

New Zealand Captive Insurance Association

Review of Financial Products & Providers

Discussion Document: Insurance / Ministry of Economic Development September 2006

Introduction

The New Zealand Captive Insurance Association (NZCIA) is an incorporated society established to represent the captive insurance industry in New Zealand. The NZCIA welcomes proposals for regulation of Insurance Companies in New Zealand, however we have concerns that the Discussion Document does not address the issue of Captive Insurance Companies in New Zealand.

We would recommend that captive insurance companies be formally identified in the upcoming legislation.

Captive insurance companies are specifically regulated in most domiciles differently from that of traditional insurance companies. This is noted in the International Association of Insurance Supervisors (IAIS) Commissioners report, whose members have separate and distinct captive legislation. The NZCIA has understood that in drafting the discussion document and proposed legislation, you have looked at international accepted standards for regulation and supervision.

The IAIS uses the following definition of a captive:

"An insurance or reinsurance entity created and owned, directly or indirectly, by one or more industrial, commercial or financial entities, the purpose of which is to provide insurance or reinsurance cover for risks of the entity or entities to which it belongs, or for entities connected to those entities and only a small part of any of its risk exposure is related to providing insurance or reinsurance to other parties."

We propose that the following definition be incorporated into legislation for captive insurance companies. This definition is consistent with the IAIS and is slightly more restrictive than that formulated in other jurisdictions where captives are commonly domiciled".

"That a captive is any entity that only insures the risks of entities that the in terms of International Accounting Standards are:

- (a) Its parent;
- (b) A related entity, ie. under the same control;
- (c) In a joint controlled (joint venture) with that entity or an entity of the type described in (a) or (b) above;
- (d) An associate of that entity or an entity of the type described in (a) or (b) above.

The essence of (a) and (b) is the concept of control, the essence of (c) is (obviously) joint control and in the essence of (d) is significant influence (all of which are defined by the relevant international accounting standards)."

The IAIS further recognises that captives need to be regulated, but because of their unique nature, need to be regulated differently from regular insurance companies.

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The Captive Insurance Association has taken a two-fold approach to this Discussion document. Our first approach is define the terms for which a captive insurance company could apply for a license as stated in page 37, paragraph 131, note 75 of the Discussion Document. We believe that by defining the terms for a captive insurance company this would further enhance New Zealand's reputation as a reputable insurance domicile and would be in compliance with the guidelines set out under the IAIS document.

The NZCIA believes that:

- captive insurance companies should be further defined in the legislation and that criteria be set (in this legislation) to be recognised as a captive insurance company
- the terms as mentioned in captives can apply for a license subject to terms (discussion document, note 75, page 37), should be set in this legislation
- these terms should only be applicable to captives that meet the criteria
- these terms should be in line with the comments from the IAIS on the applicability of Insurance Core Principles (as set by the IAIS) on captives
- other parts of the legislation should not apply to captives.

The Discussion Document states on page 37, paragraph 131, note 75, that reinsurers and captive insurers may apply for a license subject to terms. We would propose that these terms include:

"That a proposal be submitted to the Ministry of Economic Development and in that proposal, the proposed captive insurer provide the following information:

- 5 year financial projections
- names, addresses and work experience of proposed directors, with at least one resident director
- names, addresses and work experience of proposed managers
- capital contribution
- ultimate owner of shares
- latest set of reported financial statements for parent company
- names and addresses of auditors
- names and addresses of bankers
- names and address of investments advisors
- names and addresses of consulting actuary."

Once this information is submitted to the Regulator, the Regulator would then issue a license to the captive company.

On an ongoing basis the captive insurance company would be required to:

- Submit unaudited financial statements in accordance with IFRS4 on a 6 monthly basis.
- Submit to the Regulator audited financial statements prepared in accordance with IFRS4 on an annual basis and within 6 months of the financial year ending.
- Directors hold an annual general meeting in New Zealand at least once per financial year.
- Directors utilise a New Zealand bank for their day to day banking operations.
- Directors attest that there is sufficient risk management for the nature and scale of the risk underwritten in the captive insurance company.

