Financial Services Council NZ

Grow the financial confidence and wellbeing of New Zealanders

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Social Unemployment Insurance Tripartite Working Group
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6145
New Zealand

By email: incomeinsurance@mbie.govt.nz

A New Zealand Income Insurance Scheme

This submission on A New Zealand Income Insurance Scheme, A discussion document, 2 February 2022 (the Proposal), is from the Financial Services Council of New Zealand Incorporated (FSC).

As the voice of the sector, the FSC is a non-profit member organisation with a vision to grow the financial confidence and wellbeing of New Zealanders. FSC members commit to delivering strong consumer outcomes from a professional and sustainable financial services sector. Our 103 members manage funds of more than $95bn and pay out claims of $2.8bn per year (life and health insurance). Members include the major insurers in life, health, disability and income insurance, fund managers, KiwiSaver, and workplace savings schemes (including restricted schemes), professional service providers, and technology providers to the financial services sector.

Our submission has been developed through consultation with FSC members and represents the views of our members and our industry. We acknowledge the time and input of our members in contributing to this submission.

The FSC's guiding vision is to grow the financial confidence and wellbeing of New Zealanders and we strongly support initiatives that align with our strategic intent and deliver:

- strong and sustainable customer outcomes
- sustainability of the financial services sector
- increasing professionalism and trust of the industry.

As such, we welcome the opportunity to provide feedback on a New Zealand Income Insurance Scheme (NZIIS). We consider a discussion on income insurance is important and recognise the issue of under insurance in New Zealand which the industry has been working hard to address through education initiatives on financial literacy and financial resilience. We also acknowledge that there are individuals in New Zealand that have a genuine need for support and may ordinarily be excluded from or not have access to private insurance or support.

Current Proposal
We have a number of concerns regarding the Proposal as it currently stands. These are set out in our submission and include:

- The unintended consequences of financial burden, under insurance and negative customer outcomes.
- The significant scope of the Proposal relative to the lack of prior industry engagement and a consultation period which is during the COVID-19 Omicron outbreak in New Zealand. Prioritisation is being given to the critical issues of keeping people safe and supporting customers at this time, with limited additional capacity to engage with the significant complexities the Proposal presents.

- The speed at which it appears the Proposal is to be progressed with implementation indicated for 2023. This means there is limited time for due consideration and meaningful engagement. We note the Proposal acknowledges the proposed NZIIS would be a significant reform, perhaps the largest of its kind since the introduction of the Accident Compensation Corporation (ACC) in 1974.

We would ultimately like to see a scheme designed that would support the broader financial wellbeing and financial literacy of New Zealanders beyond the short term provisions of the proposed NZIIS.

Proposed alternatives
Our submission sets out proposed alternatives for how the objectives of the Proposal could be achieved whilst mitigating significant unintended consequences. Our members see a strong case for a scheme similar to that proposed to cover the health and disability risks, which is state governed and run by the private sector (public private partnership). For example, similar to how KiwiSaver currently operates but noting the importance of further consultation on what form this partnership could take. We consider this would best serve consumers and the industry.

The advantages of private insurer participation include:
- Insurers have the expertise and experience in managing health and disability claims which are complex and often extend beyond a six month duration of cover.
- Our industry has been actively engaged in education on financial resilience and wellbeing and we see this as only increasing. We also have channels and networks that offer financial advice which helps ensure that New Zealanders have access to holistic advice on how to manage their financial affairs of which income insurance is only one aspect.
- A Government mandated but industry run scheme would enable a more seamless integration of the base level of cover proposed with existing and new extension options and any ongoing claims management associated with them.
- Our industry has been proactive in our recognition of vulnerable customers and have taken the initiative to provide support in numerous ways. Our members are committed to promoting good customer outcomes and are subject to regulatory oversight to ensure this, as opposed to the Proposal which would not have this element.

We consider displacement could be better addressed by a separate review of employment laws and encourage further consultation on this as an alternative to income insurance for displacement.

We welcome further discussion with you and the opportunity for Government, insurers, and financial advisers to work together on providing income insurance for health and disability conditions, insurance education and advice to meet both the objectives of the Government and the vision of the FSC.

I can be contacted on 021 0233 5414 or richard.klipin@fsc.org.nz or Carissa Perano, Head of Regulatory Affairs, at carissa.perano@fsc.org.nz, to discuss any element of our submission.

Yours sincerely

Richard Klipin
Chief Executive Officer
Financial Services Council of New Zealand Incorporated

Your name and organisation

Name	Richard Klipin
Organisation (if applicable)	Financial Services Council of New Zealand Incorporated
Contact details	Privacy of natural persons

Chapter 4 – How a new income insurance scheme could achieve our objectives (Pg 30-48)
The Forum considers the benefits of income insurance for job loss due to displacement or health conditions would outweigh its costs.

1. Do you agree New Zealand should introduce an income insurance scheme for displacement and loss of work due to health conditions or disabilities?

We agree that it would be valuable for New Zealanders to have better protection against hardship and adversity, acknowledging that New Zealand is one of the most underinsured nations in the Organisation for Economic Co-operation and Development (OECD).

However, our members are concerned that the NZIIS will result in significant unintended consequences if it progresses as proposed. Steps need to be taken to ensure that the benefits of the NZIIS are realised by a sufficiently large portion of the population in order to justify spreading the cost of the NZIIS across almost the entire working population.

