

**SUBMISSION BY TOWER ON THE
REVIEW OF THE GENERAL INSURANCE
INDUSTRY IN PAPUA NEW GUINEA**

INTRODUCTION

TOWER Insurance (PNG) Limited is a general insurer registered in Papua New Guinea under the Insurance Act 1995. TOWER Insurance (and its predecessor Southern Pacific Insurance) has operated in PNG since 1980. TOWER Insurance is a wholly owned subsidiary of TOWER Insurance Limited in New Zealand, itself a member of the TOWER Limited, one of New Zealand's largest financial services providers.

TOWER Insurance (NZ) also operates in New Zealand, Fiji, Samoa, American Samoa, Tonga, Cook Islands and Solomon Islands. As such, like QBE, which also operates widely in the South Pacific, TOWER Insurance has extensive knowledge of the operation and regulation of insurance in such jurisdictions. TOWER's overall view is that robust regulation of an insurance industry is imperative to avoid unethical insurers from entering the market. Insurers must have incentives to stay in PNG "for the long haul" and not enter, make quick profits, and then exit. TOWER Insurance believes that the current regulatory regime achieves this.

On the other hand, in relatively (compared to say Australia) smaller jurisdictions it is important that regulation does not stifle business or drive ethical insurers out. In this respect, TOWER Insurance believes the following are of primary importance:

- TOWER Insurance supports the current solvency and supervisory controls and does not believe this needs to be altered;
- TOWER Insurance supports the current OIC structure and believes that it provides a sound regulatory control framework;
- Any powers given to regulators need to be precise and prescriptive. Currently there are powers that provide for very wide discretions (such as section 35(2)(h) and section 53). TOWER Insurance believes that such wide powers create unnecessary uncertainty and confusion as to the role of the OIC;
- TOWER supports the establishment of a disputes resolution process. However any such process must contain the following elements:
 - The primary role of the tribunal should be to facilitate resolution, with rulings as a last resort;
 - The tribunal must have a fixed monetary jurisdiction;
 - The tribunal must be limited in jurisdiction to claims disputes. It is fundamental to a free market that insurers must be free to insure whomever they wish and the premiums they charge and TOWER Insurance submits that it would be inappropriate for tribunals to have power to dictate terms or rates for insurance;
 - The tribunal must be bound to follow legal principles;
 - There must be a right of appeal on fact and law.

SPECIFIC QUESTIONS

The Commission seeks comments on the following:

- Does the current Insurance Act 1995 provide an appropriate legal framework for the efficient operation of the industry?

Yes.

- Are the current regulatory responsibilities of the OIC appropriate?

Yes, however TOWER believes that it is important that any powers provided to regulators must be precisely defined so that there can be certainty in the industry as to the extent of such powers.

In particular, in relation to the acceptance of the insurer's principal officer, the OIC has historically placed significant and perhaps dominant emphasis on qualifications rather than competence or capability. TOWER believes that the issue of formal qualifications should not receive such priority in approving appointments. In the insurance industry, there are many executives who have significant knowledge and ability without necessarily having formal insurance qualifications. The Australian regulator does not place such emphasis on formal qualification. APRA requires that the person "competence, character, diligence, honesty, integrity and judgement" to properly perform the role. TOWER believes that these criteria should be adopted by the OIC.

- Is the OIC sufficiently and appropriately resourced to carry out its responsibilities?

Unable to comment although the delays in releasing annual consolidated industry statistics could be the result of under staffing

- Is the current reporting and provision of industry information by the OIC timely and sufficient to meet industry and community needs?

If this is referring to the release of consolidated information then no it isn't..

- What are the advantages and disadvantages of retaining an admitted market in PNG?

TOWER Insurance assumes this relates to the requirement for an insurer to obtain a licence to operate in the country. If so, then the advantage is (providing the licence requirements are always met prior to a licence being granted) that there is a level of comfort provided by the fact that insurer has adequate financial (solvency prior to commencing operation. An admitted market means that some level of controls can be maintained to ensure that "fly by night" insurers do not set up in the country.

- Are current licensing arrangements appropriate (e.g. annual licensing, licensing of loss adjustors, etc) and are they an impediment to competition or new entrants?

License renewals should be on a gradual basis i.e. new start up companies should be required to re-licence each year for say the first 5 years then it is gradually widened to say issuing a licence for 5 years for a company that has successfully operated in the country for a period in excess of 15 years.