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The IAIS has developed Insurance Core Principles (ICPs). It is our understanding that the proposed legislation is (partially) based on these ICPs.

The IAIS has also commented on the applicability of these ICPs to captives. When answering the questions we will refer to these comments.

The following ICP will not be discussed in the questions; however we would like to bring this ICP and the comment to your attention.

ICP 7: Suitability of persons. The significant owners, board members, senior management, auditors and actuaries of an insurer are fit and proper to fulfill their roles. This requires that they possess the appropriate integrity, competency, experience and qualifications.

IAIS comments on applicability to captives: It is unlikely that a board of directors representing the interests of the shareholder and policyholder will have the level of insurance knowledge that would normally be expected in a commercial insurance company board. The expertise of professional insurance managers will likely be utilised together with that of the parent's risk manager. The captive's board must ensure that it can oversee the managers effectively.

The majority of captive jurisdictions require the captive to have a local office, and a representative. To meet these requirements, most captives use the services of independent captive management companies, which have the necessary insurance knowledge and skills. The nature of captives does not relieve supervisors from assessing suitability, but the assessment may need to be done in a different manner from those undertaken in respect of a commercial insurer.

Many captive owners are large publicly listed groups with their own legal expertise and risk management teams. Thus, supervisors usually do not assess the fitness and propriety of captive owners on the basis of whether the owner or its board has sufficient experience in insurance.

Supervisors find it more important to examine the suitability of those assigned to manage the risk placed within the captive. This could be in conflict with ICP 7, which requires supervisors to take appropriate action, including requiring significant owners to dispose of their interests, if the owner does not meet fit and proper criteria. Most captive owners would not meet a jurisdiction's fit and proper criteria in the sense of having the insurance expertise that would be expected of management of commercial insurers.

General note to the document:

Throughout this discussion document Review of Financial Products and Providers, we have noted that the author talks about New Zealand meeting the international guidelines and principals under the International Associations of Insurance Supervisors and actually talks about risk based management of organisational risk jurisdictions such as Canada, South Africa, United States, Australia and United Kingdom have all adopted risk based solvency regimes which their insurers must comply with.

We need to point out that of those five domicile countries they have looked at, Canada, South Africa and United States also have captive legislation enshrined. This legislation is separate from direct insurance company legislation because it recognises that captive insurance companies are a unique risk management tool and as such need to be regulated in a more a light-handed environment. It would be our recommendation that captive insurance companies in New Zealand be regulated in a similar format.

Part B of our proposal discusses the various aspects of reporting and licensing under proposals under the Discussion Document. We have commented on each section of the Reporting and Licensing proposals and where appropriate have requested that a captive be exempted from the proposed

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legislation. In this manner the captive insurance companies will be recognised in the legislation and be compliant with the IAIS Discussion Document to meet the objectives and guidelines of the Review of Financial Products and Providers Discussion Document September 2006.

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Questions for Submission

General note:

When answering these questions, we will also refer to the Insurance Core Principles (ICPs) issued by the International Association of Insurance Supervisors (IAIS) and the comments from IAIS on how or to what extent these ICPs apply to Captives.

Introduction Section – Objectives & Outcomes

Q1 *Are the outcomes being sought from the insurance sector appropriate, if no, are there any additional outcomes that should be sought?*

The outcomes sought by the Government in this discussion document include a sound and efficient insurance sector, facilitation of effective risk management, confidence in the insurance sector that encourages participation by consumers, firms and providers and not to compromise or constrain contestability, competitiveness and innovation in the insurance sector.

It is the belief of the New Zealand Captive Insurance Association (NZCIA) that first three outcomes are appropriate, however it is our belief that fourth outcome does not take into account the developing captive insurance company industry. It is our reading of this document that certain sections of the proposals may in fact conflict with this outcome by constraining the development of the insurance industry in creating competitive solutions for corporations.