We consider both the administrative and claims costs of the Proposal have been underestimated due to potential behavioural risks and there is risk of a significant increase to the levy following the two year review period, when the true cost of the Proposal is understood. Therefore, further assessment needs to be undertaken to determine the accurate costs of the Proposal and estimating the proposed levies based on actuarial rather than economic models to minimise the impact of increases on low income and financially vulnerable consumers.

Due consideration is required of the unintended consequences of a “one size fits all” type scheme for health, disability and displacement. Given the benefits, education and support insurers can provide, we can mitigate the potential unintended adverse consequences of the NZIIS with a public private partnership as outlined in this submission, helping New Zealanders obtain the level and duration of cover, advice and support they need. This aligns with the objectives of both Government and industry to achieve good customer outcomes and the financial wellbeing of New Zealanders. Displacement could be better addressed by a separate review of employment laws and if a displacement scheme is to be introduced, it should be a completely separate scheme from any health and disability scheme.

1. ACC as administrator of the NZIIS

At claim time, the knowledge and skills required to assess displacement, illness, and disability, are very different from those required to assess injury claims. For illness and disability claims in particular, we consider that the life and health insurance industry rather than the ACC has the required capability.

It will be challenging for ACC to build the required internal capability and capacity to deliver the non-financial aspects of the scheme (retraining is the critical element), by the end of 2023. In addition, the market is likely to experience a transitional skills shortage in the areas of case management and mental health support if the NZIIS was to be implemented as proposed, putting a strain on both ACC and the industry, and ultimately disadvantaging consumers.

We also note a primary purpose of the ACC scheme is for the Government to provide a no fault scheme for injuries caused by accidents which mitigates litigation action for personal injury. Income protection cover for illness and disability does not have the same drivers and therefore can more easily be managed through existing private insurer capability rather than extending a government agency. Private insurers are also committed to good customer outcomes from their products and services, and this is subject to independent regulatory oversight. The proposed approach to have ACC administer the scheme would deprive customers of this protection.

With ACC being proposed to run both the accident and disability insurance schemes, it is likely to be confusing to consumers as to why the term of any claim is dependent on the cause of the claim. This limitation suggests that an illness is somehow a lesser issue than an accidental injury.

2. Unintended Consequences

Financial burden

Whilst we acknowledge the potential benefits for New Zealanders in their greatest time of need, the compulsory NZIIS levy will be borne by many on top of already challenging economic conditions, including but not limited to, COVID-19, high inflation, increased interest rates, supply chain issues and labour shortages. Many small businesses are already struggling following from business disruptions and lost revenue from COVID-19 lockdowns and this is now coupled with an uncertain global economic outlook due to the Russia and Ukraine situation. There is a potential risk of a high volume of claims, particularly given the current economic situation, meaning the proposed NZIIS would be unable to fund such claims in its initial stages.

There is also a risk that employers might shift to alternative employment arrangements in order to avoid paying NZIIS levies or remove existing redundancy entitlements. This may result in a poorer outcome and financial burden for their employees than they currently experience, namely lesser benefits, no access to lump sum entitlements, less job security, the introduction of disincentives to find replacement work quickly, and the complications of a claims process to ACC.

Whilst levies would be a strain for many New Zealanders at this time, lower income earners who have the levies considered as total remuneration by employers, will be worse off as their take home pay decreases. We query whether adequate consideration has been given to the existing state provisions for low income and minority groups and unemployment benefits. For example, are they providing adequate cover for the population most at risk of the events the Proposal is addressing, or do they require enhancement instead?

Impact on Labour market

The Proposal could see a decrease in labour market availability, as those who are displaced delay their return to the workforce in preference for continuing to receive cover under the NZIIS and finding a role that better matches their skillset and experience.

Timing

The proposed timetable for consultation, passing of legislation and implementing the NZIIS is unduly short (with legislation to be introduced this year and the NZIIS potentially operating in 2023). Our members strongly consider that if the Proposal is to progress, the timetable should allow further time for the legislation to be carefully considered and changes to be implemented, noting that further consultation with the industry is critical. Insurers require time to assess how the Proposal affects their business, their customers, and their products (including systems and software). Customers and employers will need time to consider how the new NZIIS may affect their insurance needs and make necessary changes. Given the impact across multiple sectors, we submit that the Government should allow further time for consultation, development and implementation of this Proposal.

Provision of income insurance for employees

Additional costs for many employers may be beyond what is affordable, in the context of the current economic climate, other legislative reforms, and mounting compliance costs. For those employers that provide employees with generous redundancy, medical or retirement entitlements under their employment agreements, the added costs of the proposed NZIIS may motivate them to cease offering such entitlements to the detriment of the employee where their employment benefits provided more cover than that contemplated in the Proposal. There is also no guarantee that individual employees (or employees covered by a collective agreement) will agree to a reduction in their current contractual benefits due to having coverage under the proposed NZIIS.

These impacts may result in amendments of existing group insurance schemes and employment contracts, although we note that employers may not have the ability to unilaterally amend employee entitlements under the terms of their employment contract.

