



OFFICE OF INSURANCE COMMISSIONER

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Mr Thomas Abe
Commissioner & CEO
Independent Consumer & Competition
Commission
P O Box 6394, Boroko
National Capital Commission

1 October 2007

Office of the Commissioner
Received 03/10/2007

Dear Fellow Commissioner,

Re: Review of the General Insurance Industry – Release of Draft Report

I refer to your letter of 5 September 2007 and my response of 28 September 2007 on the above.

I have made some necessary amendments and wish to replace my earlier response with this response dated 1 October 2007 (see attached).

I would kindly request if you could return my response of 28 September 2007.

I thank you for your understanding.

Your sincerely,

Salamo Elema
Insurance Commissioner



Office of the Commissioner
Received 03/10/2007

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Dear Fellow Commissioner,

Re: **Review of the General Insurance Industry – Release of Draft Report**

I refer to your letter of 5 September 2007 on the above.

My comments are provided in the order of your Draft Report:

1. **Foreword** – No comments
2. **Executive Summary** – No comments
- 2.1 **Findings** – We advise that the comments provided in the Issues Paper and Draft Report in most occasions are unclear. For instance there is no clarification or evidence provided on the Insurance Act (the Act) being broad in scope and lacks clarity. The provisions of the Act which are broad and lack clarity should be specified.

We assume that you are referring to such clauses which are often used in other legislations including our Act to cover any other relevant instances which may not immediately fall under any specific provision of any legislation. It is not unique to the Insurance Act and other legislations do have these clauses. To fully prescribe all the necessary clauses or instances would make the Act or any other legislations become unnecessarily bulky, cumbersome and impracticable.

We have only found one (1) instance of a stakeholder making specific reference to the Act which we appreciate. Section 35(2)(h). **“the issue of any other directive considered necessary following the conduct of an investigation”**. This serves the purpose that after an investigation is complete there might be a situation whereby the Commissioner may need to consider the interest of policyholders or other stakeholders. Those trying to evade the Act might consider actions not covered under the Act. It must be understood that the Insurance Act or any other legislation only give a general framework for the respective legislation but not everything that may arise under the respective legislation. To omit or overlook such provisions might render the regulator to be powerless. The other provision that was referred to is Section 53 .This relates to the **“Functions of the Tribunal”** but the writer did not specify what is wrong with this clause. In consultation with the PNG Insurance Council we have clarified the functions of the tribunal and other aspects through a “Terms of Reference” and “Administrative Procedures”. We are finalising the TOR and are currently working on the Administrative Procedures.

We do not fully agree with your comments on regulations to the Act. But you should bear in mind that the Insurance Act come into being in 1995, well before most of us joined the Office of Insurance Commissioner. However we have achieved similar results through the policy directives issued to the industry and requirements for licencing. This is why the industry is vibrant, rigorous and growing and not stagnant and chaotic. This shows that the Insurance Act is relevant and appropriate to our industry. The GII is able to deliver services effectively but where it is not able to is because of similar constraints experienced by other sectors in the economy such as high cost of operation, segregated markets, level of economic growth, etc.

Much of what the GII can achieve is covered under the provisions of the Act and circulars. Because of the absence of regulations does not render the Act to be incapable and void of its powers. It is my understanding that regulations basically cover forms and fees which will not change for a long time or do not require constant amendments. Once specified in the regulations, any changes required will have to go back to Parliament and this will take a long while and losses or gains to policyholders and other stakeholders cannot be remedied in time.

To undertake a comprehensive review and redrafting of the existing legislation and development of supporting regulations we prefer to undertake this exercise ourselves to save costs unless the use of consultants is necessary. The consultant(s) should have qualifications and experience of the insurance industry

or practice and insurance regulation for a minimum of ten (10) years so that we are confident of the assistance provided.

We propose that this should be offered firstly to donors and institutions which offer technical assistance and funding as well. This will help us in cutting our costs of undertaking this project. Failing this it should be open tendered so that consultants with relevant insurance background are selected and that any conflict of interest is avoided.

We are satisfied with your finding that the PNG Non life insurance industry is competitive. Further competition for the General Insurance Industry is dependent on other constraints to investments in PNG. These are law and order, land issues, high cost of operations, deteriorating infrastructure including roads, wharfs and bridges, schools, hospitals, etc. Finally it will be the investors decision to enter the GII because it has to fully comply with our Licence Requirements and we do not exempt any potential company from this.

- 2.2 **Recommendation** - We disagree for a joint legislative review which should include the supervision and regulation of the Life Insurance Industry and Superannuation Industry. The Review undertaken by ICCC is only for GII and it does not cover problems encountered in the other financial sectors. The ICCC should respect what the Government has tasked it to do and not include other industries it has not being tasked to review. The LII and SI are separate industries and are not part of the GII review.

The proposed implementation of improvements for the GII will be further delayed if the review has to cover LII and Superannuation. The issue is that ICCC has not being mandated by Government to undertake reviews of the LII and SI in the same way as it was directed by Government to review the GII. It is only after a Government direction that the ICCC can confirm if a review is required for LII and SI.

It should be borne in mind that LII and SI legislations only came into being in 2000 and they need time to demonstrate their effectiveness. A review without assessing its competitiveness and service delivery effectiveness for a minimum period of ten (10) years would overlook the fact whether it is compliant or not.

The Government has not agreed to the concept of a single regulator. The ICCC should not overlook this fact before it proposes concepts the Government has not agreed to. The concept of a single regulator is not a new idea. It was proposed sometime in 1980's and has been shelved since then. It is evident that it is a very expensive exercise not to mention the loss of time before it can be implemented. The regulation of GII and LII is different from SI.

The GII and LI products are not realized until a loss occurs whereas SI is about retirement, invalidity and retrenchment. Another disadvantage is that sectors such as GII and LI would not get the same attention as under its own structure. SI usually get the attention of the regulator because of its systematic impact on the economy.

In view of the recommendation by the ICCC to consider a joint review of legislations and regulations for GII, LII and SI in the fourth quarter of 2007 is not supported. This is because the proposal of a joint review of legislation for GII, LII and SI is not part of the review of GII. The LII and SI are different industries therefore demand separate reviews. Given the fact LI and SI only came about in 2000 these industries need to assess their effectiveness for competition and service delivery under their current legislations. The ICCC has overlooked the fact that the review of GII does not authorize it to make recommendation for LII and SI. These industries are under a separate regulator, Bank of Papua New Guinea and they should be reviewed separately to determine as to how they have fared in terms of competition and service delivery since 2000. It is unfair and misleading to propose the concept of a single regulator based on a Review of GII only.

There should be a cost and benefit analysis on the concept of a single regulator before any attempts to introduce it are proposed. The information on this concept is lacking and all stakeholders need to be aware of it. From the fourteen (14) responses that were received from ICCC none of the responses mentioned anything about a joint review of legislation between LI, SI, and the GII. Why included this when it is not a concern of the GII?.

