

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) has made a submission on the Discussion Document mentioned above. In our submission we have made reference to the International Association of Insurance Supervisors (IAIS) view on regulating captive insurance companies in relation to insurance regulation.

Recommendations

In our submission we have made the following recommendations:

Captives to be formally identified in the upcoming 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 and that as part of this process you have taken guidance from the insurance principles issued by the IAIS.

In line with IAIS guidelines, we would recommend that captives be formally identified in the upcoming legislation.

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."

Proposed definition

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 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).

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Captives to apply for a license subject to terms

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:

- Business plan, including risks to be underwritten and 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.

Ongoing requirements

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 utilize 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.