



4 December 2015

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Dear Victoria,

Submission on the Consultation Paper: Review of the outsourcing policy for registered banks

Thank you for the opportunity to provide feedback to the Reserve Bank of New Zealand (**RBNZ**) on the Consultation Paper: Review of the outsourcing policy for registered banks (**Consultation Paper**).

ANZ Bank New Zealand Limited (**ANZ**) welcomes the review. It is ANZ's experience that the current BS11 has resulted in interpretation differences between ANZ and RBNZ. ANZ also understands BS11 is applied inconsistently across the industry. For these reasons, ANZ supports the full review of the existing outsourcing policy (found in Financial Stability Department Document BS11 (**BS11**)) and whether the scope, approach and requirements of that policy remain appropriate.

However, ANZ wishes to stress that it cannot support any proposed policy change that could increase the risk profile of ANZ or that which ANZ considers would be detrimental to New Zealand's banking consumer. ANZ will not support changes that ANZ considers have the potential to put ANZ, our customers or New Zealand at risk and which would be an outcome not proportionate to the regulatory objectives of the RBNZ.

ANZ strongly encourages the RBNZ to reconsider the value outsourcing offers to New Zealand banking consumers both through providing efficiency and scalability for New Zealand banks (and by implication their customers) and also the role such outsourcing plays in terms of serving to mitigate operational risk.

ANZ also considers that the policy review should seek to align any new policy to international best practice. ANZ has elaborated on its view of international best practice throughout our response. In particular, ANZ considers that Trans-Tasman alignment in prudential outsourcing policies is desirable where appropriate.

There are some key messages to which we would like to specifically draw to RBNZ's attention, in order of priority. Further detail on these points is set out in the attached Appendix I.

Key messages

1. ANZ considers that the Basel Committee's recommendations should underpin the requirements of the new outsourcing policy. The RBNZ's proposed outsourcing policy stands out from the equivalent policies internationally by being overly focused on the regulator's requirements for crisis management. International examples of such policies provide significantly greater recognition of a bank's own incentives to carefully manage risks associated with outsourcing
2. The definition of outsourcing should be tightened to be more specific about banking activities. A materiality threshold should be applied to determine what policy requirements must be met in relation to the outsourcing arrangement, such as engagement with RBNZ. A graduated level of RBNZ scrutiny seems preferable to blanket obligations over such a wide range of potentially outsourced activities
3. In ANZ's view a separation plan is only relevant to a bank failure scenario. The outcomes of the outsourcing policy relevant to a bank failure scenario (and therefore the scope of a separation plan) should focus on a bank's ability to provide basic banking services to existing customers. This aligns with the objectives and approach of the OBR policy and recognises the extremity of events both policies are catering for. As such, it is unnecessary to cover the entire range of banking services provided pre failure. The outsourcing policy should not extend so far, expressly or by implication, to dictate what appropriate substitutability is in either a catastrophic loss or bank failure scenario. Finally, ANZ considers a relevant catastrophic loss scenario is already addressed by banks' existing business continuity and disaster recovery processes
4. ANZ considers that certain policy proposals risk having a detrimental effect on New Zealand's ability to provide innovative world class banking services to customers and participate in latest technology and global solutions. This may result in increasing banks' operating risks through reduced technology capability (including expertise and investment), reduced location diversity and heightened exposure to external threats. Specifically, ANZ does not, in any way, support the proposed policy requirement to prohibit outright certain arrangements from being outsourced
5. To ensure a truly level playing field of prudential regulatory requirements, particularly in the context of widespread technological and competitive disruption anticipated in the banking sector, ANZ believes the threshold of the new outsourcing policy should align with the OBR policy threshold
6. ANZ considers that the new policy must define key terms to ensure that it is consistently interpreted and applied by banks and the regulator, and across industry

ANZ's specific responses to the questions posed in the Consultation Paper are set out in Appendix II.

Consultation Process

ANZ commends RBNZ on the consultation period provided for banks to respond to the Consultation Paper. Consistent with the RBNZ's stated intention, and the potential implications of any revised outsourcing policy, ANZ considers it is critical that RBNZ consult on a detailed draft of a revised policy.

About ANZ

ANZ is the largest financial institution in New Zealand. The ANZ group comprises brands such as ANZ, UDC Finance, ANZ Investments, ANZ New Zealand Securities and Bonus Bonds. ANZ offers a full range of financial products and services including a significant range of financial advisory services, personal banking, institutional banking and wealth management services.

Request for confidentiality

ANZ requests that information concerning ANZ systems, costs relating to implementing policy proposals and transition requirements and ANZ operational strategies is kept confidential on the grounds that it is commercially sensitive information.

