

## INFORMATION ABOUT PART IV OF THE RESERVE BANK ACT

Part IV of the Reserve Bank of New Zealand Act 1989 limits the use of the words “bank”, “banker” and “banking” (referred to as the “restricted words”). Section 64 provides that:

*No person may-*

- (a) be formed, incorporated, or registered using a name or title that includes a restricted word; or*
- (b) change a person’s name or title to a name or title that includes a restricted word; or*
- (c) carry on any activity directly or indirectly in New Zealand (whether through an agent or otherwise) using a name or title that includes a restricted word.*

The legislation also exempts certain persons from this restriction, i.e.:

- registered banks;
- any person who is exempted by section 66; and
- any person who is authorised by the Reserve Bank, under section 65, to use a name or title that includes a restricted word.

Section 66 of the Act states that the restrictions in section 64 do not apply to a person using a name or title that includes a restricted word if:

- (a) the restricted word signifies a geographic place name or the name of a natural person; and*
- (b) the name or title is not used in respect of a financial institution, or could not reasonably be mistaken for the name or title of a financial institution.*

Section 65, which gives the Reserve Bank the power to authorise the use of restricted words, states:

*The Bank may authorise any of the following persons to use a name or title that includes a restricted word:*

- (a) a person licensed or registered as a bank in a country other than New Zealand;*
- (b) a class of persons licensed or registered as banks in a country other than New Zealand;*
- (c) a person that is formed, incorporated, or registered to represent the interests of-*
  - i. any registered bank; or*
  - ii. any person connected with a registered bank;*
- (d) an associated person of a registered bank;*
- (e) a registered bank or an associated person of a registered bank that intends to use a name or title that includes a restricted word in respect of a unit trust of which the registered bank or the associated person is a trustee or manager within the meaning of the Unit Trusts Act 1960;*
- (f) a person that is not a financial institution.*

Section 65 also specifies particular conditions of authorisation that the Reserve Bank must impose on authorisations given under the various sub-sections above, and provides the Reserve Bank with the power to impose any additional conditions of authorisation that it thinks fit. The Reserve Bank’s policy in respect of the application of section 65 is set out below.

**Section 65(1)(a) – banks licensed overseas**

Authorisations will only be granted to internationally reputable banks subject to satisfactory supervision by their home authorities.

Authorisations will only be granted to carry on specific activities that do not consist of the borrowing and lending of money or the provision of other financial services in New Zealand.

**Section 65(1)(b) – classes of banks licensed overseas**

Authorisations will only be granted to classes of persons that consist of internationally reputable banks subject to satisfactory supervision by their home authorities.

Authorisations will only be granted to carry on specific activities that do not consist of the borrowing and lending of money or the provision of other financial services in New Zealand.

**Section 65(1)(c) – representative bodies**

Authorisations granted under this sub-section will be subject to the following conditions:

- (a) that the authorised person continues to represent the interests of registered banks or persons connected with registered banks; and
- (b) that the name of the authorised person makes it clear that the person has a representative function.

**Section 65(1)(d) – associated person of a registered bank**

Authorisations will only be granted to persons that:

- (a) are not financial institutions; and
- (b) include in their names a reference to the name of a registered bank; and
- (c) use names that clearly identify the purpose for which the authorised person operates as being non-financial.

Authorisations will be conditional on the authorised person remaining an associated person of a registered bank.

**Section 65(1)(e) – unit trust associated with a registered bank**

Authorisations granted under this condition will be subject to a condition that, (when appropriate i.e. when the registered bank is a manager but not a trustee of a unit trust), the unit trust investment statements and application forms contain a statement that investments in the unit trust do not constitute securities issued by, or guaranteed by, the registered bank concerned.

**Section 65(1)(f) – non-financial institutions**

Authorisation will only be granted when the name used clearly identifies the purpose for which the authorised person operates as being non-financial.

Authorisations will be conditional on the authorised person not being, and not becoming, a financial institution.

**Limit on use if restricted words in advertising**

Financial institutions are prohibited by section 66B from using a restricted word in advertising material unless the advertisement includes a statement that the financial institution is not a registered bank. This section states:

- (1) *No specified person may use a restricted word in any advertisement unless the advertisement contains a statement that complies with subsection (2).*
- (2) *The statement must-*
  - (a) *state that the specified person is not a registered bank; and*
  - (b) *be communicated in a manner that ensures, as far as is reasonably practicable, that the statement attracts the attention of the person to whom the advertisement is directed.*
- (3) *A specified person commits an offence if the specified person contravenes this section.*
- (4) *The penalty for an offence against this section is set out in section 66M.*
- (5) *In this section and sections 66D and 66M,-*
  - advertisement-*
    - (a) *means any thing used to promote-*
      - i. *the interests of a specified person; or*
      - ii. *the services or products of that person; and*
    - (b) *includes a trade mark of a specified person; but*
    - (c) *does not include the name or title of a specified person*
  - specified person means a person that-*
    - (a) *is a financial institution; and*
    - (b) *is not a registered bank.*