aml

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Sent: Friday, 3 December 2021 12:33 pm
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Subject: Submission on review of the Anti-Money Laundering and Countering Financing of Terrorism Act
Attachments: image002.emz; image004.emz; image006.emz; ICNZ submission on AML 031221.pdf

Ahiahi pai,

Please find **attached** ICNZ's submission to the consultation on the review of the Anti-Money Laundering and Countering Financing of Terrorism Act dated October 2021.

Ngā mihi,

[redacted]
Regulatory Affairs Manager
Insurance Council of New Zealand
[redacted]

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Te Kāhui Inihua o Aotearoa

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3 December 2021

By email: aml@justice.govt.nz

AML/CFT Act consultation team
Ministry of Justice

Dear Sir/Madam,

Review of the Anti-Money Laundering and Countering Financing of Terrorism Act

Thank you for the opportunity to submit on the Ministry of Justice's Review of the Anti-Money Laundering and Countering Financing of Terrorism (**AML/CFT**) Act consultation document dated October 2021 (**consultation document**).

By way of background, the Insurance Council of New Zealand - Te Kāhui Inihua o Aotearoa (**ICNZ**'s) members are general insurers and reinsurers that insure about 95 percent of the Aotearoa New Zealand general insurance market, including about a trillion dollars' worth of Aotearoa New Zealand assets and liabilities. ICNZ members provide insurance products ranging from those usually purchased by individuals (such as home and contents, travel and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability, business interruption, professional indemnity, commercial property and directors and officers' insurance).

Please contact Nick Whalley (nickw@icnz.org.nz) if you have any questions about our submission or require further information.

This submission has three parts:

- overarching comments
- answers to questions 2.28 to 2.30 of the consultation document, and
- other comments on the consultation document.

1. Overarching comments

We support the purpose of the AML/CFT regime to combat the use of the financial system to launder money and finance terrorism. However, the application of this regime must be proportional and risk-based, and when viewed in that context, any inclusion of general insurance within this regime would be unnecessary and inappropriate. This reflects that:

- The risk of money laundering and terrorist financing associated with general insurance is minimal and accordingly there is no evidence of a problem to be solved in this context.
- If general insurance was ever brought within this regime this:
  - would be an unhelpful and very costly diversion away from areas which pose significant harm
  - likely make on-boarding and claims processes longer and more cumbersome, and
  - could negatively impact insurance uptake and its affordability and availability.

- Including general insurance under the AML/CFT regime would be inconsistent with relevant principles, guidance and common practice abroad, including the approach in Australia, where general insurance is not covered due to the burden on the industry being assessed as excessive relative to the risk involved. We also note that the Financial Action Task Force's (**FATF**) recent review of the New Zealand's AML/CFT regime concluded that no change to the treatment of insurance is warranted and that the broader insurance sector is low risk.

Each of these points is expanded upon below (in response to question 2.28).

Stepping back, we consider that nothing has changed since this regime was initially implemented and that the current treatment remains appropriate, with general insurance being entirely exempt from the AML/CFT regime. It is important to note that when the AML/CFT regime was first introduced in New Zealand, the general insurance industry actively engaged with officials and the relevant Minister as it was unclear from the legislation whether general insurance could be inadvertently caught by this regime. While it was confirmed that this was not the intention, the Minister was not prepared to amend the legislation accordingly. Consequently, to reflect the intention of the regime, general insurance was specifically excluded from it via regulations.[1] In line with the practice abroad, and reflecting the even lower risk involved, regulations also exempt premium funding associated with general insurance products when they are provided by the insurance company and incidental to the provision of general insurance products,[2] which also remains appropriate in our view.

The examples described on page 26 of the consultation document purportedly supporting including general insurance within the AML/CFT regime are at best hypothetical and do not reflect the practical realities of how customer payments and claims for general insurance operate. In so far as there is a risk of claims fraud, this is adequately addressed through existing checks and balances and having to comply with AML/CFT requirements would be an inappropriate and costly diversion in our view.