Contact for submission

ANZ welcomes the opportunity to discuss any of our submissions directly with you. Please contact me directly on [REDACTED] to arrange.

Once again, we thank you for the opportunity to have input on this significant policy review.

Yours sincerely



Bruce Macintyre
Chief Risk Officer



Mike Bullock
Chief Operating Officer

Appendix I – Key messages

ANZ addresses each of the key messages in turn.

For the purposes of this submission ANZ refers to outsourcing (being both manual processes (“services”) and technology/system solutions (“functions”) and initial and further transfer of all/part of a service or function) as “outsourcing arrangements”.

- 1. ANZ considers that the Basel Committee’s recommendations should underpin the requirements of the new outsourcing policy. The RBNZ’s proposed outsourcing policy stands out from the equivalent policies internationally by being overly focused on the regulator’s requirements for crisis management. International examples of such policies provide significantly greater recognition of a bank’s own incentives to carefully manage risks associated with outsourcing**

ANZ agrees that an outsourcing policy administered by RBNZ continues to be required as part of a sound prudential regulatory framework. This is international best practice of all major international prudential regulators.

ANZ’s view of an appropriate outsourcing policy framework

Consistent with international precedent, ANZ considers that a core tenet of a sound regulatory outsourcing policy is recognition of the positive and important role outsourcing plays in the service proposition a financial institution provides to customers while simultaneously requiring financial institutions to consider, develop and implement a robust risk management framework to manage risks arising from outsourcing. Requirements typically imposed by central banks around outsourcing focus on the requirement:

- for a bank to have an outsourcing policy, approved by the Board
- for a bank to have a robust outsourcing governance and risk management framework in place to ensure that risks arising from outsourcing arrangements being appropriately identified and managed. This framework would be approved by the Board and RBNZ and include:
 - assessment of whether outsourcing/the outsourcing supplier is appropriate (i.e. due diligence)
 - identification of solutions to manage failures associated with that outsourcing arrangement/supplier
 - ongoing monitoring of the outsourcing arrangement/service provider
- to have robust legal arrangements governing outsourcing arrangements in place
- that a bank notifies the regulator of entry into material outsourced arrangements and informs the regulator as soon as practicable about any issues that have arisen in respect of a material outsourced arrangement, and
- to record the arrangement in the compendium.

ANZ’s understanding is that such an approach aligns with each of:

- the Basel Committee’s recommendations in the Joint Forum Outsourcing in Financial Services paper (2005),
- the Committee of European Banking Supervisors’ Guidelines to Outsourcing (2006), and
- the International Organisation of Securities Commissions’ (IOSCO) Principles on Outsourcing by Markets (2009).

Please see Appendix III for a more detailed analysis of the outsourcing policy approaches by central banks internationally.

An outsourcing policy's role in the crisis management framework

ANZ agrees that an outsourcing policy reflective of the way banks currently utilise highly sophisticated technology systems forms part of the overall prudential framework for RBNZ to discharge its obligations under section 68 of the Reserve Bank of New Zealand Act 1989. However, the focus of an outsourcing policy should not be narrowly focused on simply responding to, and providing a mechanism for RBNZ management under, section 68. The intent of the policy, and those of equivalent institutions internationally, is much broader than simply statutory management.

ANZ considers that an outsourcing policy needs to be considered against the wider prudential policy framework administered by the RBNZ and the availability to RBNZ of other oversight and crisis management powers, such as:

- Oversight of Financial Market Infrastructures including the Designation and Oversight of Designated Settlement Systems (DSS1)
- BS17 Open Bank Resolution (OBR)
- The Reserve Bank's statutory management powers in Part 5 of the Reserve Bank of New Zealand Act (sections 117 – 129) and ability to give directions under section 113, and
- If relevant, the Trans-Tasman provisions of section 68A of the Reserve Bank of New Zealand Act and section 8A of Australian Prudential Regulation Authority Act 1998 and the Memorandum of Cooperation on Trans-Tasman Bank Distress Management.

ANZ notes banks also have internal Crisis Management Policies, including business continuity planning and disaster recovery which therefore are already available to a statutory manager.

ANZ questions the appropriateness of the dominant purpose of an outsourcing policy appearing to be the requirement for banks to explain to a regulator how to administer a bank failure. ANZ would encourage the RBNZ to review and consult on the wider crisis management framework in the event RBNZ does not believe they have appropriate powers or mechanisms to address a crisis.