3.1 **Objectives of this Review** – No comments

3.2 **Purpose of this Review** – We have read the Governments 2007 Budget Strategy but we have not found any Government direction to review the GII for competition and general market conduct issues.

We have only sighted a paragraph in the 2007 Budget Speech which make mention of the Inquiry into the GII. There is no mention of review of LII but there is a separate direction on implementing the recommendation of the Joint Superannuation Task Force to improve and strengthen the effectiveness of the prudential regulation and administration of the SI. This shows that there is a separate initiative on the SI but this does not give the authority to the ICCC to jointly review the legislations of the GII, LII and SI.

3.3 **Scope of this Review** – We are not sure why the ICCC is particular about the relationship between PNG subsidiaries of international companies and insurance brokers in terms of the following:

- Specialise in particular areas of insurance;
- Have long-term relationships between each other (brokers, insurers and reinsurers); and
- Compete between each other for general insurance business.

Under the Insurance Act we do not discriminate between PNG wholly or partially owned companies against international subsidiaries and we do not offer any special incentives to PNG companies.

i) The licence issued by the OIC allows the insurance companies to compete in all classes of business. Through this arrangement the insurance company can have a mix of insurance product portfolio which will enable it to be profitable.

It is the insurance company's discretion to specialize in any type of insurance products it feels it can compete satisfactorily and be profitable.

ii) We expect brokers, insurers and reinsurer to have professional relationship so that they can do business based on trust and respect.

iii) We discourage any collusive practices between brokers, insurers and reinsurer irrespective whether they are international or PNG owned and encourage any of the market players to report incidences of such.

The ICCC should not make this allegation in isolation and should consult the GII on this. This is one of the shortfalls of this Review, that is, the ICCC has not met the GII to fully discuss the areas of concern it feels are insufficient. The workshop of 11 July was not sufficient because of time limitation. Separate meetings with the GII is necessary because such allegations do infringe on the integrity and reputation of the GII market participants.

It is a misinterpretation to suggest that some insurance covers are restricted to insurance companies registered in PNG. The GII is regulated under the Insurance Act. The Act only allows those companies licenced under the Act to do General insurance business in PNG. Companies not licenced under the Act are not

permitted to do insurance business in PNG. In other words we cannot allow companies licenced in Australia or elsewhere to do business in PNG. In same way as companies licenced in PNG does not allow them free access to business in other countries. PNG licenced companies will be subject to the laws of those countries. This is the same all over the world.

Therefore there are no restriction for any potential insurance company to do insurance business in PNG. It is a matter of being licenced and they will compete in any type of insurance cover or risk in PNG.

The Insurance Act 1995 provides the necessary infrastructure for competition to take place unlike other legislation which do not encourage or prevent competition. The current legal framework has the potential to attract local and foreign investors into the market place. Over the last three (3) years, six (6) new insurance companies were licenced by this Office.

- 3.4 **Conduct of this Review** – I wish to express the concerns of GII industry in that the ICCC/KPMG team did not consult the GII fully and organized meeting in a very hap hazard manner. This has lead to the ICCC providing information contrary to the understanding of the GII.

At the workshop of 11 July 2007 it was mostly attended by Government and GII representatives but the policyholders were not well represented. I recall only witnessing two (2) private individuals.

We were concerned that the comments of the various stakeholders were not available on internet by 11 July 2007 so we could fully understand the concerns of the various stakeholders ourselves. The comments have only been available recently with the exception of the comments from Bank of PNG, Marsh Ltd, Australian Government Actuary, Pacific Re Ltd, Tower Insurance, and Messrs Darrel Nathan and Ted Taru are still not available. ***The workshop was advised that the comments were at ICCC Office. This means that the other stakeholders in the provinces could not have access to this information.***

The credentials of the consultants should be provided in the Draft report or Final Report or mentioned at the workshop of 11 July 2007, particularly their insurance qualification and experience in both insurance practice and insurance regulation. We asked for this in our response to the Issue Paper but it has been ignored. This is necessary so that all stakeholders can appreciate the quality of the consultants that have been engaged for this important project of Government.

To save costs to Government it would have been worthwhile meeting the GII and us to gauge whether competition and delivery of services is a concern. This would assist ICCC to use their time and money on areas of real concern. To overlook this could be an expensive exercise only to find out that there is competition in the GII.

On the other hand the ICCC should specify what were the issues in the GII in the first instance and the sources of these issues should be identified. Because these issues could be from vested interests and not representative of the industry. This has led to the allegations not being substantiated.

- 3.5 **Structure of this Report** - No comment
- 4.0 **Current Industry Structure and Composition** - The paragraph above Table 4.1 should be acknowledged because it is a direct quote from our Pre Issues Paper of 5 March 2007 we sent to the ICCC.
- 4.1 **Reinsurance** – To state that there is no full compliance by Pacific Re and all insurance companies with Section 36 of the Act is misleading and should have been investigated further by ICCC. Section 36 should be read in conjunction with Section 37 to fully understand the placement of risks in PNG and remittance to offshore markets is to safeguard the interests of policyholders.

Pacific Re offers reinsurance cover within its capacity and limits of its reinsurance support. This is sound reinsurance business practice. This would ensure Pacific Re remain as a viable re-insurer in the country in the long run. Pacific Re is providing reinsurance support to the PNG market in the following lines of business: comprehensive motor vehicle policy, fire, marine and other liabilities.

Pacific Re business has mainly been in facultative reinsurance over the years due to its capacity. This is gradually changing as Pacific Re is becoming experienced and understands its market is now underwriting treaty reinsurance business.

All insurance companies licenced under the Insurance Act 1995 are required by Section 36 of the Act to reinsure their risks in PNG with Pacific Re. All insurance companies are aware of this requirement and are complying with it. The Act requires that Pacific Re has to be approached by insurers in the first instance to place their reinsurance business. If Pacific Re is not able to provide reinsurance support then the insurance company may apply to the Commissioner for exemption under Section 37 to have the reinsurance cover placed offshore. When

insurance companies or brokers apply for exemption one of the material information they are required to provide to the OIC is the evidence that they have

approached Pacific Re and it has declined to provide reinsure cover. The option to place reinsurance covers offshore is facilitated by Section 37 and it is therefore legal and is in accordance with insurance practice.

Insurance companies and Pacific Re have not bypassed the Insurance Act when it comes to reinsurance placements. When Pacific Re capacity is exhausted it also applies to the OIC to seek reinsurance support. The fact that most reinsurance premiums are going offshore is not a reflection of non compliance with Section 36; it is rather a reflection of Pacific Re's capacity and ability to support the market. This is the way the insurance and reinsurance market work all over world. They seek insurance and reinsurance support when their financial position and capacity is exhausted. Even long established insurance and reinsurance companies use this practice because it safeguards the companies financial soundness and meet their obligations. Pacific Re by international standards is a very new reinsurance company and it can only provide support within its capacity and underwriting criteria. This would ensure that Pacific Re is able to meet its client's obligations and remain profitable.

