



RESERVE
BANK

O F N E W Z E A L A N D

Application for Status as a Recognised Clearing House:

Background information and material to be
provided to the Reserve Bank

Banking System Department
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INTRODUCTION

1. This document provides background information on the declaration, variation and revocation of recognised clearing house status by the Reserve Bank and identifies the information which should be provided to support an application to become a recognised clearing house.
2. Applications should be addressed to the Governor of the Reserve Bank. Any queries or requests for discussion should be addressed to the Chief Manager of the Banking System Department, in the first instance.

CRITERIA FOR ASSESSING AN APPLICATION

3. The Companies Act 1993 ensures the enforceability of netting arrangements in a winding-up, bankruptcy or statutory management. However, while the enforceability provisions in the Act apply to all written bilateral netting agreements, they only apply to multilateral netting agreements within recognised clearing houses providing services of a financial nature. The Reserve Bank has the responsibility for declaring a clearing house to be a recognised clearing house for the purposes of the legislation. The Bank can also vary or revoke such a declaration.
4. A clearing house is defined in the Companies Act as “a person that provides clearing or settlement services in respect of financial transactions between parties to a multilateral netting agreement”. A clearing house may operate one or more systems for clearing or settling transactions and when the Reserve Bank recognises a clearing house, it will do so in respect of the operation of a particular settlement system or systems.
5. The Reserve Bank will assess applications for recognised clearing house status in the light of the criteria specified in the Companies Act. That Act requires the Bank to have regard to the extent to which the application of the enforceability provisions to a multilateral netting agreement that is subject to the rules of the clearing house applying to be recognised would assist in promoting the soundness or efficiency of the financial system. The Bank may also consider:
 - the types of transactions processed;
 - any laws or regulatory requirements relating to the operation of the clearing house and compliance with those laws or regulatory requirements; and
 - any other matters that the Bank may, in any particular case, consider appropriate.

6. **Soundness or efficiency of the financial system**

A substantial proportion of clearing house members should be financial institutions, ie entities substantially in the business of borrowing and lending and/or providing other financial services.

7. **Types of transactions**

The transactions processed by the clearing house should be financial in nature. The applicant should be able to establish that financial sector efficiency and/or soundness will be enhanced by processing these transactions through a multilateral clearing house either because inter bank (financial institution) exposures will be reduced and/or cost savings will be achieved.

8. **Other laws or regulatory requirements**

Where the clearing house comes under the jurisdiction of another regulator, the Bank would need to be satisfied that any regulatory requirements are being met, both at the time of recognition and on an on-going basis.

9. **Other**

Currently the Bank has no criteria under this category.

10. It is important to note that a declaration by the Reserve Bank that a clearing house is a recognised clearing house for the purposes of the netting legislation does not mean that the Bank is, in any way, underwriting the clearing house in question (or its members). Recognition of a clearing house simply means that, in the Bank's opinion, the application of the enforceability provisions of the legislation to multilateral netting agreements within that clearing house would promote the soundness or efficiency of the financial system.

CONDITIONS OF RECOGNITION

11. The Companies Act allows the Reserve Bank to impose conditions on the recognition of a clearing house. These conditions can relate to any of the matters that the Bank must or may have regard to when making, varying or revoking a declaration of recognition. It is envisaged that the following standard conditions would apply in most cases:
- (a) That the membership of (name of the clearing house/settlement system) continues to substantially comprise financial institutions.
 - (b) That any multilateral netting agreement that is subject to the rules of (name of

the clearing house/settlement system) relates to transactions that are financial in nature.

- (c) That (name of the clearing house) complies on an on-going basis with all laws and regulations relating to its operation.
 - (d) That (name of clearing house) provides information on membership, the nature of transactions, compliance with relevant laws and regulations and any other appropriate matters to the Reserve Bank as required by the Bank.
12. The Reserve Bank monitors the compliance of recognised clearing houses with the conditions imposed in the declaration of recognition.

VARIATION OR REVOCATION

13. The Act gives the Bank the power to vary or revoke a declaration of recognised clearing house status. The same considerations as for deciding on the initial recognition come into play when deciding to vary or revoke a declaration. The Bank may only vary or revoke a declaration after consulting the clearing house in question. Revocation would become necessary where a clearing house ceased to operate or when a clearing house changes the nature of its business and so recognition is no longer consistent with the goal of promoting the soundness or efficiency of the financial system. The Act explicitly states that non-compliance with the conditions attached to the recognition is grounds for revocation of recognition.

FEES

14. No fee is payable for an application for recognised clearing house status.

MATERIAL TO BE PROVIDED IN APPLICATION

15. General

- (a) Name of the clearing house and, if appropriate, the name by which the clearing or settlement system or systems making use of multilateral netting are known.
- (b) Name of person to whom questions about the application should be directed.

16. Membership

- (a) A list of the members of the clearing house and/or settlement system(s), as appropriate.

- (b) A description of the nature of the business the members of the clearing house or settlement system(s).
- (c) A copy of the rules for becoming a member of the clearing house/settlement system(s).

17. **Business**

- (a) Details of the types of transactions processed by the clearing house/settlement system(s).
- (b) A description of how multilateral netting is/will be used to process those transactions.

18. **Laws and Regulatory Requirements**

- (a) An outline of any laws or other regulatory requirements relating to the operation of the clearing house.
- (b) Comment on the clearing house's compliance with these laws and regulatory requirements.

19. **Other**

- (a) Any other information that the applicant considers relevant to demonstrate that their use of multilateral netting will promote the soundness or efficiency of the financial system.