Some existing income protection policies do not allow for alteration or offset or alteration of the contract, particularly for legacy products. This could potentially allow people to benefit from both the NZIIS and their private cover meaning they are insured for over 100% of their pre-illness or displacement income and over indemnified. This moral hazard needs to be considered with appropriate provision to allow an insurer paying benefits under an income protection or redundancy policy to offset entitlements available under the NZIIS. Similarly, the Proposal will need to consider private insurance benefits when calculating income for the purposes of abatement. Without such provisions, there would be little incentive to return to work during the cover period.

Under insurance
The introduction of the proposed NZIIS may disincentivise New Zealanders to seek advice on their insurance needs and incentivise the cancellation of existing private (individual) income insurance and group (employer) insurance schemes. This could leave many New Zealanders vulnerable if their income is impacted for longer than six months or their income exceeds the Proposal's financial caps. In this circumstance, they will be worse off under the NZIIS than they were under their existing cover.

Whilst private insurance could be seen as a supplement to this, such as the provision of cover after six months, we have residual concerns that the NZIIS could lead to a decrease in New Zealanders holding private income insurance than they may have otherwise had, leading to greater long term financial burden for their households. It may also result in some people offsetting the cost of the levies against their KiwiSaver contributions (including any optional contributions), which may have an adverse impact on another social objective of ensuring New Zealanders are appropriately prepared for retirement. If this was to occur ACC would not be able to provide financial advice to facilitate suitable cover.

Affordability of insurance
The Proposal will effectively operate in a non-competitive market. This could potentially mean the usual market forces of competition which act to keep costs (and correspondingly the levy) down will not feature. The market for private income protection will undoubtably decrease if the proposed NZIIS is implemented, and the cost for insurers providing "top up" cover will still be significant as claims that extend beyond six months (which by their nature are the more complex) have a higher cost to manage. This negatively impacts the sustainability of long term cover, with spiralling costs for insurers which will ultimately be borne by customers. It will also add significant and unnecessary complexity for customers and insurers to navigate two different approaches to the management of claims.

3. Financial advice
We consider an important part of financial wellbeing is ensuring that New Zealanders have access to high quality financial advice. Insurers have channels and networks to provide such financial advice, and many would like to see a broader coverage for income insurance leveraged to encourage people to obtain financial advice. This will help ensure that New Zealanders have appropriate cover for their needs and access to holistic advice on how to manage their financial affairs of which income insurance or health and disability payments is only one aspect.

In the FMA and RBNZ's review of New Zealand's life insurance industry, the ongoing assessment of product suitability for customers was identified as a key feature in delivering good customer outcomes. The proposed NZIIS does not allow for this kind of ongoing suitability assessment and advice. By comparison, insurers can easily contact clients and arrange access to financial advice for them.

As noted in response to Question 64, cover for any bereavement leave or similar, or leave to care for dependants requires a case by case assessment. The provisions of such additional entitlements could be raised and discussed with advisers as potential add-ons to their basic insurance needs. This would ensure fairness based on their individual circumstances and more comprehensive cover for individuals and their families. The private sector is best placed to advise on these aspects given their skills and experience.

4. Concerns of the Proposal for health and disability

Claim management and cost assessments

Sickness claims, particularly those involving mental illness can be complex, meaning ACC will need to increase its capacity and capability, as well as invest in new operational processes and controls. The proposed NZIIS will also cover workers who would normally not be able to obtain insurance without additional terms and conditions such as exclusions or increased premiums. This needs to be carefully factored into cost calculations. There is also the potential for the proposed NZIIS to be abused which will need to be carefully managed to control the overall costs of the Proposal. Implementing such controls will then involve further costs. We recommend that the cost of the NZIIS (and the associated levies) are reassessed and subject to robust actuarial analysis, with support from the private life health insurance sector which has the required expertise in this area.

Limited pool of medical and rehabilitation resources

A long standing issue, which has been exacerbated by COVID-19, is the finite number of medical and rehabilitation providers available to New Zealanders requiring care. We encourage further consideration of how MBIE and ACC propose to work with the private insurance market to effectively share and prioritise resources between claimants on the public NZIIS and those with private cover. This will be particularly relevant for those claimants with serious or long term illnesses or disabilities who will require (and hopefully have in place) private cover beyond the six month period and arguably will have greater need for such rehabilitation services than those who can return to work within the six month timeframe. ACC will require appropriately skilled case managers to work through these issues and the complex cases presented by health and disability claims, as opposed to the more typical claims for accidents or injuries.

Length of claims

The Proposal is for six months of income insurance for health and disability conditions. In our members experience, a reasonable proportion of income insurance claims for health or disability reasons go beyond six months with current income protection plans typically offering benefit periods of two years, five years and to age 65. If consumers were to cancel their private cover in reliance on the NZIIS, the Proposal potentially undermines this more comprehensive insurance cover particularly in cases of severe or lifelong illnesses, potentially increasing the welfare cost burden on the state.

More extensive, tailored cover versus one size fits all

Income insurance provided by insurers is more extensive than the Proposal as it can often be tailored to suit the individual (waiting periods, ancillary benefits, sum insured can all be adjusted to match the needs and what is affordable for a customer). Insurers also offer additional benefits such as provision for care by a nurse or family member, temporary accommodation for family to be with the insured if they are away from home and grief counselling for the insured and their family. The range of potential benefits means the insured and their family can receive support in a number of ways, rather than being only limited to income support.