- 4.1.1 **Submissions** – Pacific Re will only reinsure risks which are within its capacity to underwrite. To go beyond this prudential underwriting criteria will be placing itself at risk of eroding its financial strength and could become bankrupt. The Insurance Act does not permit reinsurance placement to be transacted with non admitted reinsurers. But this often takes place when there is evidence that Pacific Re cannot provide the reinsurance cover and an exemption to place the reinsurance offshore is approved by the OIC under Section 37 of the Act. Pacific Re will not accept reinsurance cover which is beyond its capacity or its underwriting criteria does not permit it to write such reinsurance risks. To overlook this could affect Pacific Re financial position and it will not be able to meet its client's obligations.

The Draft Report has not given any specific instances on reinsurance being placed offshore. The Act is clear that any reinsurance business placed without the approval of the OIC under Section 37 is illegal. Any specific instances will be dealt with appropriately.

The Act may have been written before the existence of Pacific Re but this does not mean treaty reinsurance is not covered. Section 36 makes reference to reinsurance and this covers both facultative and treaty reinsurance. There is no reference under Section 36 that treaty reinsurance is not covered. Section 37 makes specific reference to treaty reinsurance under Subsection 5 and 6.

The only area that may have been sighted with non admitted reinsurers is global covers. Global covers are usually done by international companies of PNG subsidiaries whereby the PNG risks are placed together with the parent company's reinsurer. Global covers is a common practice of international companies because it is cheaper and no cost is placed on the subsidiary in PNG. Even in this instance the broker or insurer do seek an exemption from the OIC. Most of these are high risk covers and are not within capacity of Pacific Re and insurers in PNG. If these risks were placed in PNG the costs of these insurance covers will be passed onto the policyholders and end users. Eventually the cost of goods and services to policyholders will be exorbitant and a cause of concern to Government and consumers.

4.2 **Insurance companies** – This section should be acknowledged because it is a direct quote from our pre Issues Paper of 5 March 2007.

4.2.1 **Submissions** – The comments on the competitiveness of the GII is appreciated. Most of the mergers, acquisitions and market exit were due to the hardening market and decisions of parent companies of international subsidiaries in PNG and were beyond our control.

The quote on “specific information and data was not provided to support this contention” should not be included unless the ICCC specifically requested this information from the GII and was not able to provide it.

Most developing countries struggle or cannot meet “internationally accepted prudential standards” because of the level of development in these countries. These standards require financial and skilled manpower resources. The ICCC has not meet with us to seek our views on the international standards. Instead it made its own assessment.

4.3 **Brokers and Loss Adjustors** – The appropriate term in second line of the first paragraph should be “broker driven” and not “broker control”. This is because it is normal practice for brokers to be engaged as intermediaries and representative of policyholders. Most corporate clients do not have an insurance division and therefore prefer to use brokers. As there is sufficient number of brokers and insurers in the market, clients do in fact have the option to seek other brokers and insurers if they feel they are not satisfied with the current brokers and insurers. This is the benefit of a competitive GII.

To make a proper assessment of the competitiveness of the brokers and loss adjusters, we have explained that for a broker and loss adjuster to specialize in a particular cover or risk is based on the following: volume of business, specialized training and experience, etc of brokers and loss adjusters over the years.

We expect the relationship between brokers and loss adjusters to be a professional one based on trust and confidence so services to clients are efficient. But to allege the relationship is not based on professionalism, the ICCC should be able to ask specific information so that brokers and loss adjuster can provide this. It is unfair to make an allegation unless an opportunity has been made for brokers and loss adjuster to explain or defend their actions.

- 4.3.1 Most of these queries are broker related as revealed by the queries specified in this section. Only few of these queries have being brought to the attention of the OIC to investigate. Where instances have been brought to our attention we have investigated these allegations. For example the Loss adjusters Report of 25 August 2005, Circular on Brokers and Agents, etc and others through our normal investigation process.

We have often received verbal complaints but can not proceed with the complaint due non cooperation from the complainant.for necessary information to investigate the allegations. Hence we feel that such complaints are vexatious and frivolous and should not continue to complain about these issues.

There are relevant provisions in the Act empowering the OIC to act on anti competitive practices. But the GII and/or clients must provide the necessary information to the OIC to pursue the complaints.

- 4.4 **Industry data and regional comparisons** – We advised ICCC on numerous occasions through telephone and formal exchanges that the GII returns formats were revised in 2000 due to errors and anomalies. Therefore the information from 1997 to 2000 will not be consistent and coherent with the data from 2000 to 2005. Following the former Minister’s direction we have provided the data from 1997 to 2000 to ICCC. We are not surprised at all that ICCC has reported that the data before 2000 is unreliable.

- 4.5 **Changes to current market structure and composition** – No comments

- 4.5.1 **Submissions** – Limiting the amount of risk/premium to be ceded to reinsurers and parent companies should be based on capacity and underwriting criteria of Pacific Re.

- 4.5.2 **Discussion** – New entrants to the market place will encourage the GII to increase their capacities and expand their underwriting criteria.

4.6 **Summary** – The market in PNG is competitive given the recent entry of six (6) new companies into the market as follows: one (1) brokers, four (4) insurers and one (1) loss adjusters. This is encouraging given the obstacles to investments in PNG posed by law and order, high cost of operation, deteriorating infrastructure, etc.

5.1 **Setting Premiums and Terms of Coverage** – We note your comments regarding competition and pricing. However we would like to comment on ICCC’s concern regarding current data limitations preventing assessment of competition across insurance products and segments. It should be borne in mind that we have not kept information specifically for ICCC’s purposes and the latter should appreciate this. If given the time to we may be able to provide this but it will require the cooperation of the whole industry to achieve this.

5.1.1 **Submissions** – The comment on “stakeholders have not provided specific information on premium levels and terms of coverage” will require time to source mainly because we have not kept information to the requirements of ICCC. Again this will require the cooperation of the GII.

5.2 **Applicable Government Charges** – The ICCC should acknowledge the OIC as the source of this information because we provided this to ICCC in our Pre Issues Paper dated 5 March 2007.

5.2.1 **Submissions** – We would like to reiterate our comments in the Issues Paper as follows: The Insurance Commissioner’s levy is part of the Government’s financial sector reforms to adequately fund the work of the Government’s agency, OIC so that they can strengthen their performance and assist Government to achieve its developmental objectives.

There are other Government agencies such as Office of Workers Compensation, Coffee Industry Corporation and Oil Palm Industry Corporation funded through industry levy to assist Government and the respective industry to contribute to the development of the country.

The funding through the industry is not unique to PNG as many jurisdictions in the insurance industry including developing as well as developed countries all around the world to fund their operations from an insurance levy.