2. Answers to questions

2.28 Should non-life insurance companies become reporting entities under the Act?

As above, general insurance should not be brought within the AML/CFT regime to any extent because the risk in this context is minimal, doing so would amount to an unhelpful and costly diversion from areas which pose significant harm and would likely result in worse outcomes for customers. Doing so would also be inconsistent with relevant principles, guidance and the common approach abroad. We expand upon each of these matters below.

A. The minimal risk involved

The characteristics of general insurance products and how they are paid for and claimed on mean they would be a particularly inefficient and unattractive vehicle for money laundering.

<u>i. Payments for insurance</u>

The scenario described on page 26 of the consultation document where a person purportedly launders money by requesting a refund after purchasing a policy is highly improbable. In reality, the

[1] As 'pure risk-based insurance policies' under regulations. See regulation 12 of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011. Exemptions also apply for insurance policies that are closed to new customers and new premiums (regulation 11) and certain low-value life insurance policies (regulation 19).

[2] See regulation 17 of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011. From 9 July 2021 this regulation also provides for a limited exemption from customer due diligence requirements under the AML/CFT regime for premium funding arrangements put in place by a non-insurance company. Previously this was addressed under a separate regulation (regulation 18) which has since been repealed.

ability to launder money through amounts paid for general insurance (premium) is extremely limited. In particular:

- In the vast majority of situations insurers would not accept payments in cash, with nearly all transactions being electronic ones already captured within the regulated financial system via banks who are already covered by AML/CFT requirements (e.g. payment by automatic payment or direct deposit from bank accounts or payment via credit card subsequently paid off by amounts from bank accounts).
- Reasons for cancellation are closely monitored by insurers with a view to maintaining or improving retention and reducing undesirable customer churn.[3] If a pattern of customers cancelling policies shortly after they have been taken develops, the insurer may well decline to quote on further business – cutting off the opportunity to use this avenue for money laundering. Such conduct may also arouse suspicion and could result in a referred to the Police.
- Consumer and small trade general insurance premiums, which together make up the largest portion of the general insurance market business by volume, would not be at suitable amounts for effective money laundering. Total average premiums paid by customers for general insurance typically range from $1,000 to $5,000, with the majority paying less than $5,000. Accordingly, a large number of transactions over a number of years would be required to hypothetically launder any meaningful sums. There is also, in effect, a 'cap' on what monies could be laundered because premiums are set with reference to the value of the property or other exposure insured.
- The vast majority of larger (e.g. non-small trades) commercial premiums for general insurance are paid via insurance brokers and would require the commercial customer to acquire physical assets and establish business operations of a sufficiently large scale to make laundering potentially viable - the significant cost and effort of doing so being entirely disproportionate to the potential benefits.

Additionally, consistent with remarks above, any premium refunds would most likely be paid out via electronic transaction and accordingly already subject to banks' AML/CFT requirements. Refunds would also only be payable on a pro-rata basis,[4] less any applicable administration fee. As detailed under section 3. C. below, the minimal ability to launder money through general insurance premiums would be further reduced when the customer pays monthly, quarterly or six monthly rather than annually (in other words where premium funding is involved). Briefly, this reflects that it is only the portion of the premium that is prepaid under such arrangements, less the applicable administration fee, which is refundable.

<u>ii. General insurance claims</u>

The other example cited in the consultation document where general insurance could purportedly be used to launder money is insurance claims. This would similarly be an unrealistic and unattractive laundering option due to how general insurance claims work. Specifically:

- Frequent claims by general insurance customers are rare, would arouse suspicion and have adverse cost and cover implications for the customer in the long-term – with the premium payable being reflected in the applicable loss ratio[5] and/or due to cover being adjusted to reduce or remove cover for repeated instances of loss/damage.

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[3] This reflects that generally the cost of retaining a new customer is substantially less than acquiring a new one.

[4] This reflects that the insurer is on risk over the period up until the point in time that the policy is cancelled. For example, if a customer takes out a House policy with an annual premium of $1,200 pays that upfront and then cancels after six months, they would be refunded $600 less the applicable administration fee. For completeness, it is standard practice within the industry that if a policy is cancelled within the first 30 days, the full amount will be refunded. However, again, all refunds would be completed via electronic transaction, and so would already be subject to banks' AML/CFT requirements.