Early intervention and rehabilitation can also have a direct impact on the timing and prospects of a customer’s recovery. The Proposal at page 11 refers case managers helping to put claimants in contact with rehabilitation services, but there is limited detail on whether this will include the NZIIS arranging and funding rehabilitation (noting that the increased cost of this, and therefore the impact on the levy is unclear). Private insurers invest heavily in rehabilitation as a key focus and commitment of cover. This delivers arguably better outcomes for customers and controls costs. As such, private insurers are well placed and experienced to facilitate rehabilitation and support return to work outcomes from the outset.

4.a. Proposed alternatives for health and disability
For the provision of any state scheme for income cover for health conditions or disability, we consider there is a strong case for this to be run by the private sector as a public private partnership, to provide a minimum level of cover to all New Zealanders, many of whom may be affected by sickness at some point during their lifetime. The success of KiwiSaver, and the challenges of the Earthquake Commission after the Christchurch earthquakes, also support the argument that New Zealanders would be better served by a scheme governed by the state and run by the private sector. This could include using a KiwiSaver 'like' mechanism for Inland Revenue to collect premiums from employers and pass it to the insurer who would hold the client details. Insurers would then contact clients to provide advice, provide extra information and possibly additional products that meets the client's full needs. We consider private insurers to have the skill and experience required, and the incentive to get claimants back to work as quickly as possible.

There will be consumers that need cover beyond the six months provided by the proposed NZIIS that then move on to private insurance. We consider that having one provider for the entire duration of the claim is preferable to having it start with ACC and then move to a private insurer. Our concern is that moving a claim from ACC to a private insurer could result in delays, uncertainty and duplication for the customer due to potential differences in matters such as assessment criteria and terms of cover. It also means a change in case manager for the customer providing more interruption to their claims and recovery process. We consider parallels can be drawn with the National Disaster Response Model that the Earthquake Commission put in place from 30 June 2021, making private insurers the single point of contact in order to deliver simplicity and certainty sooner for customers in what can be a very stressful time.

We support a public private partnership to address the current diversity and inclusion issues in the current market. Income insurance for the broader population of New Zealanders for loss of work due to health conditions or disabilities would help address the current inequities between those unable to work due to a change in their health versus those who suffer injuries. It would also remove the inherent gender based inequality within the current Government backed insurance approach.[1] Some of our members' experience has shown that this approach favours males who are traditionally overrepresented in accident related loss of income statistics and currently covered by ACC, over females who are traditionally overrepresented in sickness related loss of income which is not funded by the government.[2]

5. Displacement
Displacement is very different from loss of work due to health conditions or disabilities. We submit that the solution should differ accordingly. Although both are broadly out of the control of the employee, displacement is due to a decision of the employer (which may be influenced by the employee through a consultation process), and the existence of insurance benefits may inadvertently influence those decisions. By comparison, a loss of work due to health conditions or disabilities is in most instances outside the employer's and employee's control at the time of the event.

[1] https://www.stuff.co.nz/national/health/300337952/acc-biased-against-women-mori-and-pasifika-agencys-own-analysis-shows
[2] https://www.stuff.co.nz/business/industries/107864244/acc-pays-out-1b-less-to-woman-and-is-more-likely-to-reject-their-claims

We note the Proposal suggests that New Zealand is well behind in the OECD for redundancy and illness income. This appears to be contradictory to the data produced by the OECD.[3] OECD analysis shows that for benefits in unemployment as a share of previous income, New Zealand is above the OECD average and well above the median for most metrics (particularly two months and five years). In our view, there is a risk that some employers will revise or remove employee entitlements for redundancy support.

We query the need for immediate redundancy cover given that New Zealand is currently experiencing record low unemployment. The number of New Zealanders impacted by redundancy, particularly long term redundancy where the employee struggles to find similar employment on similar terms, will be significantly fewer than those affected by health conditions or disabilities.

Unintended consequences
Our concerns with the Proposal for displacement are opportunities for misuse, fraudulent claims, and poor customer outcomes. For example, those with existing redundancy clauses in their contracts are likely to have them removed when the NZIIS is introduced, and existing clauses are usually far more favourable (such as lump sum payments).

Our members have concerns that the NZIIS does not appear to encourage employers and employees to work collaboratively together to achieve mutually beneficial business outcomes, and instead incentivises employees to opt for redundancy over redeployment. If the NZIIS was to proceed, redundancy becomes a much cheaper way to remove an unperforming employee, because dispute settlements frequently cost an employer far in excess of four weeks' income. We also note that clear definitions of claim events are missing from the Proposal to ensure a balance between meeting the objectives of the Proposal but also supporting and encouraging other options to redundancy.

5.a. Proposed alternatives for displacement
At present, there are few redundancy insurance policies available in the market, largely because they are considered expensive and fraught with difficulty. Our members consider insurance is a suboptimal solution to this problem. We propose an efficient alternative to achieve the objectives of the NZIIS, and offering the best outcome for consumers, is an amendment to the Employment Relations Act 2000 to include minimum requirements for redundancy entitlements in all employment agreements. Where an employment agreement contains no redundancy clause then a new standard provision would apply, with minimum entitlements including a sufficiently wide definition of redundancy to capture the breadth of industries. A mandatory statutory minimum could also encourage employers to provide redundancy terms over and above the minimum as a point of difference in their own employee value propositions to attract and retain staff.