Prior to this the OIC was insufficiently funded and was not able to perform its responsibilities satisfactorily. We were often threaten by land lords to move from office premises for about seven (7) times over the years due to non payment of rent and limited office space. This has resulted in loss of files and loss of valuable

time due to inconveniences of resettling. We only managed to settle permanently at our current location soon after we got industry levy funding.

We are now able to face the tasks and challenges given to us by Government, policy holders and the GII and we are continuously striving to prove this.

We do not have any other sources of funding apart from the industry levy. In return the Government has been relieved from funding the OIC and has diverted previous funding to its other priority areas.

The levy funds our operational and administrative costs as well as major projects to improve the insurance industry.

For the transparency and accountability of the insurance levy we wish to advise as follows:

- i) The Minister for Treasury approves our budget for the use of funds and we provide monthly bank reconciliations to the Department of Treasury/Finance. We are in full compliance with this requirements.
- ii) To release any official information on the levy we are preparing Annual reports for such information to be provided.

However we are awaiting brokers to review their offshore remittances because we feel that the data provided by the brokers has been under reported. We are also surprised to learn that one of the stakeholders has reported that due to the inconsistencies in the financial years of some of the insurance companies that the statistics will be unreliable. We tried to remedy this previously but we were advised by the GII, mainly subsidiary of international firms that they could not amend their financial years to be consistent with others in PNG because their financial years were in line with their parent companies overseas. We hold monthly meetings and have an open door policy with the GII but this has not been brought to my attention.

- 5.3 **Setting Broker fees** – The OIC should be acknowledged as the source of this information because it is a direct quote from our Pre Issues Paper dated 5 March 2007.

- 5.3.1 **Submissions** – We have explained the difficulty in comparing broker fees and commission with other markets. ICCC should engage an insurance expert to compare our advise rather than to give the notion that it can be achieved but is not provided by the GII or the OIC.

The proposal to review the requirements for disclosure of broker’s fees and commissions should be done in close consultation with the GII.

- 5.4 **Accessibility of General Insurance to customers** – We encourage insurers to cover the customer needs as much as possible especially in the middle and lower income category for businesses and individuals. This can be achieved by conducting surveys and feasibility studies. However it is the insurer’s decision to cover the risks it wishes to insure. To direct insurers to insure risks not based on their commercial decision would affect their performance and profitability.

- 5.4.1 **Submissions** – We have explained the means used by the GII to provide customer and market information for general insurance products is through newspapers, radio, TV and internet. Apart from what is already available the ICCC should specify what further information is required so that the GII can assist further.

- 5.5 **Summary** – It has been assumed that the premium and returns could be high by international standards but it has not attracted large numbers of new players entering the market. We have advised that the GII has attracted new entrants over the years but probably not to the expectation of ICCC and other stakeholders.

We have explained that this is not possible because of the same market constraints facing the other sectors of the economy such as law and order, high cost of operations, bad media publicity abroad, deteriorating infrastructure, etc. For instance why is the Tourism industry not able to attract sufficient number of tourists despite its potential compared to other countries in the region.

- 6 **Current Regulation of the PNG Insurance Industry** – No comment

- 6.1 **Principles for the Regulation of the Insurance Industry** - We are applying some of the ICP. But to undertake all of the ICP will require additional funds and expertise we do not have inhouse. It should be bourne in mind the ICP are mostly met by developed countries because of their level of development, sophistication

of their market and skilled manpower and financial resources that are available to them.

We are applying most of the ICP, partially in most instances and therefore need enhancement especially ICPs 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25 and 26.

There is a cost of undertaking the ICP. The insurance industry will not be able to sustain the costs imposed by the ICP which will in the end be passed onto consumers through the premiums that will be paid. We have planned to undertake the ICP in a planned and manageable manner so that they do not impose unnecessary costs and burden on the system.

The major projects we are already undertaking namely, Risk Based Capital, Insurance Contract Law and PNG Insurance Complaints Tribunal will have an effect on the ICP. They would have an impact on the ICP 18,19,20, 21, 22, 23, 24,25,26.

We disagree with the assessment conducted by ICCC on the ICP because they did not discuss with us on the ICP and its impact on the Insurance Act. We find that we are complying with some of the ICP but better than ICCC assessment.

6.2 Legislation and Regulation – No comments

6.2.1 **Submissions** - We advise that the comments provided in the Issues Paper and Draft Report in most occasions are unclear. For instance there is no clarification or evidence provided on the Insurance Act (the Act) being broad in scope and lacks clarity in intent. The provisions of the Act which are broad and lack clarity should be specified.

Notwithstanding this we wish to advise that such clauses are often used in other legislations including the Insurance Act to cover any other relevant instances which may not immediately fall under any specific provision of any legislation. It is not unique to the Insurance Act and other legislations do have these clauses. To fully prescribe all of the necessary clauses or instances would make the Act or any other legislations become impracticable and unnecessarily bulky and cumbersome.

We have only found one (1) instance of a stakeholder making specific reference to the Act which we appreciate. Section 35(2)(h). **“the issue of any other directive considered necessary following the conduct of an investigation”**. This serves the purpose that after an investigation is complete there might a situation whereby the Commissioner may need to consider for the interest of policyholders and other stakeholders but is not included in the Act. Those trying to evade the Act might consider actions or situations not covered under the Act. It

must be understood that the Insurance Act or any other legislation only give a general framework for the respective legislation but not everything or every event that may arise under the respective clause of the respective legislation. To omit or overlook such provisions might render the regulator to be powerless. The other provision that was referred to is Section 53 .This relates to the **“Functions of the**

Tribunal”. The writer did not specify what is wrong with this clause. We wish to explain that in consultation with the PNG Insurance Council we have clarified the functions of the tribunal and other aspects through a “Terms of Reference” and “Administrative Procedures”. We are finalising the TOR and are currently working on the Administrative Procedures.

We do not fully agree with your comments on regulations to the Act. But you should bear in mind that the Insurance Act come into being in 1995, well before most of us joined the Office of Insurance Commissioner. However we have achieved similar results through the policy directives issued to the industry and Requirements for licencing. This is why the industry is vibrant, dynamic and growing and not stagnant and chaotic. This shows that the Insurance Act is relevant and appropriate to our industry. The GII is able to deliver services effectively but where it is not able to do so is because of similar constraints experienced by other sectors in the economy such as high cost of operation, segregated markets, level of economic growth, etc.

Much of what the GII can achieve is covered under the provisions of the Act and or circulars. Because of the absence of regulations does not render the Act to be incapable and void of its powers. It is my understanding that regulations basically cover clauses or formats which will not change for a long time or do not require constant amendments. Once specified in the regulations, any changes required will have to go back to Parliament and this will take a long while and losses and gains to insurers and policyholders cannot be remedied in time.