[5] For example, premium/losses paid over a 5-year period.

- There may be serious consequences for a customer if they are discovered to have provided materially inaccurate disclosure and/or been fraudulent, including potentially having their insurance cancelled, claim declined and/or being referred to the Police.
- Valuable insured property (e.g. a house or vehicle) must also be purchased by someone, and the funding of this would typically come from sources already subject to the AML/CFT regime, such as mortgages, personal loans or offshore funds.

We also note that cover under general insurance operates on an indemnity basis, focussing on putting the customer back in the position they were in immediately before the accidental loss/damage occurred. To support this approach, subject to certain limited exceptions (e.g. cover replacing old with new items, rather than replacing like for like), there is a prohibition against the customer deriving betterment.[6]

The existing checks and balances general insurers have in place to prevent claims fraud also significantly limit the ability to launder funds through claims. Insurers have robust systems and procedures in place in this regard, being strongly motivated to prevent and deter claims fraud, this being an additional cost to the business that may ultimately be passed onto customers as premiums. This includes:

- Internal insurer systems and processes to prevent claims fraud.
- The Insurance Claims Register,[7] which enables general insurers' users to check the authenticity of claims and identify fraudulent behaviour by checking them against records of previous and or potentially duplicate claims for the same loss/damage that other user insurers have inputted into this register. In a situation when a customer is insured with multiple insurers for the same loss/damage, the relevant insurers will work with each other to appropriately apportion liability between them and ensure the customer is not over-compensated.
- The fact that a suspicious claim or series of claims will trigger an investigation by an insurer, potentially with specialist investigators becoming involved and/or a referral to the Police being made.

Due to the characteristics described above, claims fraud is generally opportunist and ad hoc, rather than being part of broader pattern of criminal activity. Accordingly, it is unlikely that general insurers would be a useful source of financial intelligence in a more general sense. Claims fraud is something best managed internally by insurers without any inappropriate and costly AML/CFT framework to comply with.

In terms of the specific claim example described on page 26 of the consultation document (where a person insures a valuable item which is subsequently stolen or destroyed by an accomplice), we note that:

- unlike the Police, insurers do not have the ability or power to thoroughly scrutinise the circumstances and any broader potential criminality associated with the acquisition and disposition of property, being principally reliant upon the information and documentation voluntary provided by the customer in this respect, and
- it may be that the customer does not use their name in such circumstances, such that it could be captured by any AML/CFT due diligence requirement in any event.

B. Costs

If general insurance was ever brought within the AML/CFT regime this could have significant adverse consequences.

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[6] In broad terms 'betterment' involves a customer deriving benefit over and above the position they were in before the loss/damage.
[7] This was established in 1999 and has separate membership to ICNZ with owners and users paying a levy. There are seven general insurance members of the ICR currently.

i. Significant direct regulatory burden and costs

General insurers and their distribution partners would incur significant costs to implement one off changes and comply with AML/CFT requirements on an ongoing basis. If they were completely brought within this regime, this would include requirements regarding onboarding new customers, claims handling, financial monitoring and annual reporting to the regulator (which requires a lot of data work) and audits. In broader terms, ensuring compliance with any AML/CFT requirements would involve developing a completely new compliance framework (noting that the AML Officer is a statutory role), significant system/process changes and training and potentially hiring new staff. Our preliminary and conservative estimate of the cost to general insurers of having to comply with full AML/CFT requirements are as follows:[8]

One off change cost	$53.2m
Ongoing compliance costs (per annum)	$10.6m

Please note that:

- While these would be less significant, substantial costs would still need to be incurred if general insurers were only brought into the AML/CFT to a more limited extent.
- The above amounts do not reflect the costs non ICNZ members, intermediaries (such as insurance brokers) and other distribution partners would need to incur to comply with any AML/CFT requirements.
- These potential costs also need to be viewed against the wider heavy regulatory change programme that the general insurance industry is confronted with over the next few years (as set out in the appendix).