ICP 9: Corporate governance. The corporate governance framework recognises and protects rights of all interested parties. The supervisory authority requires compliance with all applicable corporate governance standards.

IAIS comments on applicability to captives: In principle, the governance issues for a captive insurer are similar to those for a conventional insurer. In practice however there are some important differences:

- Many captives are small and have a relatively simple risk profile.
- The parent company, and therefore the directors representing its interests, may have limited expertise in insurance.
- It is common for much of the management and operations of a captive to be contracted out, usually to a firm of professional insurance managers.

Captive managers, their boards, officers and service providers need to understand the implications for governance in the entities in which the captive results may be reported or consolidated. Regulators often recognise the need to avoid overburdening captives with governance arrangements such as risk management committees or requirements regarding directors, designed for larger or publicly held companies. On the other hand, supervisors ensure that captives are well managed and that the board can adequately oversee the business. They also ensure that there are directors and managers who can, both in principle and in practice, be held accountable for any failure.

The unique nature of a captive will be addressed by a supervisor when evaluating corporate governance and ICP 9 notes that regulations on corporate governance should take into account the size, nature and complexity of the insurer.

Since most captives have only a few policies and transactions, single-owner captives and many mutual captives do not generally have an extensive board of directors and only a limited number of managers. The supervisor takes this into account when developing policies on

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corporate governance. Many of the policies that would be suitable for a large commercial insurer could be impractical, or even hinder the captive from operating in an efficient manner.

If a captive management company is used, the supervisor may review the corporate governance practices of the management company to ascertain that it is suitable for the management of captives.

Q2 *Are there reasons for regulatory intervention correctly identify? Are there any other reasons regulatory intervention that also requires identification?*

The reasons for regulatory intervention include information asymmetries and complexity, issues of transferability, unfair or fraudulent conduct, expectations and confidence and externalities.

The NZCIA agrees with the reasons for regulatory intervention as stated in the discussion document. However, we have some concerns over the expectation and confidence reason for regulatory intervention.

It is stated in this discussion document that there have been a few New Zealand domiciled insurance companies that only provide insurance products overseas but that hold out that they are regulated under New Zealand Insurance Law when they are not. This is causing reputational issues for the New Zealand market, both domestically and internationally.

The NZCIA agrees with the intention of stopping this type of activity but not at the expense of a growing captive insurance market.

Currently in New Zealand we have approximately 20 captive insurance company with 10 foreign owned, predominantly from Australia. These companies incorporate a captive insurance company under the Insurance Companies Deposits Act 1953 and submit to all the regulations and requirements as defined by that Act. These captives offer insurance to their parent companies which, in some cases, do not have operations in New Zealand and as such the captive is issuing a policy from New Zealand to insure a risk based in Australia.

The NZCIA would seek confirmation that the proposals in this report will not conflict with the ongoing development of the captive insurance industry in New Zealand and continue to allow foreign entities to form captive insurance companies in New Zealand. The members of the IAIS allow captive insurance companies in their specific domicile and in fact encourage their formation.

ICP 25: Consumer protection. The supervisory authority sets minimum requirements for insurers and intermediaries in dealing with consumers in its jurisdiction, including foreign insurers selling products on a cross-border basis. The requirements include provision of timely, complete and relevant information to consumers both before a contract is entered into through to the point at which all obligations under a contract have been satisfied.

IAIS comments on applicability to captives: Unrelated parties are unlikely to approach a captive to obtain insurance coverage and captives do not operate offices or branches geared to obtaining business from such parties.