We have issued circulars but not to the extent previously exercised mainly because the Act at that time was new and therefore necessary to issue constant circulars. These circular are still in force and there is no need to reissue them because the issue that has been queried is the same. Most of the previous Principal Officers have been replaced over the years but are not aware of the circulars because their predecessors have failed to inform them.

As of the year 1999 we initiated monthly meetings with the GII to develop mutual working relationship and resolve matters of concern through dialogue rather than through correspondence. We believe this has been effective because it is necessary to identify and discuss the issue rather than surprise the industry with circulars in which they do not understand the basis of the instruction. But the

replacement of Principal Officers and other senior managers over the years has disrupted the communications between the GII and us. We have taken necessary action where we have agreed with GII at the monthly meetings. If the GII is not happy with the current arrangement, then we have no problems with issuing instructions regularly with or without their involvement.

There should be no ambiguity between the Life Act and General Insurance Act. This is why there are two (2) separate Acts in PNG and this is the same elsewhere around the world. The ambiguity between the Life Act and General Insurance Act were resolved through a Joint Management Committee in 2003. The JMC consisted of senior representatives of the LII. The respective regulators, Bank of PNG and OIC were closely consulted by the JMC.

- 6.2.2 **Discussion** – The major concern that we have the on the ICCC Issues Paper and Draft Report is evident here, that is, the ICCC has not meet with the various stakeholders to ascertain their queries or overlooked the advise from the stakeholders. The proposal to have appropriately skilled manpower and a unit within the Central Bank or the Ministry/Department of Finance or separate authority established for this purpose has not taken into account our comments at the workshop on 11 July 2007.

We have trained officers in insurance qualifications up to the level of Senior Associate of the Australia New Zealand Institute of Insurance and Finance and other necessary qualifications. I stated this at the ICCC workshop on 11 July 2007. To suggest that there is no appropriately skilled officers in the OIC is ill advised and misleading. The Draft Report is a public document and the ICCC should verify their information with us. As an insurance regulatory office it is first and foremost they we have insurance qualified personnel, apart from other qualified officers. We are finalizing a submission on an OIC restructure for more skilled officers and will submit this to the Department of Personal Management shortly.

The OIC is already under the Department of Treasury and Finance, including the Central Bank. Most financial institutions including OIC are aligned to support the efforts of the DF&T. To be out of the jurisdiction of DF&T will make coordination and cooperation difficult. To reshuffle this around would create wastage in time and money rather than undertaking necessary action to improve the GII.

On the other hand the Government has not agreed to the concept of a single regulator. The ICCC should not overlook this fact before it proposes concepts the Government has not agreed to. The concept of a single regulator is not a new idea. It was proposed sometime in the 1980's and has been shelved since then because

of obvious reasons. It is evident that it is a very expensive exercise not to mention the loss of time before it can be implemented. The regulation of GII and LII are different from SI. The GII and LI products are not realized until a loss occurs whereas SI is about retirement, invalidity and retrenchment. Thirdly sectors such as GII and LI would not get the same attention as under its own structure. SI usually get the priority of the regulator because of its systematic impact on the economy.

The regulations are specified in the Insurance Act and they relate to i) the forms to be used ii) fees to be paid iii) penalties for not conforming in i) and ii). As explained in Section 2.1, regulations are mainly for forms and fees which you feel that will not change for a long time. The insurance forms we use at the moment have not being specified in the regulations because we feel these will require further changes. We have not made any further changes to the licence fees so this has not being specified in the Act.

All in all the requirements of the regulations do not impede the OIC in the performance of its duties and functions contrary to ICCC evaluation. Most of the duties and responsibilities of OIC are covered in the main text of the Insurance Act.

We are applying some of the ICP. But to undertake all of the ICP will require additional funds and expertise. It should be borne in mind that the ICP are mostly met by developed countries because of their level of development, sophistication of the market and skilled manpower and financial resources that are available to them.

There is a cost of undertaking the ICP. The insurance industry will not be able to sustain the costs imposed by the ICP. The costs will be passed onto consumers through the premiums paid. We advised at the ICCC workshop of 11 July 2007 that we have planned to undertake the ICP in a planned and manageable manner so that the costs and burden on the system can be minimised .

Some of the ICP could be achieved through other means. The objectives could be achieved through Corporate Plan. What if Government want to change the objectives or the current objectives need updating because of changes in the market place. We do not need ICP for derivatives because we do not use derivatives at the moment. The ICP for fraud and money laundering are already covered by other existing legislations in PNG.

The existing legal powers under the Act are sufficient. But we may need to issue circulars to make them clearer. To adopt the ICP we need to have more financial and manpower resources.

The ICCC has not specified the specific clauses of the Insurance Act which are insufficient and lack clarity. We find that the comments from the stakeholder are more inclined to the Insurance Act rather than the ICP. The ICPs only came about in 2003 whereas the Insurance Act was established in 1995. Given this time lag we are now making efforts to undertake the ICP.

The incorporation of ICP in the Insurance Act should undertaken with the assistance of an expert who has insurance qualification and experience in both insurance practice and regulation. The credentials of the consultant should be disclosed to the public probably including its costs also. To cut costs to Government, donor agencies and financial institutions should be approached first.

This exercise should be undertaken by the OIC because we are already familiar with GII.

- 6.3 **Office of Insurance Commissioner** – The allegations made in this section as well as others do not specify the broad provision and wide interpretation of the Insurance Act, poor supervision, breaches of the regulatory requirements and inconsistencies in dealing with industry participants, need for sophisticated and data processing systems. The issues raised here is a resemblance of an industry which is stagnant and chaotic. Fortunately the GII is competitive and is able to deliver services to policyholders.

Our open and transparent working relationship in monthly meetings with the GII has enabled the OIC to work productively with the GII where major issues affecting the industry are resolved. Prior to the monthly industry meetings, the issues of the industry are discussed with their members first before they are brought to the attention of the OIC. Hence issues which the GII still have problems with are of their own self interest and is probably not rife in the industry.

We have taken action on those matters brought to our attention. In areas we feel we sought seek legal clarification before action is taken are referred to the State Lawyers. We often experience long delays and action by the OIC may not be forthcoming as expected.

In most cases we are not able to respond to the allegations is because necessary evidence to support the allegations has not being provided. We need evidence such as the ones on concerns regarding Section 35(2)(h) and Section 53 of the Act. In most cases the OIC undertakes certain actions because we feel it is the best course of action under the Insurance Act. We have explained our position in Section 2.1 of the Report.

6.3.1 **Submissions** – The Draft Report has made references that the powers of the Act should be precisely defined to ensure certainty to the industry, there should be appropriately skilled resources to enhance regulation and supervision and enforcement of breaches to the Act, improve data collection to ensure timely information to the industry and transparency and accountability of the levy is required.

The Draft Report has not specified the relevant clauses that should be defined to ensure certainty to the GII. We have raised this concern in the Issues Paper but this has not been addressed in the Draft Report.

