supervise licensed insurers and take action when an insurer is in financial distress or becomes insolvent.

Overview

The key features of the Bill are:

- Every person who carries on insurance business in New Zealand will be required to hold a licence (except defined Crown and public entities). An insurer will be entitled to a licence if it can satisfy the Bank that it is compliant in areas such as credit rating, risk management procedures, internal governance structures (including, in the case of overseas insurers, having home regulations that are at least as satisfactory as the relevant New Zealand regulations). The licence will be issued by the Bank.
- Imposing prudential requirements on insurers including the setting of solvency standards, credit rating requirements, risk management procedures, disclosure of overseas policy holder preferences and actuarial auditing and financial reporting guidelines.

The draft Bill, in its present form, regulates all entities that carry on insurance business in New Zealand. The draft Bill provides that a person carries on insurance business in New Zealand in certain circumstances including where the person acts as an insurer in New Zealand or elsewhere and is liable under a contract of insurance to a New Zealand policyholder and is an overseas company liable to be registered under the Companies Act (which includes all overseas companies who wish to conduct business in New Zealand). As currently drafted, Australian authorised insurers conducting business in New Zealand will be required to obtain a New Zealand insurance licence. Unlike the position in Australia, there are no exemptions for direct offshore foreign insurers writing particular types of business. Nor are there any exemptions where the offshore insurer is subject to a robust regulatory regime in its home jurisdiction.

The Reserve Bank is undertaking industry consultation (including with Australian insurers) and proposes to finalise the draft Bill for introduction to the New Zealand Parliament later this year.

Links

[Click here to view the draft Insurance \(Prudential Supervision\) Bill 2009.](#)

June 2009

This article was prepared by Bianca Bates.

We are continuing to monitor developments in this area. If you have any questions about the Bill, please contact a member of our corporate and regulatory team – Kathryn Rigney, Director (t: 9231 7027, e: krigney@ypol.com.au), Bianca Bates, Senior Associate (t: 9231 7012, e: bbates@ypol.com.au) or Isla Chisholm (t: 9231 7028, e: ichisholm@ypol.com.au)

On 1 September 2007, three of the leading insurance and commercial litigators of DLA Phillips Fox joined forces with the established and respected insurance and commercial litigation specialist, Yeldham Lloyd Associates to create our firm.

On 5 May 2008 we enhanced our capability and commitment to the insurance and reinsurance industry with the addition of a specialist corporate and regulatory team.

We are a specialist incorporated legal practice. We are focused on insurance, reinsurance and commercial litigation.

Our directors are recognised locally and internationally as among the best in their fields. They are supported by an experienced and talented team.

We are accessible, straightforward and responsive. We are about providing the best legal service at a reasonable cost.

For more information on our firm please visit www.ypol.com.au

DISCLAIMER

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