ICP 25 recognises that, for certain types of transactions, the requirements for consumer protection should differ. Paragraph 25.5 notes that the supervisory requirements: "...should distinguish between particular types of customers. In particular, detailed conduct of business rules may not be appropriate for reinsurance transactions or in respect of professional customers." Contractual relationships of a captive insurance company are with the owners of the captive, or with a commercial insurer or reinsurer if the captive has arrangements with such entities and these relationships should be taken into account when applying the ICP 25 requirements to captives. The criteria of ICP 25 become of limited applicability in this regard,

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since requirements for fair treatment of customers, assessing insurance needs before advising customers and dealing with complaints are less pertinent to a captive insurer.

Q3 *Are the objectives for insurance legislation appropriate? Are there other objectives that should be included?*

The objectives as stated in the report include prudential regulation and market conduct regulation. The NZCIA believes that these objectives for insurance regulation are appropriate, however, we would recommend that the proposals relating to licensing and prudential requirements include a separate definition for captive insurance companies and that a captive be exempted from certain requirements detailed in this report.

The NZCIA recommends the following internationally recognised definition for a captive insurance company.

"... a captive ... (is) ... any entity ... that only insures the risks of entities that, in terms of International Accounting Standards, are:

- (a) its parent;*
- (b) a related entity (ie. under the same control);*
- (c) in a (jointly controlled) joint venture with that entity, or an entity of the type described in (a) or (b) above;*
- (d) an associate of that entity, or an entity of the type described in (a) or (b) above.*

*The essence of (a) and (b) is the concept of **control**; the essence of (c) is (obviously) joint **control**; and the essence of (d) is **significant influence** (all of which are defined by relevant international accounting standards)".*

IAIS - ICP 6: Licensing. An insurer must be licensed before it can operate within a jurisdiction. The requirements for licensing are clear, objective and public.

IAIS comments on applicability to captives: Insurance legislation should include a definition of insurers. For jurisdictions with a captive market, their country legislation, in some manner, addresses the various types of insurers in their jurisdiction, including captives. This may be accomplished by having various classes of insurers further differentiated in the legislation.

Regulatory Framework

Questions for Submission:

Q4 *Do these problems accurately reflect the issues in the current insurance sector? Is the magnitude of these problems correctly identified in the discussion?*

The NZCIA is in agreement with the problems outlined in this section. We would like to point out that the capital entry point for an insurance company selling to the general public is considered low however for a captive insurance company the deposit requirements are in line with other recognised captive domiciles.

In recognised captive jurisdictions around the world, the minimum capital requirements for a captive insurance company start as low as US\$120,000 in Bermuda, US\$250,000 in Hawaii and Vermont and Singapore is S\$400,000. It is our belief that a capital requirement for a captive insurance company described in the Act in New Zealand should be NZ\$500,000.

ICP 23: Capital adequacy and solvency. The supervisory authority requires insurers to

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comply with the prescribed solvency regime. This regime includes capital adequacy requirements and required suitable forms of capital that enable the insurer to absorb significant unforeseen losses.

IAIS comments on applicability to captives: As outlined in ICP 23, it is important for a supervisor to ensure that solvency levels are appropriate for the protection of policyholders. However, any regulation of solvency has to take into account the nature, size and business conducted by an insurer. In the case of a captive insurer there is less risk, or in many cases no risk, to external stakeholders in the event of the failure of a captive. When there is no third party or unrelated party to protect, it seems unreasonable to require a captive to tie up unnecessary capital. The captive also poses significantly less risk to the financial system. The insurance risk in a captive will be more closely evaluated and more tightly controlled through the parent company's risk mitigation and management efforts than can be the case in a commercial insurer. Jurisdictions recognise this and often formulate solvency regulations that are less onerous on captive insurers.

The difference in risk between captives and commercial underwriters will be acknowledged when reviewing captive jurisdictions under ICP 23, which requires that the solvency regime should look at assets, liabilities, matching and capital adequacy requirements in a consistent manner. In the light of a higher probability of accurate ultimate loss reserves in a captive it is unreasonable for solvency levels that would be applied to a commercial insurer to be applied to a captive. Supervisors would normally apply a solvency regime consistently, but taking into account the specific nature of the insurance companies.