We find only one instance where a stakeholder has defined the clauses that are deemed to be broad and interpreted widely. References were made to clause 35(2)(h) and clause 53. We provided our explanation in Section 2.1 above.

We do have appropriately trained and skilled staff at the Senior Associate level of ANZFII. Because we are an insurance regulator it is necessary that we have appropriately skilled staff trained in insurance. We do not understand the type of skilled staff the ICCC referring to. ICCC should have met with us to explain our structure rather than publicly criticize us. Our staff morale has been affected.

We have trained staff for investigative skills, management and leadership, corporate governance, finance for non accountants, computer skills, seminar and conferences in insurance, internship with the Australian regulator, Australian Prudential Regulatory Authority, etc. As for other skilled staff such as lawyers, accountants and financial analyst, etc we could not have a structure accommodating them because of Government policy on downsizing the public service to cut costs of the bureaucracy. Apart from this we have staff turnover problem and delays in recruiting new staff. We are finalising an Office structure which will incorporate some of these skills we do not have at the moment. Hopefully the Department of Personnel Management will approve our proposal.

We believe we are supervising and enforcing breaches of the Act. We have prevented money scheme operators from entering the GII and have taken action on other breaches to the Insurance Act once reported to us. We have engaged the public prosecutor to prosecute on our behalf because we do have powers to prosecute directly. We do not understand what more we have to do to demonstrate to prove that we are enforcing the Act. We seek legal advice where necessary before we enforce the Act because we do not want to act outside of our powers. This is necessary because the Government has insurmountable losses in legal claims and so far we have not incurred such losses.

The type of information we produce at the moment is sufficient to comply with the Insurance Act. But we would appreciate that the industry and other stakeholders can specify the type of data required so that we do not produce unnecessary information which the stakeholders may not use at all. There will be costs in producing this information as the industry will either introduce or adjust their systems to produce the information required. We need to have additional skilled staff to produce timely reports. In the meantime we have contracted external parties to speed up production of timely reports.

The process and procedure for the accountability of the levy has been explained to the industry and other stakeholders previously. The Minister for Treasury approves the budget before it is implemented. Monthly reports on the levy are sent to the Department of Finance & Treasury and it is included in their audits. We are up to date with this requirement. The levy will be apart of our annual reports and we have engaged external parties to speed up the process.

One of our major responsibilities is resolving of consumer complaints. The ICCC review makes no mention of this. This activity takes a lot of our time and it will intensify once an Insurance Complaints Tribunal is established. Solving of complaints either from policyholders or third parties is an essential part of an insurance regulator's responsibilities.

- 6.3.2 **Discussions** - We agree with the IAIS principles that will assist the OIC to have adequate powers, legal protection and financial resources to exercise its functions and powers. Further it should be independent and accountable in the exercise of its functions and powers. This proposal will require further financial and manpower resources to undertake.

We have staff we feel that have professional and ethical standards essential for effective supervision. We are constantly training staff in various areas to maintain their level of skills. We are concerned that the ICCC has not conducted an interview or sought information from the OIC to verify that the OIC lacks professional and ethical standards essential for effective supervision. We feel that the actions of ICCC has a negative effect on the image and integrity on the OIC.

We have transparent and consistent decision making process and procedures in our dealing with the GII in that most of the instructions we issue are always in consultation with the GII. However we feel we need to disclose our actions and achievements to the public.

The Insurance Act is effective but we agree that it can be further improved through clarity provided through the circulars and adoption of ICP.

It should be first understood that the main contents of the Insurance Act and circulars provide the main thrust of the Act. The regulation is mainly restricted to the Forms and Fees for the Act.

The objectives of the GII can be achieved through Corporate Plans but we can make this explicit in the Act. The process for supervision and enforcement of the Act is sufficient but needs to be improvised through circulars and inclusion of the ICP.

6.4 **Licencing**

The issuance of provisional licences is to enable insurance companies to provide the information required by the OIC in full. We will not licence any insurance company whether a reinsurer, insurer, broker or loss adjuster unless they are in full compliance of the licence requirements. As most, if not all of the information is eventually provided we could face a court challenge by the insurance companies concerned. We have decided to seek the Department of Justice and Attorney Generals opinion on the concerns of the GII before we affect licences of the concerned companies and undertake the penalties under the Act. Todate we have not received any response from the DJ&AG.

There is no ambiguity between the LII and GII and we are prepared to resolve this with the LII regulator as advised at the 11 July 2007 workshop. That is why we have two (2) different Acts for these sectors. Basically LII is mainly about benefits to loved ones after the death of a bread winner. GII is basically about recovery of one's assets or possessions. The only difference is in some of the policies such as medical , funeral, and disability. We clarified our position on these in 2003 to the JMC and other concerned parties. Our position is that LII and GII can both write these policies up to the parameters we defined. This practice is similar in other jurisdictions as well. This will enable policyholders to have the benefit of choosing from a wide range of insurance companies for their insurance requirements.

6.4.1 **Submissions**

We note that you agree to admitted market status because of its inherent benefits.

We have explained in the Issues Paper that we will do away with annual licencing as soon as we establish an inspection branch in the OIC. This is because the current annual licencing requirements helps us with the duties of regular inspection of the GII. We have restructured our Office and included an inspection branch which we will submit shortly to the Department of Personnal Management

for approval. We could not achieve this earlier due to direction of Government to downsize the Public Service.

It is not entirely true that the Act does not provide a scope for provisional licence. The OIC is empowered under the Insurance Act to provide this. To ignore the circumstances for issuing provisional licences whilst a legal clarification from the DJ&AG is pending could invoke a legal challenge from those insurance companies whose licences will be affected. It must be understood that revoking a

licence will make shareholders lose their entire investments in the GII and that policy holders will not benefit from the policies they paid through premium. The GII will be looked upon as defrauding policyholders and the integrity of the industry will be tarnished. Provisional licences are only issued to existing licence holders. No provisional licences are issued to new entrants.

We have provided our Licence Requirements to the ICCC but find that the ICCC may not have read the information we provided. We do not assess a Principal Officer based on insurance qualifications only. We require the incumbent to have a minimum insurance management experience of ten (10) years. We require a Curriculum Vitae to further assess the details of work experience and ascertain the insurance qualifications. We confirm the applicants credentials with the referee cited and we meet the applicant before we consider our approval. Through this process we do check the applicant's competence, character, diligence, honesty, integrity and judgment.

There is no ambiguity between the LII and GII. That is why we have two (2) different Acts for these sectors. Basically LII is mainly about benefits to loved ones after the death of a bread winner. GII is basically about recovery of one's assets or possessions. The only difference is only in some of the policies such as medical, funeral, and disability. We clarified our position on these in 2003 to the JMC and other concerned parties. Our position is that LII and GII can both write these policies up to parameters we defined. This practice is similar in other jurisdictions as well so that policyholders will have the benefit of choosing from a wide range of insurance companies for their insurance requirements.