Having to comply with such AML/CFT requirements seems particularly arbitrary and unnecessary given the remarks in the previous section, specifically noting that the vast majority of premiums for general insurance are not paid in cash and would fall below the $10,000 reporting threshold.

ii. Substantial potential disruption to the onboarding process and for claims

If general insurance was ever brought within the AML/CFT regime, this has the potential to substantially disrupt the onboarding process for new customers and for claims handling, with new AML/CFT checks potentially significantly interrupting the inertia of taking out insurance and having a claim resolved, and making these processes significantly more time consuming and cumbersome. Such issues are compounded by the variety of unique ways general insurance may be distributed and the complexity of such arrangements - with each insurer's specific distribution arrangements needing to be carefully reviewed and adjusted to ensure that the appropriate information was being collected, passed on, reported, monitored and audited (as necessary).[9]

[8] This is based on estimates provided by several ICNZ members which have been extrapolated across all of ICNZ's membership. Others have been unable to provide estimates due to time constraints, complexity and uncertainties about what the specific requirements would involve. One off change costs considered include costs developing, testing then implementing required system/process changes, appointing additional staff, training and vetting them, conducting risk assessments and developing an AML/CFT compliance programme. Ongoing costs reflect audit costs every three years (although costs are annualised), costs associated with complying with electronic identity verification and customer due diligence requirements, required record keeping and reporting, monitoring and ongoing training/employee vetting.

[9] As well as direct distribution by the insurer over the phone, or in person, this may involve distribution on the insurer's own or a third party's digital platform or distribution by another party, as a tied agent or independent intermediary (such as an insurance broker). In some situations, there may be a chain of distribution with a number of parties sitting between the insurer as the ultimate underwriter on one end and the customer as the ultimate end-user on the other.

The consequence of having to comply with such requirements may consequentially negatively impact general insurance uptake and its affordability and availability, which would be to customers' detriment and detract from the Government's focus in this regard.[10] Specifically:

- The disruption and delays caused by AML/CFT requirements being introduced as part of the onboarding process may result in customers being less likely to take insurance.[11] If this occurred this would result in an increase the protection gap. This may also mean that customers are exposed, without insurance being in place, while AML/CFT requirements are being satisfied (for example during the period while they are driving a new car home from the dealership). Such requirements may also negatively impact upon the ability of a customer to switch between providers, which would be detrimental from a competition perspective.
- In conjunction with cost increases associated with other regulatory changes noted above, the cost of complying with AML/CFT requirements will likely need to be passed on by insurers to customers in the form of increases in premiums.
- Such onerous requirements may also raise barriers of entry for potential new market participants and discourage existing market participants from continuing to do so, particularly where they are small and the costs involved are particularly disproportionate. If this occurred, it would result in reduced competition and options which customers can choose from which would also be undesirable.

The extra steps general insurers may need to take to comply with AML/CFT requirements at claims time may also contribute to unnecessary delays and stress for customers, which again would ultimately be to their detriment.[12] Having to satisfy such requirements would be particularly challenging in the event of a large-scale natural disaster such as an earthquake.

<u>iii. Other adverse impacts</u>

Having to satisfy AML/CFT requirements would also divert general insurers' resources and attention away from other high-risk areas (e.g. focussing on ensuring good customer outcomes and implementing changes to comply with the significant regulatory change programme already committed to over the next few years, as detailed in the appendix) placing a significant compliance burden on them with very little upside, given the minimal risk involved. Similarly, from a governmental policy development and regulator's perspective, having to develop, and then monitor general insurers' compliance with, AML/CFT requirements would be a costly diversion from areas in the financial system which pose much more significant harm.

C. Relevant principles and international guidance

The principles underlying the AML/CFT regime also reinforce the inappropriateness of including general insurance within it. Specifically:

- Doing so would detract from, rather than contribute to, public confidence in the financial system.[13] As above, the inclusion of general insurance could create barriers to insurance uptake, detrimentally impact customers' claims experience and negatively impact upon affordability and

[10] See page 3 of the Minister of Finance's Letter of Expectation to the Reserve Bank of New Zealand dated 9 March 2021, https://www.rbnz.govt.nz/-/media/ReserveBank/Files/Publications/Letters%20of%20expectation/Letter-of-Expectations-2021.pdf?revision=4e0412b3-ed17-42f7-ac85-2b55d311c652.