Bank's incentives to properly manage outsourcing risks

ANZ agrees that outsourcing potentially poses certain risks to banks, and notes RBNZ's analysis of these risks in the Consultation Paper. However, ANZ strongly believes that banks have significant incentives of their own to manage and account appropriately for risks (such as supplier failure, loss of outsourced arrangement due to system failure or natural disaster and restoration of outsourced arrangements to assist with resolving bank failure) associated with outsourcing. In formulating some of the policy proposals, the RBNZ appears to have given insufficient weight to banks' own incentives.

Banks continually manage, and deeply understand, the significant reputational and commercial risk from the failure of an outsourced arrangement. Outsourcing is an operational risk, and banks have significant incentives to manage operational risk well in order to avoid serious negative consequences such as inability to service customers, damage to profitability and failure to meet regulatory requirements. ANZ has been unable to identify any international or local examples of how an outsourced arrangement has contributed to bank failure. ANZ submits that RBNZ should be able to demonstrate this causal link with tangible examples when making assertions that banks are not appropriately incentivised or have not appropriately mitigated the risks of outsourcing.

In ANZ's view, and as acknowledged in part in the Consultation Paper, there are certain benefits that arise from outsourcing. These benefits include certain efficiencies and access to world class services, but also include outsourcing's contribution to mitigating risks that arise in the provision of banking services. For example, an outsourcing service provider may in fact, be better positioned to provide, and be more resilient in the provision of the services it provides.

Finally, again in ANZ's view, a bank's Board is ultimately responsible for decisions around managing risk. This includes setting an appropriate outsourcing policy and framework to manage risks associated with outsourcing. The threshold for any regulator intervention in such an operational decision, particularly where such strong incentives already exist on the part of the bank itself to identify and manage such risks, imposes a high regulatory hurdle for intervention. Without a high hurdle the regulator risks usurping the role of Boards and management of banks.

- 2. The definition of outsourcing should be tightened to be more specific about banking activities. A materiality threshold should be applied to determine what policy requirements must be met in relation to the outsourcing arrangement, such as engagement with RBNZ. A graduated level of RBNZ scrutiny seems preferable to blanket obligations over such a wide range of potentially outsourced activities**

Outsourcing definition

ANZ supports the new policy containing a definition of outsourcing to set the scope for the policy's application. However, ANZ considers that the definition needs to be more tightly drafted so that it does not unintentionally capture arrangements that are not outsourcing. In particular, procurement (such as generic and industry standard IT contracts for services) and standard industry clearing and settlement infrastructure which the RBNZ already has sufficient oversight powers across to ensure interoperability and system stability.

ANZ also considers that the definition of outsourcing should be tied more specifically to the fundamental business activities of a bank (i.e. the business of carrying on a bank), rather than a general reference to *activities that could be undertaken* by a registered bank. For example, a bank *could* invest in building a switch that processes card payments. However, as this would not be cost effective because establishing and maintaining a card switch is expensive and technically difficult, it is highly unlikely that it would. Therefore, the bank would rely on an appropriate external provider for this function (currently either ██████████ ██████████ ██████████ ██████████). We would submit that such a switch is not something that is a fundamental banking activity, and so should not be captured by the outsourcing policy even though in theory, it is something that a bank *could* do. This is therefore not a helpful way to consider the scope of the outsourcing policy's application. ANZ suggests the following wording:

"Outsourcing is defined in this policy as a registered bank's use of a third party (either an affiliated entity within a corporate group or an entity that is external to the corporate group) to provide services and functions, ~~perform activities~~ on a continuing basis, that are necessary for the provision of banking services ~~could be undertaken by the registered bank, now or in the future.~~ For the purposes of this definition, an affiliated entity within a corporate group does not include a wholly owned New Zealand incorporated subsidiary. "

ANZ notes this approach aligns more closely with the definition used by the European Central Bank. ANZ considers that the use of 'functions' and 'services' is more accurate than 'activities' and captures both technology and manual processes. Finally, ANZ submits the policy should clarify that outsourcing to an entity that is a 100% owned subsidiary of the registered bank is not included in the definition of outsourcing on the basis that that entity is fully under the control of the bank already and that the potential risks posed by outsourcing to a third party or affiliated entity that is not a wholly owned subsidiary do not arise here.

ANZ considers that if outsourcing and other key terms used in the policy are appropriately defined, it will not be necessary to include a list of outsourcing arrangements that are not captured by the policy. This future proofs the policy, including for technology developments, by ensuring that the policy does not need to be continually updated to add matters to this list for clarity and to reflect technological advancements.