We licence Lloyds of London because it is a requirement under the Insurance Act. To do otherwise would be in breach of the Act. Firstly it must be understood that Lloyds of London is not a company. Lloyds is a market and therefore it cannot be subject to all the conditions of licence applied to all other licenced companies in PNG. Lloyds consists of group of companies that have a common interest.

The information provided by Lloyds is not in the same format provided by other insurers because it is market and not a specific company. We will only agree to licencing Lloyds and apply the same conditions as other licenced companies if a syndicate or specific company of Lloyds applies for a licence.

6.4.2 Discussions

We do comply with IAIS Core Principles that an insurer whether domestic or foreign entities must be licenced by the OIC before it can operate in the market place. Our Licening requirements and criteria are clear, objective and public. We have provided a copy of our Licence requirements to the ICCC.

We do not licence Life insurance companies because they are under another regulator, Bank of PNG.

The consideration of a licence occurs within a reasonable time of four (4) to six (6) weeks. No licence is issued without the Commissioner's approval.

We monitor performance of insurance companies through quarterly insurance returns provided by the GII. We are empowered to undertake inspections and investigations through Section 33, 34, 35 and 38 of the Insurance Act. We have undertaken both major and complaint related investigations. As advised earlier we hope to undertake routine inspections once we have restructured our office.

We currently undertake annual licences because it assists us in conducting routine inspection whilst our structure for inspection is not in place. We will convert to a multi year licence once the structure for an inspection branch is in place.

We have explained that earlier that we have provided our Licence Requirements to the ICCC but we note that the ICCC has not cited the information we provided. We do not assess a Principal officer based on insurance qualifications only. We require the incumbent to have a minimum insurance management experience of ten (10) years. We require a Curriculum Vitae to further assess the details of work experience and ascertain the insurance qualification. We confirm the applicants credentials with the referee (s) cited and we meet with the applicant before we consider our approval. Through this process we do check the applicant's competence, character, diligence, honesty, integrity and judgment. We believe this conforms to the fit and proper assessment of the principal officer.

6.5 Prudential Requirements

We provided the information on the statutory deposit and solvency test to ICCC but they have been misinterpreted this under the Statutory deposit. The solvency test for reinsurer is K20 million or 15% of net premium income of the previous

year. The solvency test for insurer is K2 million or 15% of the net premium income of the previous year.

The role of the Actuary is specified under Section 33 whereby it states that if the financial interests of the policy holder, shareholder or creditor of a licenced insurer is in jeopardy, the licenced insurer will be directed by the Commissioner to engage an Actuary to undertake an investigation and produce a Report.

However the OIC will not hesitate to use actuaries in specific instances in which it feels that the solvency and pricing of products is not sufficient to cover claims payment adequately.

PNG does not have any local actuaries. This expertise has to be hired from abroad and this makes it to be a very expensive exercise.

The engagement of actuaries will be further considered in the Risk Based Capital project currently undertaken by the OIC.

It should be clearly understood that when an insurer or reinsurer place risks offshore it is because the capacity of the licenced insurer and reinsurer has reached its maximum limit to insure that particular risk. For an insurer to ignore its capacity will jeopardise the policy holder interests whereby the insurer will not be able to pay its policyholder claim if a loss occurs. The same issue applies to the reinsurer's obligations to insurers if claims of insurers occur.

Multinational companies operating in PNG insure their risks through their parent company's global arrangements. The insurers or brokers do notify the OIC that a risk has been placed under a global cover. The effect of this is that it is not a cost to operations in PNG and therefore not a burden to PNG consumers. The loss to PNG is that potential tax revenue is lost.

We need to align our Tax laws to capture this issue so that multinational companies will comply. We initiated action to remedy this issue sometime ago but could not continue when our contact at Internal Revenue Commission left due to expiry of contract and our officer concerned vacated his position for greener pastures. We need to revisit our initiative on global covers of multinational companies in PNG with IRC and involve other stakeholders. However we need to carefully weigh out our benefits from tax and the cost implication to business and policyholders in PNG.

The current arrangement in regard to offshore exemption process operates effectively in regard to the 17.5% price differential. This requirement helps to retain business for licenced insurers and it assists in developing a strong, stable

and viable insurance industry for the country. We do consider all cost factors such as premiums, commissions, and other fees and charges.

Section 36 specifies that all risks in PNG must be placed with a PNG licenced insurer or reinsurer. Unless due to lack of capacity and/or underwriting criteria of the insurer is not able to insure the risk then an exemption is sought under Section 37 to insure the risk abroad.

If any of the licensed companies is placing risks or business offshore without going through the exemption process, it is in breach of Section 36 of the Insurance Act. The penalty is a fine not exceeding K50,000.00 or an amount equivalent to the gross annual premium of that risk whichever is greater.

All insurance companies are compliant with this requirement due to effective regulation by OIC. We discourage illegal operators both insurance companies and non insurance entities from overlooking this requirement as they will face the consequences of their actions. We have acted upon unlicensed insurers and broker/agents in PNG.

6.5.1 Submissions

The review of minimum capital requirements and statutory deposit has been advanced under the Risk Based Capital project which is currently in progress.

We will use actuaries as required under the Insurance Act.

The Risk Based Capital project is part of the ICP and will assist in achieving ICP 18, 19, 20, 21 and 23. We note the concern on availability of data but we hope to source this from the GII if it is not currently available.

We note your comments on the entry of new entrants.

We have recently issued a circular on Offshore Exemption Guidelines and Procedures to further enforce the evaluation of risks for offshore exemption process. This will further clarify the offshore exemption process and ensure all costs of the risks are covered, including regulatory costs.

The Insurance Act does not allow insurance covers to be placed offshore without the approval of the Commissioner. Such placements are illegal and penalties apply. We have acted on companies we deemed to have breached the Act. The complainants should report illegal practices to the OIC, so that we can investigate such problems.

The intent of the 17.5% price differential is to support companies licenced in PNG irrespective of their ownership whether foreign, national or joint venture. The licenced companies support Government objectives of employment, technology transfer, tax, etc whereas unlicenced do not meet the costs of such activities.

6.5.2 Discussion

We feel that we are enforcing the requirements of the Act but we need to improve the clarity or sufficiency of the Act through circulars or policies. We agree to having further prudential requirements in risk assessment and management, technical provisions and other liabilities, management of investments and derivatives. The views of all stakeholders should be sought. We need to be

supported with additional funding and expertise we do not have inhouse. We wish to have external consultancies who have insurance industry experience and insurance regulatory experience who can assist in guiding us to establish the prudential requirements.

6.6 Future Regulatory Arrangements

We invited the Bank of PNG to be part of the proceeding on Insurance Contract Law project but they have not expressed their interest for the law to include LI.. The project is delayed due to approval from the Department of Justice and Attorney General on the approval for the second seminar.

We agree with your comments on the Risk Based Capital and PNG Insurance Complaints Tribunal projects.