[11] Noting that people are increasingly time-poor and the ease and convenience of the application process is a key driver of insurance uptake.

[12] It is in insurers' best interests to accept and manage claims to completion as quickly as possible (within acceptable parameters) because: (1) this ensures insurers meet customers' expectations for prompt resolution and obligations under the Fair Insurance Code; (2) resolving claims promptly minimises insurers' exposure under time-based covers (e.g. cover under a temporary accommodation benefit following a residential building loss); and (3) until closed, a claim constitutes a liability on an insurer's balance sheet, attracting an undesirable element of uncertainty and a regulatory cost by the Reserve Bank of New Zealand as prudential regulator.

[13] Section 3(1)(c) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

availability, ultimately detracting from public confidence in the sector. As above, this change would also involve general insurers and the government diverting attention away from areas that pose more significant harm.

- When a proportional and a risk-based approach is appropriately adopted in considering the purpose of detecting and deterring money laundering and the financing of terrorism within the specific sectorial context,[14] as above, it is clear that having to comply with AML/CFT requirements would be manifestly disproportionate, due to the minimal risk involved and substantial adverse impacts.

Extending the AML/CFT regime to general insurance would also detract from the purposes of enhancing New Zealand's international reputation, being inconsistent with advice issued by FATF in this respect. [15] The FAFT's recent review of the New Zealand's AML/CFT regime concluded that how the insurance sector is currently treated does not need to change, this sector is low risk and does not warrant significant focus.[16] More broadly, FATF recommend that AML/CFT requirements for sector focus on the life insurance only. This is consistent with recent guidance issued by the Global Federation of Insurance Associations, which refers to the very little risk that general insurance will be used for money laundering and terrorist funding.[17]

D. Practice abroad

Aligned with the international guidance referred to above, it is unsurprising that, save for some very limited exceptions, the approach in other countries is to exclude general insurance from AML/CFT regimes. Most pertinent for current purposes (given the similarities of these jurisdictions, and the general insurance sectors within them, to Aotearoa New Zealand), this includes the exclusion of general insurance from AML/CFT regimes in Australia,[18] the United Kingdom,[19] and Canada.[20] We also note that the European Union's 2019 risk assessment of AML/CFT similarly refers to the inappropriateness of applying such requirements to general insurance.[21]

International comparability is particularly important for the general insurance sector in Aotearoa New Zealand as some participants here also operating in other jurisdictions (including some insurers

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[14] Section 3(1)(a) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. This proportionality and risk-based approach is endorsed in the consultation document itself (see pages (ii), (v), (vi) and 5). Sections 153(3) and 157(3) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, which set out the current criteria for granting an exemption from the AML/CFT regime, similarly refers to the risk associated with the business, and the level of regulatory burden in the absence of an exemption being granted.

[15] Section 3(1)(b) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

[16] Pages 19 (paragraph 56) and 26 (paragraph 81(a)) of FAFT's updated June 2021 recommendations, https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf.

[17] https://gfiainsurance.org/news/385/alm-rules-should-not-be-applied-to-general-insurance. Through its 41 member associations and one observer association, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers in 64 countries (including via ICNZ in New Zealand). These companies account for around 89% of total insurance premiums worldwide.

[18] Where it is stated that "[t]*he provision of general insurance is not covered by the AML/CFT Act as a designated service, and the money laundering or terrorism financing risk (ML/TF risk) of a loan to pay such an insurance premium was considered lower than the risk of the general insurance service. The burden on industry was therefore considered excessive when balanced against the ML/TF risk*." See Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and commentary from Chapter 39 of Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2009 (No. 4). This rule was subsequently extended and the sunset clause removed. For completeness, please note that motor vehicle dealers who act as insurers or insurance intermediaries must report significant cash transactions of A$10,000 or more (or the foreign equivalent) or suspect transactions, https://www.austrac.gov.au/business/industry-specific-guidance/motor-vehicle-dealers.