6. Exception for existing cover
Subject to the proposed alternatives outlined above, if the NZIIS were to progress (as proposed or in some other form), we recommend there should be a form of exemption or 'opt-out' from the NZIIS (and payment of levies) for employers that provide cover for employees, or individuals that take out private insurance, with benefits that are at least equivalent to or better than the NZIIS cover. The NZIIS as proposed is likely to have a significantly negative impact on those life insurance customers who are currently paying for more extended coverage from an insurer. They will be faced with having to pay a levy for public cover they may never use or to reduce their more extensive insurance coverage in exchange for the limited public cover. It is also likely to have a significantly negative lapse impact on life insurers from customers who choose not to pay two lots of premiums for what they may perceive to be the same

[3] *https://data.oecd.org/benwage/benefits-in-unemployment-share-of-previous-income.htm*.

coverage, or who elect to reduce their existing comprehensive coverage to offset the levy costs. We consider these impacts have not been catered for in the proposed scheme design.

This would place the proposed NZIIS in line with equivalent schemes overseas. It is also analogous to membership of a complying superannuation fund being treated as the equivalent of being a member of a KiwiSaver scheme. We consider that this will also mean that employees who already hold analogous cover, are not in a position where they are effectively paying twice for insurance, namely the levy for the NZIIS and their private insurance premium but will only ever be able to claim on one or the other due to offset/abatement rules. It would be contrary to good conduct by the NZIIS or insurers to receive payment for cover that can never be drawn on.

Whilst there may be perceptions that claimants receiving benefits from both the proposed NZIIS and the insurer would be a good customer outcome, we emphasise that income replacement ratios of more than 100% are not sustainable and breach insurability principles. Even a marginal increase in post disability income (replacement ratio) has been shown to affect insurance claims (increasing incidence and reducing early terminations). This may therefore lead to losses for the sector and spiralling costs for policyholders if not managed appropriately.

In lieu of an 'opt-out' option or aggregation rules, the industry may need to intervene and either increase rates or reduce benefits or cancel policies.

As set out in response to Question 1 above, we do not consider the Proposal to be suitable for both industry and consumers without substantial unintended consequence and encourage consideration of the options we have proposed to meet mutual objectives. With this caveat, we set out our comments on the applicable remainder of the question in the Proposal if the NZIIS was to proceed as proposed.

We note we have not responded to every question at the Proposal and have removed these questions from this submission. We prefer to focus on questions of most relevance to our members and the FSC industry position.

Chapter 5 – Honouring Te Triti o Waitangi (Pg 49-51)
Kawanatanga – Good governance and partnership

5. How can we reflect and embed te ao Māori in the proposed income insurance scheme's design?

At a high level, we encourage seeking guidance from a suitably qualified advisory group.

Chapter 6 – Coverage for displaced workers (Pg 53-72)
Displacement and standard employment (full- and part-time permanent employees)

6. Do you agree with defining displacement as the involuntary loss of work due to the disestablishment of a job?

The reasons for 'displacement' under this definition are broad. Displacement may occur as a result of business improvement or restructure, process automation, change of operating model, product change, location change, cost savings and change in terms and conditions. For example, a role could be disestablished due to technical redundancy (whereby the role is significantly impacted through a substantial change in role or terms), a reduction in the number of employees performing the same role resulting in redundancy, or where the entire workforce ceases to operate and is redundant.

Under the proposed NZIIS all these scenarios would qualify. We do not support this definition of displacement, as the entitlement to insurance would reduce the chance of an employee opting for internal redeployment opportunities in favour of receiving financial benefits. In addition, the use of displacement as a definition, would likely create more complexity in the industrial relations environment and impact business performance. There may be greater scrutiny and increased use of restructure and redundancies to reshape a workforce which may lead to less flexibility to respond and change. We also note that whilst the definition is broad, constructive dismissal cases, and other reasons for resignation that might not necessarily be within the control of the employee, have not been considered.

There may be risks or challenges in verifying whether a displacement is genuine. There is potential for some employers, rather than dismissing an employee for poor performance, to manufacture a displacement situation. The employee would qualify for NZIIS, therefore providing them with a benefit while at the same time reducing the likelihood of a personal grievance claim against the employer. Indeed, employees and employers might be incentivised to enter into agreements where the employee is 'displaced' rather than having their employment terminated for the actual reason. This has been observed in similar schemes overseas where employers make retiring staff redundant thereby providing them with a 'retirement bonus'. The employer funded four week bridging payment will be a limited disincentive for such arrangements.

7. Do you agree with excluding poor performance and gross misconduct as reasons for claiming insurance?
8. Do you agree with excluding resignation as a reason for claiming insurance?

If the proposed NZIIS is to proceed for displacement, we support the exclusions in Questions 7 and 8. However, we consider that an employee who takes voluntary redundancy should still be eligible under the NZIIS provided the employer is able to provide evidence of a genuine redundancy situation. It should be noted that any voluntary action is not insurable and could only be covered by a state run scheme and not through private insurance.

Coverage provided for complete job loss only

9. Do you agree that income insurance should cover only the complete loss of a job, and cover situations where a person loses only one of several jobs that they hold?