Regulators will establish a minimum solvency margin requirement which adequately reflects the risks that are inherent in captive insurance companies. Regulations will generally specify the extent to which certain types of assets are permitted for solvency purposes.

Q6 *Do the above proposals overcome the problem identified in the Introduction section of the discussion paper?*

The proposals are based on resolving issues for general insurers and the general insurance industry rather than the specific aspects represented by Captives. As mentioned previously Captives have a different focus and accordingly require a different prudential regime under which they could be governed.

Given the limited extent to which Captives may impact on the general public the need to have the same onerous prescribed regulations is greatly diminished. This is recognised by IAIS in its own guidelines which we generally subscribe to.

Q7 *Are the proposals consistent with the objectives of regulation outlined in the Introduction?*

We believe that it is much more appropriate to use regulatory standards developed by IAIS which are specifically targeted at the prudential regulation of Captives.

Q8 *What are the benefits and costs of each proposal to an insurer?*

We consider the major drawback to Captives with the suggested proposals is with the significant compliance regime that would be established and for which very little additional benefit to stakeholders would be achieved.

The internationally recognised benchmarks established through adopting IAIS guidelines could provide the base for licencing and monitoring Captives in New Zealand. This would also lead to higher operational costs for Captives, but at a more reasonable level and commensurate with good corporate practice and corporate governance that is increasingly

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taking a higher profile within organisations.

Q9 *What implications do these proposals have for the sector as a whole?*

We commend the search for practical regulations of the insurance industry as a whole but continue to assert that captives represent a distinct part of this sector and as such should not have the same mandatory requirements imposed on their operations.

Q11 *Should the insurance regulatory regime require high level risk management requirements that are attested to by the insurer's directors annually?*

The NZCIA believes that captive insurance companies should be exempt from such a requirement. Since the insured(s) and the captives are members of the same family, the captive is familiar with the risks. Furthermore, the cost of complying with these requirements might be excessive for the captive in respect of its total book of business.

ICP 18: Risk assessment and management. The supervisory authority requires insurers to recognise the range of risks that they face and to assess and manage them effectively.

IAIS comments on applicability to captives: Many risks normally associated with a traditional insurance company are mitigated or are of less impact in a captive insurer. Legal risk is generally quite low since the captive frequently insures just its owner, although it is important that the terms of reinsurance contracts are properly expressed and aligned with the primary cover. Operational risk may be low if the captive has few transactions or a limited number of policies; this is common in many captives. Altogether the risk management system in place in a captive may be significantly different from that of a commercial insurer. Supervisors, when setting requirements or providing guidance on risk management systems, may incorporate these differences into their guidance.

ICP 18 requires the supervisory authority to ensure that insurers recognise the range of risks to which they are exposed, as well as to assess and manage them effectively. Insurers should have risk management systems adequate for the nature and scale of the business in question, allowing supervisors to use their discretion in determining and establishing criteria appropriate to the licensing and on-going supervision of captives.

ICP 10: Internal control. The supervisory authority requires insurers to have in place internal controls that are adequate for the nature and scale of the business. The oversight and reporting systems allow the board and management to monitor and control the operations.

IAIS comments on applicability to captives: ICP 10 notes that supervisors should take into account the nature and scale of the company's business when assessing internal controls. The board of directors of a captive should be allowed to exercise its judgment in determining the nature and scope of the risk management and internal control systems and practices that are necessary. As outlined, most captives are not complicated operations which require extensive internal audit functions or complicated internal risk management functions. Nevertheless most captives will be subject to the internal audit disciplines of the parent company. This will be reflected when the supervisor addresses the internal control requirements for captive insurers.

It is common for the supervisor to focus more on a review of the internal controls of the captive manager as opposed to those of the captive itself because the captive manager is usually handling directly transactions and the assets of the captive and will also have accountability for the correct valuation of liabilities.

