

# New Zealand Captive Insurance Association

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To: Members of NZCIA

Insurance (Prudential Supervision) Bill – Report of the Finance & Expenditure Select Committee

The Finance & Expenditure Select Committee has produced its 235 page report on the aforementioned proposed Bill. The Committee states “that the Bill is intended to cover most entities that undertake insurance business in New Zealand including Life Insurers, Health Insurers, Captive Insurers, Reinsurers and the insurance activities of incorporated societies. However, we are recommending that Discretionary Mutual Organisations and Trade Professional Associations not be covered by this Bill.”

The Committee further states that “we acknowledge that the Bill is intended to capture all kinds of insurers to ensure that they are subject to the same rules and believe that **size** rather than **corporate form** should be the relevant criteria for exemption in order to make the regime workable. We therefore consider it inappropriate to exempt some forms of insurers and not others.” This statement by the Committee sets the tone for their report and any amendments to the Act as first approved by Parliament.

The key areas of concern that we provided testimony to the Select Committee were:

- The Definition of a Captive Insurer.
- The Definition of Carrying on Insurance Business in New Zealand.
- Conditions of License.
- Solvency Standards.
- Risk Management Programme.
- Appointment of Actuary.
- Fit & Proper Person Criteria

1. **Definition of a Captive Insurer**

Willis requested that the definition be extended so it is in line with the International Accounting Standards and the International Association of Insurance Supervisors Report. The current definition is restrictive in that it defines a captive insurer as:

- (a) a subsidiary of an entity that is not an insurer; and
- (b) only insures the risks of the parent and / or other subsidiaries of the parent.

**Select Committee Commentary**

*The definition of a captive insurer was not changed from its original format.*

2. **Definition of Carrying on Insurance Business in New Zealand**

Clause 8(1)C of the Bill provides that a “person carrying on insurance business in New Zealand if the person is liable as an insurer under the contract of insurance to a New Zealand policy holder”.

This clause is very restrictive for captives that have risks outside of New Zealand.

We requested that this be amended by removing the words “New Zealand” from Clause 8(1)C.

**Select Committee Commentary**

*This amendment was not adopted.*

3. **Conditions of License**

Section 20 of the proposed Bill allows the Reserve Bank to impose conditions upon a licensed insurer to include “a specified amount or proportion of the licensed insurers business to relate to New Zealand policy holders”. This section relates back to Section 8(1)C which enabled the Reserve Bank to limit the captives selecting New Zealand as their preferred domicile. We requested clarification of this section from the Select Committee and amending it to allow captives to be exempt from this section.

Willis believes this further restricts the ability of New Zealand captives to underwrite offshore risks.

**Select Committee Commentary**

*This amendment was not adopted.*

4. **Solvency Standards**

Section 53 of the Bill allows the Reserve Bank to issue Solvency Standards. The Standard reviewed by Willis is not appropriate for captive insurance companies. The Reserve Bank has now recognised that their initial and second Solvency Standard drafts were inappropriate and have informed all captive owners that there will be a separate Captive Solvency Standard developed.

At this time the Reserve Bank has not issued the new Solvency Standard for Captive Insurance Companies and as such we cannot provide detailed commentary.

**Select Committee Commentary**

*The Select Committee also recognised that the Solvency Standard needed to be widened to allow additional methods of determining the solvency of an insurer. These will not affect the Captive Insurance Companies and we wait for the Reserve Bank to issue the amended Solvency Standard for Captive Insurers.*

5. **Requirements for a Risk Management Programme**

We were in favour of all Captive Insurers having a risk management programme, however we believe that the International Standard on Risk Management ISO 3100:2009 should be adopted.

**Select Committee Commentary**

*The proposed was not adopted.*

6. **Requirement for Licensed Insurers to have an Appointed Actuary**

We were against the adoption of an actuary for captive insurance companies. It is not normal practice for captive insurers to have an actuary given the identifiable non risk profile of a captive insurance company. We requested an exemption from this section.

**Select Committee Commentary**

*This amendment was not adopted.*

7. **Fit & Proper Person**

Section 34, Fit & Proper Standards, was completely rewritten by the Committee. The amendment provides a less prescriptive approach.

**Next Stage**

This Bill goes back to Parliament for a second reading in June with the proposed date for this Bill becoming law still September 2010.

**Conclusion**

The Select Committee has made minor amendments to the Legislation and appear not to have adopted any recommendations of the many entities that provided expert testimony to the Committee. The Act as it stands will require additional compliance and cost structures for captives located in New Zealand.

The main issue outstanding is the publishing of the Solvency Standards for Captive Insurers. Until the Reserve Bank provides us with this document, we are not in a position to advise you of the full implications of this Act.

Regards

Peter Lowe  
President