If the proposed NZIIS is to proceed, any proposed coverage would need to be inclusive and not exclude those that work several jobs but may need proportional assessment of the actual benefit to be paid so as not to enrich a claimant. The inclusion of health and disability within the proposed NZIIS will make this assessment significantly more complex.

10. Do you agree that insurance would be payable only where income loss was greater than a minimum threshold, such as a 20 percent loss of total earnings, counting income from all of their jobs?

In order to create a return to work incentive, avoid misuse and keep the NZIIS financially viable, maintaining a loss of earnings threshold is essential. Offsets will have to be well defined and executed to ensure claimants are not enriched by the NZIIS as noted in our response to Question 9 above.

Displacement and non-standard employment – a principle-based approach

11. Do you agree that it is important to provide income insurance coverage to non-standard workers, where practical?

We agree, as this will help maintain equity amongst various types of employment and is an area along with the matters in Questions 12 and 13 below requiring industry expertise to adequately model costs.

12. Do you agree that income insurance should cover the 'loss of reasonably anticipated income'?

This would depend on how 'reasonably anticipated income' is defined. For sole traders and partnerships with multiple shareholdings, income from an individual's personal exertion will need to be identified to establish income prior to the health or disability claim.

13. Do you agree that income insurance entitlements should be based on an 'established pattern of work'?

We agree. Private insurers generally have a six month stand down from the start of the scheme for redundancy and a three month wait period after starting new employment. The intention for the stand down and wait periods are to establish a pattern of work.

Coverage provided for fixed-term and seasonal employees

14. Do you agree that income insurance should cover fixed-term and seasonal employees if they are displaced before the end of an employment agreement, with the duration of the payment running to the scheduled end of the employment agreement, or the maximum insurance entitlement duration, whichever is shorter?

If the proposed NZIIS is to proceed, we do not support the inclusion of fixed term and seasonal employees, as both of these employment types are short term. However, consideration needs to be given to scenarios where contractors are treated as employees to avoid employment laws and those individuals will be unfairly disadvantaged despite being in employment for a number of years.

Longer term, fixed term contracts which are ended early should be covered as the impact of the loss of such work would be similar to those contractor as it would be to an employee. We suggest that contracts of two or more years duration could be included.

15. Do you agree that income insurance should cover fixed-term and seasonal employees, where their employment agreements are not renewed, and they can show a regular pattern of work and reasonable expectation of future income?

We do not agree. The purpose of income insurance is to replace income that would otherwise have been received either due to redundancy or illness. The very nature of a short, fixed term or seasonal agreement is that they are intended to be temporary. There is no entitlement to, and there should be no expectation of, further employment when such an agreement ends. Therefore, there should not have been any reasonable expectation of future income.

Coverage provided for casual employees

16. Do you agree that income insurance should cover casual employees who can show a regular pattern of work with an employer and a reasonable expectation of future income?

If the proposed NZIIS is to proceed, we do not support the inclusion of casual employees as a casual employee does not, by its definition, have a regular pattern of work and therefore no reasonable expectation of future income.

Coverage for self-employed workers

18. What risks do you see with covering, or not covering, people in self-employment?

There is risk in covering the self-employed however this needs to be balanced against the purpose of the NZIIS and the need to foster innovation and entrepreneurship. Private insurers currently cover the self-employed for sickness and injury but not redundancy cover due to the moral hazard. This is an issue for an insurer but may be an option for a mandatory state scheme.

A modest minimum contribution period

23. Do you agree with the proposed minimum contribution period of six months over a period of 18 months preceding the claim?

Illness and displacement claims should be paid when the individual is eligible, regardless of contribution time or amount as sickness and injury are random events. Enforcement of a minimum contribution period may result in delayed reporting of health issues leading to an exacerbation of symptoms.

Limits on subsequent claims

24. Do you agree limits should be placed on the number claims people can make?
25. Do you agree with limiting claims to a total of six months within an 18-month period?

We do not agree that limits should be placed on the number of claims, provided the opportunity for collusion between employers and employees is removed and employees cannot therefore effectively construct a financial career out of multiple redundancies. There is no difference to the financial impacts, and potentially greater mental health impacts, for an employee who is unlucky enough to be made redundant multiple times over their career.

Coverage for New Zealand citizens and residents

27. Do you agree with limiting coverage of the proposed income insurance scheme to New Zealand citizens and residents?
28. To ensure New Zealand workers are not disadvantaged by lower cost international workers, do you agree that working holiday makers, international students and temporary work visa holders – and their employers – should contribute to the proposed income insurance scheme's costs?

We agree with limiting coverage of the proposed income insurance scheme to New Zealand citizens and residents. If non-New Zealand citizens or residents are not eligible to benefit from the NZIIS, then they should not be contributing to the NZIIS costs.

Chapter 7 – Entitlements for displaced workers (Pg 73-95)
Income caps and income replacement rates that match the accident compensation scheme

29. Do you agree with a replacement rate set at 80 percent?

There will need to be further definition as to how '80% of previous income' will be calculated, particularly if the proposed NZIIS were to cover 'non-standard' work as proposed. Some workers pay varies across pay periods. Would it be 80% of income as at the date of displacement, over the previous four weeks or some other period?

An 80% replacement ratio may be too high and negatively affect the motivation to end the claim and any higher than this could potentially incentivise the individual to maintain the claim for as long as possible.