6.6.1 Submissions

The Insurance Contracts Law project will not be in the format of the Australian law. We will ensure it captures the feature of the PNG market through the first seminar we have conducted and comments from the stakeholders have been incorporated into first Draft Bill. The Draft Bill will be introduced at the second seminar and further input from the stakeholders will be sought.

6.6.2 Discussion

No comments.

6.7 High Level Assessment Against Principles

We disagree with the stakeholders feed back and Review's analysis. We would have appreciated if the ICCC consulted with us on the ICP. This is because we may not fully implement the ICP but we do implement most of the ICP partially.

6.8 Summary

The examination, redrafting of existing legislation and development of supporting legislation and regulations will require additional funding, manpower and other necessary equipment and facilities.

This exercise should not be distracted by engaging external expertise either from PNG or outside to assist in this project but we should have our inhouse requirements in order also.

In other countries where such a program has been undertaken it was complimented with a program for necessary training of nationals in insurance regulation and qualifications. This will lessen our expenses for consultancy and that we assume responsibility of regulation of the GII with confidence.

This program extended to training of actuaries for the regulatory office. If we want to achieve the maximum benefit for the country it is about time we look into the challenge to train and develop PNG actuaries. Actuaries are specially trained and skilled personnel with expertise in insurance, pensions, healthcare, banking, business management and risk management. At present there is not even one single PNG actuary to my knowledge. To develop our financial sector such expertise in the GII is necessary.

Secondly if we do engage external expertise we should engage consultants with insurance qualifications and regulatory experience, preferably with an actuarial background. We should be open and transparent and reveal this information to the public. If this requirement is not met then we are not getting our money's worth.

Alternatively we propose that the implementation of the ICP should be undertaken in a planned and managed manner. That is, we should undertake the ICP in accordance with our limited resources and in terms of the impact of the ICP on the GII.

7 Issues

The Insurance Act is serving its purpose by developing a strong, viable and competitive insurance industry. But we agree that it should be up dated to address some of the deficiencies and problems mentioned above.

We need to be adequately resourced in terms of funding and especially skilled manpower which we do not have at the moment to undertake the changes. We do not want to be totally depended on external consultancies even after the changes to the legislation and regulation are in place.

We need manpower with skills which we do not have at the moment such as lawyers, accountants, etc. We need an effective training program to undertake the tasks required under the ICP including training of actuaries so that we can effectively carry on the supervision of the GII after the legislation and regulations have been enacted.

7.1 Options for a Future Regulatory Model

We approve of your proposal for the OIC to undertake the ICP to improve regulation of the GII. Our comments on your options are as follows:

- i) **OIC with appropriate regulations, guidelines and standards** – We approve of this option because we are already undertaking steps to comply with ICPs. To be under another regulatory structure will delay our ongoing efforts. There will be disruptions caused by legislative and administrative arrangements that have to be sorted out to be recognized under a new structure.

We need a period of five (5) years to prepare ourselves under the ICP before we consider the option for a single regulator.

The GII is already strategically located under the Department Treasury so that we can support the efforts of the Department of Treasury in its efforts to develop the financial sector and other sectors as well.

- ii) **Central Bank to assume responsibility for regulation of the GII** – The Governor of Bank of PNG has expressed that “it had sufficient work load on it hands and was willing to devolve regulation of LII to another regulator”.
- iii) **New regulatory authority** – We understand the efforts undertaken to comply with ICPs applies also to the LII and SI. To bring the concept of a single regulator whilst the main objective is apply the ICP will only disrupt the efforts already in progress.

There should be further information available on this concept so that we can appreciate it. There should be information on the costs and benefits of this concept covering its funding, manpower requirements, impact on all stakeholders, etc.

Apart from the above we feel that the proposal for a single regulator is outside of the terms of reference for the Review of the GII. We emphasized this in Section 2.2.

7.2 Stakeholder Feedback

Our understanding of the Bank of PNG at the 11 July 2007 seminar was that they wanted to devolve their involvement in the regulation of the LII. Therefore it is misleading for the ICCC to state that the Bank of PNG expressed an interest to assume responsibility for regulation and supervision of both LII and GII.

7.3 Recommendation

We wish to restate our position in Section 2.2 above. We disagree that there be a joint legislative review which should consider the supervision and regulation of the Life Insurance Industry and Superannuation Industry. The Review undertaken by ICCC is only for GII and it does not cover problems encountered in the other financial sectors. The ICCC should respect what the Government has tasked it to do and not include other industries it has not being tasked to review. The LII and SI are separate industries and are not part of the GII review.

From the fourteen (14) responses that were received by the ICCC only two (2) comments were made in reference to a single regulator. Eighty six percent (86%) did not support this proposal. There is no response for a joint review of legislation for LI, SI and GII. One hundred percent (100%) did not support this proposal. Therefore the proposal for a new regulatory structure and a joint review is not justified.

The proposed implementation of improvements for the GII will be further delayed if the review has to cover LII and Superannuation. The issue is that ICCC has not been mandated by Government to undertake reviews of the LII and SI in the same way as it was directed by Government to review the GII. It is only after a Government direction that the ICCC can confirm if a review is required for LII and SI.

It should be borne in mind that LII and SI legislations only came into being in 2000 and they need time to demonstrate their effectiveness. Otherwise a review without assessing its competitiveness and service delivery effectiveness for a minimum period of ten (10) years would overlook the fact whether it is compliant or not.

The Government has not agreed to the concept of a single regulator. The ICCC should not overlook this fact before it proposes concepts the Government has not agreed to. The concept of a single regulator is not a new idea. It was proposed in the sometime in 1980's and has been shelved since then. It is evident that it is a very expensive exercise not to mention the loss of time before it can be implemented. The regulation of GII and LII are different from SI. The GII and LI benefits are not realized until a loss occurs whereas SI is basically about retirement, invalidity and retrenchment. Another disadvantage is that sectors such as GII and LI would not get the same attention as under its own structure. SI usually get the attention of the regulator because of its systematic impact on the economy.

In view of the recommendation by the ICCC to consider a joint review of legislations and regulations for GII, LII and SI in the fourth quarter of 2007 is not supported. This is because the proposal of a joint review of legislation for GII, LII

and SI is not part of the review of GII. The LI and SI are different industries therefore demand separate reviews. Given the fact LI and SI only came about in 2000 these industries need to assess their effectiveness for competition and service delivery performance under their respective legislations. The ICCC has overlooked the fact that the review of GII does not authorize it to make recommendation for LII and SI. These industries are under a separate regulator, Bank of Papua New Guinea and they should be reviewed separately to determine as to how they have fared in terms of competition and service delivery since 2000. It is unfair and misleading to propose the concept of a single regulator based on a Review of GII only.

If you have any further queries on the above do not to hesitate to contact the Office of Insurance Commissioner at the above contact addresses.

Yours sincerely,



Salamo Elema Insurance
Commissioner