[19] Where general insurers and general insurance brokers are not subject to UK AML rules and the Money Laundering Regulations. See The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

[20] Where only life insurance companies, brokers and agents are caught by Canada's AML/CFT regime. See the Proceeds of Crime (Money Laundering) and Terrorist Financing Act 2000 and associated regulations including the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations.

[21] They specifically advise *"Non-life insurance is not used for money laundering purposes, as it requires a degree of planning and expertise that make it relatively unattractive. Therefore, the money laundering threat related to non-life insurance is considered as being of low significance / no relevance (level 1)."* See https://ec.europa.eu/info/sites/default/files/supranational_risk_assessment_of_the_money_laundering_and_terrorist_financing_risks_affecting_the_union_-_annex.pdf, page 122.

operating across both sides of the Tasman).[22] Any unique Aotearoa New Zealand AML/CFT requirements would also be unattractive to potential foreign market entrants, as these would significantly raise the barrier of entry. There is also a risk that this could result in existing foreign participants exiting this market, particularly where they are small and the cost involved particularly disproportionate. If this came to pass, there would be negative consequences from a competition and customer choice perspective.

2.29. If so, should non-life insurance companies have full obligations, or should they be tailored to the specific risks we have identified?

As above, we do not consider that general insurance should become reporting entities under the AML/CFT Act or in fact be brought under the AML/CFT regime to any extent.

Without resiling from that position, if general insurance was ever to be brought into this regime, considering the analysis above, it would be important for these obligations to be tailored as much as possible, reflecting:

- the minimal risk and substantial potential adverse costs involved, and
- as noted above, the fact that general insurers already report suspicious activity to the Police.

If the intention is to look to general insurers as a source of broader financial intelligence for cyber breaches and attacks (such as those involving ransomware), we query whether the AML/CFT regime would be the right mechanism for this given the narrow focus on money laundering and funding terrorism. We also note that there are a number of other government agencies focussing on such matters in broader terms.[23]

Additionally, to the extent that such a proposal is to be considered any further, careful consideration needs to be given to the extent to which any such requirements would apply to the Earthquake Commission (**EQC**), noting that:

- The natural disaster cover covered by EQC (EQC cover) is non-life insurance.
- Under the recently implemented National Disaster Response Agreement, eight private insurers are responsible for managing and settling claims for EQC cover on EQC's behalf.[24]
- If private insurers and EQC were treated inconsistently for AML/CFT purposes this would lead to further complexities, substantial costs and potential delays. We expect that complying with such requirements would also significantly undermine the improved customer experience underlying these arrangements

2.30. If you are a non-life insurance business, what do you estimate would be the costs of having AML/CFT obligations (including limited obligations)?

See the response to question 2.28 above (under the heading 'B. Costs').

3. Other comments

In this section we briefly comment on other matters raised in the consultation document.

[22] For example, overseas insurers operating in New Zealand via branches, or domestically incorporated insurers who operate as part of a broader group of regional or global insurance companies.

[23] Some of whom ICNZ is engaged with. For example, the Reserve Bank of New Zealand's work on cyber resilience and information gathering and sharing.

[24] https://www.eqc.govt.nz/news/ndrm.

A. Definition of financial institution

Question 2.12 on page 22 of the consultation document queries whether the terminology for the definition of 'financial institution' under the AML/CFT regime should be better aligned with the meaning of financial service providers under s 5 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

While we are generally in favour of greater consistency across regulatory regimes, please note that insurance (including general insurance) is included under s 5.[25] Care needs to be taken in this regard, with any more aligned definition adopted ideally explicitly excluding general insurance from its scope. This would be a cleaner approach to the status quo from our perspective. That said, obviously general insurance could alternatively be written out of the regime via a specific exemption under regulations as it is currently.

B. Extending liability

Pages 25 and 44 of the consultation document refers to making employee or third-party company secretaries and compliance officers potentially liable for breaches and potentially applying AML/CFT penalties (particularly civil penalties) to directors and senior managers personally.