30. Do you agree with a cap on insurable (and leviable) income set at the same rate as the accident compensation scheme (currently $130,911)?

This could disadvantage people who earn above this cap who may have received more from private insurance but cancel or do not take out private insurance due to compulsory payment of levies to the NZIIS. This highlights the need for financial advice and education to improve financial literacy in New Zealand where under insurance is widely recognised. It also highlights the significantly poorer outcomes for consumers if the scheme is run by ACC, rather than run by private insurers who are incentivised to provide financial advice to their customers.

Abatement rates would ensure a claimant is not financially better off as a result of their loss of work

34. Do you agree that insurance should abate 'dollar for dollar' when earned income and insurance combined reach 100 percent of previous income?

If abatement only begins once combined income reaches 100 percent of previous income, a claimant could continue to work through the six month period and earn up to 20 percent income. There is no loss of earnings in this scenario to the claimant although the threshold for income replacement has been originally set at 80 percent. This in turn would not incentivise a return to work above the 20 percent income threshold before the six month period ends.

Insurance would generally be treated as income, to determine eligibility for welfare and student support

35. Do you agree that insurance should be treated as income for assessing eligibility for income support such as main benefits and Working for Families tax credits and student support?

We agree as the proposed NZIIS would be funded by taxpayers, claimants should not be able to access additional taxpayer funded social security benefits without consideration of the benefits they are already receiving under the proposed NZIIS.

Where eligible, insurance claimants could choose whether to access Paid Parental Leave or income insurance and may receive both sequentially

39. Do you agree that income insurance and Paid Parental Leave could be accessed sequentially but not at the same time?

Yes, we agree, however care would need to be taken to ensure that income insurance payments were received during the time that the claimant was genuinely intending to return to the workforce.

Insurance claimants could also receive ACC weekly compensation where it covers a different income loss

40. Do you agree that claimants should be able receive both ACC weekly compensation and income insurance at the same time for differing income loss subject to independently meeting the eligibility criteria for both?

Income based compensation payments under the ACC scheme should be offset against any proposed NZIIS entitlements. This is to avoid a scenario where a person may be better off financially from not working and incentivised not to return to work.

A sufficient base entitlement period

41. Do you agree with a base insurance entitlement length of six months, plus a four-week bridging payment paid by the employer?

A four week bridging payment should be offset by, rather than in addition to, any existing contractual entitlements to compensation in these circumstances. Bridging payments should be an entitlement where conditions for coverage under the proposed NZIIS, not payable to workers who fall outside coverage. There are also risks that this may have a negative impact on return to work.

Extending the maximum period in specified circumstances

43. Do you think the scheme should allow extensions to the base period of income insurance entitlements for training or vocational rehabilitation?

We consider rehabilitation should be part of a scheme but not a cause for the benefit period to be extended.

Enhancing the income insurance scheme with notice periods

44. Do you agree that employers should give at least four weeks' notice to employees, and the insurer, before redundancy takes effect?

We agree that employers should provide four weeks' notice to both employees and the insurer. However, similar to our response to Question 41, any notice period should be inclusive of, and not additional to, any existing contractual entitlements to provide notice. This recognises employers who are already choosing to 'do the right thing' and to avoid unintended outcomes, such as a combined total 10 or 12 week notice period.

Chapter 8 – Coverage and entitlements for loss of work due to health conditions or disabilities (Pg 96-112)
No restrictions on the types of conditions covered by the income insurance scheme

49. Do you agree there should be no restrictions on the types of conditions covered by the scheme?

An insurer would exclude pre-existing conditions through underwriting and policy terms or charge additional premium. This being a state scheme and covering a group of people, there is no ability to underwrite, which needs to be a key assumption in any actuarial calculation of the costs of the proposed NZIIS based upon robust and appropriate data reflecting New Zealand demographics and experience. If a claim is to be made for a pre-existing condition, there would need to be proof that it did not inhibit the individual from performing all the duties of their employment until the time that symptoms increased. We also note risk increases with age (illness) and therefore younger people prima facie pay less in the private market.

Employers would remain responsible for taking reasonable steps to support an employee to continue working

55. Are the current requirements on employers to make workplace changes sufficient to allow health condition and disability claimants to return to their regular employment (or alternative work)?

We encourage consideration of incentives for employers who offer retraining or upskilling in order to avoid displacements and loss of work due to illness in the first place.

Employers would be expected to make reasonable efforts to keep a job open where a return to work within six months is likely

57. Where an employee must stop work entirely because of a health condition or disability, do you think employers should be expected to keep a job open and help with vocational rehabilitation where a reasonable prognosis is made of return to work within six months?

It may not be practical, or possible, for some employers (for example smaller employers) to keep a position open for a six month period. If such a requirement is contained in the NZIIS, there should be a corresponding right for employers to end employment, without any liability, in cases where there is no reasonable prognosis of a return to work within six months.

58. Should this be a statutory requirement placed on employers or an expectation?

This would be challenging to be set as a statutory requirement, given the inherent differences between businesses and the internal availability of redeployment or rehabilitation opportunities. We consider an expectation is more realistic and if such a statutory requirement is imposed then employers should also have statutory protection against unjustifiable dismissal claims if an employee's employment is terminated based on the employee not reasonably being able to return to work within six months.

