

The Designation and Oversight of Designated Settlement Systems

On 30 November 2009 the Reserve Bank and the Securities Commission (the joint regulators) issued the draft policy document “The Designation and Oversight of Designated Settlement Systems” (DSS1) for consultation. Submissions on this document closed on 22 January 2010.

The table below summaries the main comments received relevant to DSS1, and the views of the joint regulators. This material fed into the final policy document. The final policy also includes an additional sentence on how the joint regulators will take into account the importance of a settlement system to the financial system.

Comments	Joint regulators’ view
<p>The need for flexibility in annual reporting requirements – including how and when the information is delivered to regulators, and what is disclosed more widely.</p>	<p>We accept that substance is more important than form and that sometimes matters of transparency and confidentiality need to be balanced.</p> <p>There should be a standard reporting requirement with discretion for joint regulators to approve more flexible arrangements where appropriate.</p>
<p>The proposed standard condition of designation that a settlement system complies with all laws and regulations relating to its operation is overly wide in scope.</p>	<p>We do not think a change to DSS1 is necessary. This requirement carries over from the previous payment system designation regime and there were no concerns with that. To the extent that a breach of this condition would trigger a review of designation is bound by common sense and administrative law principles.</p>
<p>A clear standard should be developed as to what constitutes ‘<u>material</u>’ non-compliance with laws or a system’s financial resource policy, and therefore triggers a requirement to report to the joint regulators.</p>	<p>The final policy should contain further guidance. However we would not expect a designated settlement system to have many instances of non-compliance, and if in doubt a system should report to joint regulators.</p>
<p>When exercising their powers to request information, the joint regulators should bear in mind compliance costs.</p>	<p>The joint regulators may only exercise these powers if they consider the information is reasonably required to perform their functions and duties. We do not consider it is appropriate to further constrain that power.</p>
<p>Operators should be required to provide timely advice to joint regulators of material incidences or outages that have occurred.</p>	<p>Agree.</p>