To the extent that such liability and associated defence costs are insurable, this would be reflected as additional exposures potentially captured by general insurers' Statutory Liability, Directors and Officers' and/or Professional Indemnity insurance policies which may have adverse impacts in terms of insurance availability and/or affordability. Such changes also need to be considered against the wider context, with financial lines insurance products having sustained a period of market hardening over recent years, with increasing rates and scrutiny being applied when underwriting this line of business, reflecting increased claims costs and trends.

C. Exemption for general insurance premium funding provided by non-insurance companies

Page 111 of the consultation document refers to regulation 17 of AML/CFT (Exemptions) Regulations 2011, which exempts non-insurance company entities who are providing a service under a premium funding agreement from requirements under ss 14 to 26 of the AML/CFT Act but not the requirement to identify a customer under s 11 of this Act.[26]

We agree that this matter should be clarified and suggest consideration be given to such arrangements being entirely excluded from the AML/CFT regime. Doing so would align with the approach abroad,[27] and reflect that the ability to launder money through premiums for general insurance is further reduced when premium funding is involved.

While general insurance policies are generally one-year term contracts (with full payment due when the insurer takes on the risk at the start of the relevant period of insurance), if the customer prefers they may be able to premium fund, with the premiums being paid incrementally throughout the period of insurance instead (e.g. monthly, quarterly or six monthly). Essentially, premium funding involves 'lending' funds to the customer to cover the upfront cost of the insurance premium for the entire period of insurance, which the customer incrementally pays off during that period. This accommodation can be provided directly by the insurer, through an independent finance entity or a subsidiary finance entity of the insurer. Please note that, while premium funding provided directly by

[25] See specifically s 5(1)(m) 'acting as an insurer'.

[26] For context, from 9 July 2021 this regulation also provides for a limited exemption from customer due diligence requirements under the AML/CFT regime for premium funding arrangements put in place by a non-insurance company. Previously this matter was covered off under a separate regulation (regulation 18) which has since been repealed.

[27] See specifically the approach adopted in Australia referred to in response to question 2.28, heading 'D. Practice Abroad' above.

the insurer is a straightforward transaction and operates as above, if premium funding is provided by an independent or subsidiary entity things are more complicated because the lending must be repaid to that third party before any refund to the customer can be made.

4. Conclusion

Thank you again for the opportunity to submit on this matter. If you have any questions, please contact our Regulatory Affairs Manager by emailing [redacted]@icnz.org.nz.

Yours sincerely,

[redacted]

Chief Executive

[redacted]

Regulatory Affairs Manager

APPENDIX
OTHER REGULATORY CHANGES IMPACTING THE GENERAL INSURANCE SECTOR

Matter	Timing
Consultation, implementation and ongoing costs associated with requirements under the Conduct of Financial Institutions, Insurance Contract Law and Climate-related financial disclosure regimes	Various dates, some of which are yet to be determined
Consultation, implementation and any ongoing costs associated with the proposed new EQC Act	Expected to be introduced into Parliament in early 2022
Applying and meeting full licensing requirements under the Financial Advice regime	As applicable, i.e. by 30 June 2022 for Class 3
Implementation costs associated with the increase of the EQC cap from $150,000 to $300,000 and changes to the EQC levy rate	From 1 October 2022
Implementation of the new IFRS 17 Account Standard	Applies to reporting periods beginning 1 January 2023
Consultation, then implementation and ongoing costs associated with proposals and outcomes regarding the review of insurer interim then final solvency standards	Interim standard expected to apply from 1 January 2023, with the final standard coming later
Implementation and ongoing costs associated with changes to the Fire and Emergency New Zealand insurance levy collection regime	Legislation expected to be enacted in March 2023
Consultation then implementation and ongoing costs associated with the review of insurance prudential supervision legislation	Legislative process expected to be completed over 2023 and 2024
Consultation and any implementation and ongoing costs associated with the development and rollout of a Consumer Data Right	To be confirmed

Each of these matters constitute significant, resource intensive and costly programmes of work in their own right.