Chapter 9 – Insurance claimants' obligations (Pg 113-120)
Reasonable obligations for people receiving income insurance payments

61. Do you agree that claimants would not be expected or required to accept offers of employment that provide lower wages or conditions?

We consider there is a potential impact to labour market availability if claimants delay their return to the workforce in preference for a role with better conditions and continue to be supported by income insurance. We query whether there has been any research or data on this. Claimants should not be put off from considering other roles. For example, for a claimant suffering a stress related condition, return to work in a lesser role may be a positive step towards their recovery.

64. Do you think a period of time, such as 28 days, should be allowed for travel overseas, for example, to support ill family?

Any type of bereavement leave or similar should be assessed on a case by case basis, and the insurer should have the flexibility to be able to waive obligations where necessary. Writing it into the NZIIS may make it too rigid to work effectively or provide a potential incentive for abuse.

Chapter 10 – Delivering income insurance (Pg 121-134)
Independent and effective delivery

70. Do you think it is best for ACC to deliver the income insurance scheme alongside the accident compensation scheme?

We do not consider it is best for ACC to deliver the proposed NZIIS. We refer to Question 1 of this submission for our feedback on ACC as the administrator of the NZIIS.

Chapter 11 – Funding income insurance (Pg 135-144)
Most funding would come from compulsory levy payments on income

Our members have concerns with how the proposed levy of 2.77% was calculated, and the possibility that it may increase early in the life of the scheme. This would have significant negative impacts on New Zealand workers, particularly low income and vulnerable consumers.

We understand that Treasury developed economic models that produced a range of possible costs, and 2.77% is approximately the midpoint of those estimates. Private insurers have teams of actuaries who calculate premiums based not only on economics, but on detailed data from reinsurers about the likelihood of illness and disability events for different categories of people. They are required to have an

Appointed Actuary with statutory obligations to oversee their actuarial processes and provide confidence that premium calculations are sufficient to ensure the solvency of their businesses.

If the NZIIS is to proceed, we submit that the Government should abide by the same rigour with its proposed NZIIS calculations, and report accordingly with each iteration of the proposed NZIIS, so that New Zealanders have the opportunity to consider whether the estimated cost of the NZIIS and associated fees are presented accurately, rather than just a midpoint estimate.

Private insurers also have the backing of reinsurance. If there is a systemic issue leading to a run on claims, insurers have the financial backing to pay all claims. Unless ACC reinsures, it may struggle if there is a run on claims, potentially requiring a Government bailout.

85. Do you agree the income insurance scheme should be funded from compulsory levies on the income that is insured, rather than from general taxation?

We query whether a rigorous cost benefit and risk analysis was applied to the decision to fund an income insurance scheme from compulsory levies. We consider more consultation is required on why this was chosen over other fiscal or policy options (such as general taxation).

Appendix One: Additional FSC and member data

The FSC collects a wide variety of information on the life insurance market. The FSC collects group business data on premium (available for 10 years). The FSC comments on total market rather than individual company performance. New business information is problematic due to the variance in contract terms (ranging from one to five years or longer) and a renewal or several in one year would show an increase in new group business which is not technically new.

The information that the FSC can provide at this time:

- Total premium for group business is $180m, an increase of 5.18% year on year.
- Market is relatively steady with premium growth not much above CPI.
- Total premium for the 12 months to 31 December 2021 NZ$1,962,017,936, total lives covered as at 31 December 2021 1,445,940
- Product types:
    - Comprehensive: Total premium for the 12 months to 31 December 2021 NZ$571,662,895
    - Major medical: Total premium for the 12 months to 31 December 2021 NZ$1,365,571,489
    - Minor medical: Total premium for the 12 months to 31 December 2021 NZ$24,783,552
- Income protection products: Total premium as at 31 December 2021 NZ$461,700,755, total covers as at 31 December 2021 677,884
    - Agreed value: Total premium as at 31 December 2021 NZ$137,749,148, total covers as at 31 December 2021 245,134
    - Indemnity: Total premium as at 31 December 2021 NZ$148,995,420, total covers as at 31 December 2021 133,620
    - Loss of earnings: Total premium as at 31 December 2021 NZ$11,666,291, total covers as at 31 December 2021 18,661
    - Mortgage payment: Total premium as at 31 December 2021 NZ$112,347,783, total covers as at 31 December 2021 165,457

  Note: Not all life insurance providers share data at the sub-product level, so the sub-totals do not add up to the overall total.

Member data

For group schemes, income protection insurance typically has 13 week wait periods before a claim will be paid. It is likely that this will have to change to seven months which will reduce premiums, however this will reduce premiums by only 10% to 20%.[4] Current income protection plans typically offer benefit periods of two years, five year or ideally to age 65.

The private insurance industry has also managed to provide benefits at a competitive rate. A typical Income Protection policy with to age 65 benefit, 30 day waiting period, own occupation definition costs an employer approximately 1.1% - 1.2% of payroll.

[4] A typical Income Protection policy with to age 65 benefit, 90 day wait, own occupation costs and employer approximately 0.6%-0.7% of payroll. Reducing the wait period to 30 days increase the average cost to 1.1% - 1.2% of payroll. Extending the wait period from 90 days to 180 days would reduce premiums between 10 and 20% depending on the demographic.