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Q15 *Should the requirements be set out in the legislation or be set by the regulator?*

The NZCIA believes that requirements set out in legislation would contribute to effective and clear regulation and is to be preferred over requirements set by the Regulator as this might lead to a higher degree of uncertainty.

Q24 *Should there be a mandatory requirement that all insurers obtain a financial strength rating from an approved rating agency, subject to a de minimus exemption for very small insurers?*

Under current legislation (Insurance Companies Ratings and Inspections Act 1994) captives can request to be exempt from having a rating. The rationale for this exemption is that a captive will underwrite its parent(s) and associated companies and they know the financial strength of the captive and the risk the captive is exposed to. Furthermore the cost of obtaining a rating would be excessive compared to the size of the captive.

ICP 20: Liabilities. The supervisory authority requires insurers to comply with standards for establishing adequate technical provisions and other liabilities, and making allowance for reinsurance recoverables. The supervisory authority has both the authority and the ability to assess the adequacy of the technical provisions and to require that these provisions be increased, if necessary.

IAIS comments on applicability to captives: ICP 20 requires supervisors to ensure that insurers comply with standards for establishing adequate technical provisions and other liabilities. As previously discussed, captives have some unique qualities that will be incorporated into a review of liabilities by a supervisor or when creating regulations regarding captive liabilities.

Where appropriate, supervisors require that the boards of captive insurers take actuarial advice before setting provisions for outstanding claims, IBNR or other reserves. This would apply particularly in the case of classes of business such as liability insurance where claims can take a considerable period to develop fully.

ICP 23: Capital adequacy and solvency. The supervisory authority requires insurers to comply with the prescribed solvency regime. This regime includes capital adequacy requirements and required suitable forms of capital that enable the insurer to absorb significant unforeseen losses.

IAIS comments on applicability to captives: As outlined in ICP 23, it is important for a supervisor to ensure that solvency levels are appropriate for the protection of policyholders. However, any regulation of solvency has to take into account the nature, size and business conducted by an insurer. In the case of a captive insurer there is less risk, or in many cases no risk, to external stakeholders in the event of the failure of a captive. When there is no third party or unrelated party to protect, it seems unreasonable to require a captive to tie up unnecessary capital. The captive also poses significantly less risk to the financial system. The insurance risk in a captive will be more closely evaluated and more tightly controlled through the parent company's risk mitigation and management efforts than can be the case in a commercial insurer. Jurisdictions recognise this and often formulate solvency regulations that are less onerous on captive insurers.

Q28 *Should there be a fixed transition period for existing insurers or should the Regulator have the ability to approve an insurer's transition period?*

The NZCIA believes that an approved transition period is to be preferred, since this takes into account each insurer's circumstances.

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Section 4 - Monitoring & Supervision

Questions for Submission:

Q31 *Will the proposals resolve the problems identified in the Introduction section of the discussion paper and enable the regulator to achieve its supervisory objectives?*

It is the belief of the NZCIA that the proposals outlined in the discussion document will enable the regulator to achieve his supervisory objectives.

We would like at this stage to point out to you that captive insurance companies should be recognised and regulated differently than insurance companies that sell insurance to consumers. It would be our recommendation that a captive insurance company would be exempt from Section 4.4.1 Proposals Public Reporting.

A captive insurance company does not issue policies to members of the public and does not insure members of the public. It only insures members of its own corporate group being parent company, affiliated companies and subsidiary companies.

As such the public reporting of the financial statements of a captive insurance company would be of no interest and provide no benefit for the general public.

ICP 10: Internal control. The supervisory authority requires insurers to have in place internal controls that are adequate for the nature and scale of the business. The oversight and reporting systems allow the board and management to monitor and control the operations.