- Should the practice of issuing "provisional" licences continue?

We don't see any problems with this provided it is for a short term only 3-6 months but with no further extensions while the OIC is trying to clarify something. The OIC needs to have in place fool proof procedures to ensure no company operates without a licence.

- Are there alternatives to licensing that could be considered for some or all categories of participants?

The current system works well.

- Should the current restriction on general insurers writing life or life related business be relaxed and what would this mean for industry regulation?

Life assurance is different from general insurance but the regulations should not be so onerous for existing general companies that have operated in PNG for a number of years and have a good track record. For new start up companies the current restrictions are appropriate.

- To what extent does the Insurance Commissioner apply the licence requirements uniformly for foreign and national companies?

Both foreign and national companies must be treated exactly the same. We have no knowledge that this is not being done currently.

- Are the minimum capital requirements and statutory deposits set at the appropriate level for each category of insurance market participant?

We see no reason why they should be changed.

- How do current prudential requirements impact new entrants?

It is imperative that new entrants are treated the same as existing underwriters.

- Is administration and monitoring of current prudential guidelines in the industry generally effective and even-handed?

TOWER Insurance believes that it is.

- Is the role and involvement of actuaries in the prudential supervision of licensed insurers appropriate and sufficient?

It is important to use actuaries to review long tail business i.e. workers compensation to ensure reserving and pricing is adequate, however the use of actuaries for other portfolios in general insurance is unwarranted. It is important that annual accounts are audited by independent auditors who would tag any accounts if they were not in accordance with current accounting practices.

- Would a risk-based approach to prudential supervision be more appropriate?

We can see no valid reason why the existing prudential supervision needs changing.

- Do current arrangements in regard to offshore exemption business operate effectively (particularly the 17.5% price differential)

TOWER Insurance believes that they are.

- The level of insurance, if any, written offshore in breach of Section 36 of the Act and does not go through the exemption process.

We are unsure as to the level of these breaches or why there would be any. Trans-national companies insuring operations as part of global packages is common practice – enforcement of the Act provisions will be difficult in these situations and no doubt the

premiums paid by these companies are significantly lower than what can be quoted locally.

The Commission seeks comments on:

The proposed introduction of the following:

- Insurance Contract Law

We understand the details of this proposed legislation will continue to be reviewed in 2007. It is hard to comment when details are few. We further understand there is a second Insurance Contract Law seminar scheduled for 31 July 2007 – it would be more appropriate to make comment after this seminar. Notwithstanding, we have already made comment that the proposed Insurance Contract Law template is being taken from Australia, which is a far larger and more sophisticated market than Papua New Guinea. To introduce a legislative, prudential and administrative regime that would be too regulated, cumbersome and onerous on those operating in the industry, would be a mistake.

- Risk Based Capital requirements

As a prudential regulatory measure a structured Risk Based Capital requirement can be very effective. However, we must again bear in mind the size of Papua New Guinea's economy, the size of the insurance industry and the participants in the industry. If more stringent capital requirements are placed on industry participants this may render some, especially smaller participants, unable to comply and thus forced to exit the market and/or country.

- Insurance Complaints Tribunal

TOWER Insurance supports this proposal, subject to the following:

- *The primary role of the tribunal should be to facilitate resolution, with rulings as a last resort;*
- *The tribunal must have a fixed monetary jurisdiction;*
- *The tribunal must be limited in jurisdiction to claims disputes. It is fundamental to a free market that insurers must be free to insure whomever they wish, and the premiums they charge and TOWER Insurance submits that it would be inappropriate for tribunals to have power to dictate terms or rates for insurance;*
- *The tribunal must be bound to follow legal principles;*
- *There must be a right of appeal on fact and law.*

- The impact of these measures on the current operation of the PNG general insurance market.

There appears to be quite a lot of review and industry initiatives currently in progress. The impact of these measures, if all implemented over time, would be substantive. As suggested at the beginning of this submission, TOWER Insurance believes that Papua New Guinea currently has a robust and adequate regulatory and prudential regime. That is, given the size and level of sophistication of its market.

- Is the PNG reinsurance market working effectively?

From our point of view it works effectively.

- Does Pacific Re Ltd offer viable reinsurance in-country?

TOWER Insurance supports Pacific Re and they are significant participants on our global treaties which cover our operation across 8 countries including PNG. Because of their size we would not be prepared to provide them with anymore capacity on our treaties. We also use Pacific Re for facultative reinsurance for risks in many of our countries of operation.

