Insurance (Prudential Supervision) Amendment Bill 2012

Date of Introduction: 6 November 2012
Portfolio: Finance
Select Committee: As at 11 April, 1st Reading not held.
Published: 11 April 2013
by John McSoriley BA LL.B, Barrister Legislative Analyst
P: (04) 817-9626 (Ext. 9626)

Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The Reserve Bank of New Zealand (the Bank) has reviewed the Insurance (Prudential Supervision) Act 2010 (the Act) which establishes a licensing and prudential supervision regime for insurers carrying on insurance business in New Zealand "to ensure that, in light of experience, it is effective and that there will be a smooth transition to full licensing without the imposition of unnecessary compliance costs on the insurers. A number of technical issues have been identified as appropriate for reform. This Bill contains amendments relating to those technical issues".

Background

The Bill makes amendments in relation to interim financial reporting, extends the term of provisional licences of insurers that enter into an insolvency procedure before 7 September 2013, reduce "unnecessary costs and improve administrative efficiency" and amends Section 69 of the Reserve Bank of New Zealand Act 1989 in relation to the register of registered banks. The Bill is intended to result in two Acts: the Insurance (Prudential Supervision) Amendment Bill; and the Reserve Bank of New Zealand Amendment Bill.

Main provisions

Conditions of licence

Section 21 of the Act provides, _inter alia_, that a body corporate may be licensed as a licensed insurer unconditionally or subject to any conditions that the Bank may impose including "a condition that requires the licensed insurer or the directors of the insurer (or both) to certify that any conditions have been complied with (being certification that is given at the time or times and in the manner specified in the condition)".

2 Ibid.
The Bill extends this to require certification in relation to:

- “any conditions of the licence;
- “any requirements of the Act or the regulations;
- “any requirements of any other enactment imposed on the insurer (for example, financial reporting obligations”) (Part 1, Clause 4, amending Section 21 by substituting paragraph (f)).

Comment
An enactment means the whole or a portion of an Act or regulations (Section 29(1) Interpretation Act 1999).

Register of licensed insurers

The Bill provides that the Bank must keep a public register of licensed insurers, the form of which is to be determined by the Bank and which may be amended by the Bank as it considers necessary. The register may include:

- the name of each licensed insurer;
- the current financial strength rating of each licensed insurer (unless the insurer is not required to have such a rating); and
- any other prescribed information.

The Bill provides that the Bank must take all reasonable steps to ensure that the information contained in the public register is available to members of the public at all reasonable times (Part 1, Clause 7 inserting a new section, New Section 54A; Part 2, Clauses 19-20, amending Sections 69 and 173 of the Reserve Bank of New Zealand Act 1989 (“to align Section 69 (which relates to the register of registered banks) with new section 54A of the Insurance (Prudential Supervision) Act 2010 (as inserted by clause 7). The amendment provides for the register to contain the name and current credit rating of each registered bank and other information that may be prescribed by regulations”).

Incorporation by reference

The Bill provides for material to be incorporated by reference in regulations and other instruments made under the Act. The Act at present only allows for such incorporation to solvency (Part 1, Clause 8, repealing Section 58 (which relates to the incorporation of material by reference in solvency standards); Clause 15 inserting New Section 238A into the Act).

Exception from obligation of licensed insurer to have current financial strength rating

The Bill provides that the Bank may exempt a licensed insurer from the requirement to have a current financial strength rating if the Bank is satisfied that the insurer has ceased to enter into new contracts of insurance as an insurer (Part 1, Clause 9, amending Section 60).

Comment
i.e. the licensed insurer is described as being in a state of “run-off”.

Disclosure of the current financial strength rating of a licensed insurer to its policyholders

The Bill provides that disclosure of the current financial strength rating of a licensed insurer is not required if a contract of insurance is renewed more frequently than annually and the current financial strength rating was disclosed less than 12 months before the date of the renewal and the information has not changed since the last disclosure was made to the policyholder (Part 1, Clause 10, amending Section 64 by inserting new subsection (4A)).

Requirement to supply interim financial statements to the Bank

The Act imposes requirements to supply to the Bank interim financial statements prepared in accordance with generally accepted accounting practice (NZ GAAP) within 5 months of the end of the first half of each accounting period.

---

3 Ibid., p. 3.
The Bill provides that the Bank may allow the insurer to prepare interim financial information in accordance with requirements other than NZ GAAP, reduces the preparation period to 3 months and removes the requirement to prepare interim financial statements for both a group and the parent (instead, an insurer part of a group may prepare interim financial statements for the group)) (Part 1, Clause 11, amending Section 81).

Comment
An alternative to NZ GAAP may, for example, be requirements that apply in the insurer’s home jurisdiction. The preparation changes are aligned with the provision with the Financial Reporting Bill.

---