IAIS comments on applicability to captives: Supervisors should take into account the nature and scale of the company's business when assessing internal controls. The board of directors of a captive should be allowed to exercise its judgment in determining the nature and scope of the risk management and internal control systems and practices that are necessary. As outlined, most captives are not complicated operations which require extensive internal audit functions or complicated internal risk management functions. Nevertheless most captives will be subject to the internal audit disciplines of the parent company. This will be reflected when the supervisor addresses the internal control requirements for captive insurers.

It is common for the supervisor to focus more on a review of the internal controls of the captive manager as opposed to those of the captive itself because the captive manager is usually handling directly transactions and the assets of the captive and will also have accountability for the correct valuation of liabilities.

ICP 26: Information, disclosure & transparency towards the market. The supervisory authority requires insurers to disclose relevant information on a timely basis in order to give stakeholders a clear view of their business activities and financial positions and to facilitate the understanding of the risks to which they are exposed.

IAIS comments on applicability to captives: ICP 26 is concerned with providing reliable and timely information to stakeholders and for the benefit of policyholders. In the case of pure captives the stakeholders and policyholders are the same persons. Because captives are closely held companies, there should be few reasons why full audited financial statements together with disclosures in accordance with international standards need to be made available to the general public.

In most instances the captive results are consolidated into the parent's figures and, in the case of a publicly quoted group, the consolidated figures are freely available.

Unlike commercial insurance companies, captives have a limited number of parties with which they do business. For most captives, only the owner, supervisor and any fronting/reinsurance

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entity have an interest in the financial well being of the captive. As the majority of captives do not write any unrelated party business, the public has no financial stake in the captive, nor would the captive's business affect decisions made by the market. Disclosure requirements for captives usually meet the needs of the interested parties: jurisdictions enact regulations to ensure that captives disclose certain information to the supervisor and the owner has access to any financial information it needs.

Section 4.4.2 – Proposals, Reporting to the Regulator

In general the NZCIA is in favour of the proposals outlined in this discussion document for documents required to be reported to the Regulator on a confidential basis.

Q32 Are the checks and balances on the regulator's use of its powers appropriate?

The NZCIA believes these checks and balances are appropriate.

Q33 What costs and benefits will these requirements have on the insurance business?

There will be increased costs for captive insurance companies complying with the proposals outlined by the NZCIA, however it is our belief that these increased costs will not detrimentally affect the financial health of a captive insurance company. The proposals outlined in this discussion document are in compliance with other recognised captive domiciles around the world.

Q45 Should there be product disclosure requirements for insurance that are contained in legislation?

In general, it would be good to have disclosure requirements. Containing these requirements in legislation seems appropriate.

The NZCIA believes that insurance policies issued by captives should be exempt from this disclosure. Because the insured is the owner of the captive (or has a close relationship with the owner) there is no need for extensive disclosure.

ICP 26: Information, disclosure & transparency towards the market. The supervisory authority requires insurers to disclose relevant information on a timely basis in order to give stakeholders a clear view of their business activities and financial positions and to facilitate the understanding of the risks to which they are exposed.

IAIS comments on applicability to captives: ICP 26 is concerned with providing reliable and timely information to stakeholders and for the benefit of policyholders. In the case of pure captives the stakeholders and policyholders are the same persons. Because captives are closely held companies, there should be few reasons why full audited financial statements together with disclosures in accordance with international standards need to be made available to the general public.

In most instances the captive results are consolidated into the parent's figures and, in the case of a publicly quoted group, the consolidated figures are freely available.

Unlike commercial insurance companies, captives have a limited number of parties with which they do business. For most captives, only the owner, supervisor and any fronting/reinsurance entity have an interest in the financial well being of the captive. As the majority of captives do not write any unrelated party business, the public has no financial stake in the captive, nor would the captive's business affect decisions made by the market. Disclosure requirements for captives usually meet the needs of the interested parties: jurisdictions enact regulations to ensure that captives disclose certain information to the supervisor and the owner has access to any financial information it needs.