We would not support having separate treaties for PNG alone in fact it would probably make our participation in PNG unviable. It would certainly mean that Pacific Re would lose a lot of income from our reinsurance if they only participated in PNG business. It is most doubtful that Pacific Re would ever have sufficient capacity to meet the requirements of the total PNG market.

- What is the level of compliance with the Article 36 of the Insurance Act in regard to reinsurance?

TOWER would exceed the compliance requirements under Article 36 in regard reinsurance placements with Pacific Re.

- Is there sufficient competition amongst the existing insurance companies to provide an effective and efficient general insurance market?

In comparison with other markets that TOWER operates in the Pacific area PNG would have more companies on shore than any others. Competition is fierce to say the least. We believe if competition was any stronger it would force some existing players to exit the market.

- What areas or products would benefit from enhanced competition?

None to our knowledge.

- How could the capacity of existing insurers be increased to limit the premiums place offshore?

From TOWERS point of view we could not accept any additional capacity. If the likes of Pacific RE could accept more reinsurance on a facultative basis this would help. They would however have to purchase reinsurance off shore so the end result is the premium for these higher risks would still flow off shore.

- Are the existing insurance brokers and loss adjustors adequately skilled and experienced to meet the needs of the market?

TOWER Insurance does not have a lot to do with brokers so is unable to comment on this area. In respect of adjusters they have adequate skills for run of the mill claims but skilled investigators and adjusters for large and technical claims this expertise is still

required to be brought in from off shore. We would not think it would be viable to employ these experts on shore.

- Is there adequate competition in the market for insurance brokers?

TOWER Insurance does not have a lot to do with brokers so is unable to comment on this area

- Is there adequate competition in the market for loss adjustors?

Yes we believe so. PNG is not really big enough to support any more.

- To what extent do existing arrangements support the expansion of the PNG insurance industry, either through new entrants or increasing the capacity of existing operators?

TOWER currently operates in PNG underwriting similar risks as it does across the Pacific. We do not have the expertise nor do we wish to increase our capacity. We may wish to underwrite life assurance in PNG during the next 3-5 years- however the current requirements make this unattractive at this stage.

- What other steps could be taken to expand the industry?

None that we can think of.

- Do premiums reflect risk or market concentration?

In the areas we operate in the premiums currently reflect the risks however the market is becoming very soft. But this could change over the next 12 months. PNG is a country that suffers from law and order problems, it is in an earthquake and volcanic eruption area and is exposed to tsunamis. These are all risks that must be built into premium rates.

- Are premiums for similar risks categories comparable to other markets?

They are very similar to the other countries we operate in across the Pacific.

- Are the terms of coverage offered by insurers considered appropriate?

Yes although TOWER, like other underwriters, is constantly monitoring the situation and may, if necessary, further reduce the cover provided for law and order related losses.

- Are there risks that are not insured by the general insurance industry?

Refer comments on riot above. We are also very selective in providing volcanic eruption cover.

- Is the current Insurance Commissioner's levy necessary and if so, used appropriately and adequately accounted for?

We are unable to comment on this as we are unsure what it is entirely used for. As good business practice the OIC should produce annual accounts that the insurance industry can read and be assured that the income derived is being used to achieve the goals of the OIC. This is not currently happening to the satisfaction of TOWER Insurance.

- Should the current licensing arrangements for Lloyds of London continue?

The tax should be the same across the board for all non resident companies.

- Are fees / brokerage for similar services comparable to other markets?

Yes as far as we are aware they are similar to the industry across the Pacific.

- Does market concentration have an impact of fees / brokerage charged?

No

- Is there an appropriate level of disclosure of broker fees and brokerage / commission?

In most developed countries more disclosure of brokerage fees is starting to come in. We understand Australia has more disclosure and New Zealand will be bringing it in during the next few years. There are no statutory disclosure requirements in the other Pacific countries we operate in, although world wide regulators are moving towards more disclosure.

- From the perspective of the customer, how efficient is the process for accessing general insurance?

Our customer satisfaction surveys would indicate accessing is good.

- Are there appropriate levels of price transparency in the general insurance market?

They are the same as all the markets we operate in.

- Is there sufficient market information in relation to the availability of general insurance products?

Most insurance companies advertise in a mixture of media across PNG.