Materiality threshold

A materiality threshold is standard practice in outsourcing policies published by international regulators, including APRA (Australia), MAS (Singapore) and the Office of the Superintendent of Financial Institutions (Canada). ANZ submits that the policy should contain a definition of "material outsourced service or function". ANZ considers that a "material outsourced service or function" is one that has the potential, if disrupted, to have a significant impact on the ability of the registered bank to provide banking services, or its ability to manage risks effectively, having regard to factors such as:

- the financial, operational and reputational impact of a failure of the service provider to perform on a continuing basis
- the cost of the outsourcing arrangement as a share of total costs
- the degree of difficulty, including the time taken, to find an alternative service provider or bring the business activity in-house
- the ability of the registered bank to meet regulatory requirements if there are problems with the service provider
- potential losses to the registered bank's customers and other affected parties in the event of a service provider failure, and
- affiliation or other relationship between the registered bank and the service provider.

The materiality threshold would dictate which additional policy requirements must be met to permit such an outsourced arrangement to proceed. ANZ considers that the following requirements should apply only to material outsourced arrangements:

- the requirement to notify and obtain non-objection from RBNZ
- the requirement to have appropriate substitutable arrangements identified and in place if relevant (as required by the bank's internal outsourcing governance and risk management framework), and
- the requirement to include in the separation plan (where such separation plans are required).

For clarity, ANZ considers that the following policy requirements should apply to all outsourcing arrangements, regardless of materiality:

- assessment as to appropriateness to be outsourced under the bank's internal outsourcing policy and outsourcing governance and risk management framework (including conducting due diligence)
- the requirement to have robust legal arrangements in place
- the requirement to record the arrangement in the compendium, and
- ongoing monitoring of the arrangement (as required by the bank's internal outsourcing governance and risk management framework).

3. **In ANZ's view a separation plan is only relevant to a bank failure scenario. The outcomes of the outsourcing policy relevant to a bank failure scenario (and therefore the scope of a separation plan) should focus on a bank's ability to provide basic banking services to existing customers. This aligns with the objectives and approach of the OBR policy and recognises the extremity of events both policies are catering for. As such, it is unnecessary to cover the entire range of banking services provided pre failure. The outsourcing policy should not extend so far, expressly or by implication, to dictate what appropriate substitutability is in either a catastrophic loss or bank failure scenario. Finally, ANZ considers a relevant catastrophic loss scenario is already addressed by banks' existing business continuity and disaster recovery processes**

In the context of the policy setting an appropriate framework for banks to manage risks associated with outsourcing, ANZ supports an outcomes focused outsourcing policy. An outcomes-focused policy recognises the role outsourcing plays in fostering competition, innovation, efficiency and risk reduction, while also ensuring outsourcing does not compromise banks' abilities to operate. However, ANZ believes this is achieved through, for example, requiring banks to appropriately assess and manage actual and inherent risks associated with outsourcing. ANZ submits that it is crucial that the policy is approached in a manner that ensures banks retain the ability to organise themselves to deliver outcomes in a prudent, effective, and efficient manner. The policy should not result in banks being artificially restrained to achieve objectives solely directed at ensuring the regulator's potential needs in a highly unlikely event are met.

In relation to the inclusion of outcomes relating to risks posed by outsourced arrangements in a bank failure scenario, ANZ supports, subject to certain qualifications, the revised outcomes proposed at paragraph 49 of the Consultation Paper. These are functions a statutory manager would require in a bank failure event (of either parent or the bank) and to ensure the bank can continue to operate following separation as a result of bank failure.

However, ANZ notes that paragraph 49 and paragraph 55 (relating to the separation plan outcomes) are not aligned in their use of terminology which makes an assessment of the required outcomes of a separation plan more difficult. These outcomes should be aligned. Therefore, ANZ suggests some changes to the current statement of outcomes at paragraph 49 to add greater clarity and better align to existing BS11 outcomes (paragraph 39) and the parameters of an appropriate separation plan (paragraph 55).

ANZ's view is that the outcomes of the policy in relation to bank failure (and any separation plan), should be to enable the New Zealand authorities to have available on the day of failure a range of options for managing the failed bank by enabling the statutory manager to restore services or functions to ensure:

1. That the bank is able to execute its New Zealand dollar clearing, settlement and payment obligations ~~continue to meet its daily settlement and other time-critical obligations, so as to avoid disruption and damage to the rest of the financial system;~~
2. That the bank is able to identify, monitor and manage its financial risk positions ~~understand the bank's credit and market risk positions, thereby limiting further damage to the bank's balance sheet;~~
3. That the bank has ~~at hand~~ the systems and balance sheet data necessary for the New Zealand authorities to be able to ensure the outcomes of 1 and 2 are met ~~have available on the day of the failure a range of options for managing the failed bank;~~
4. That the bank is able to provide basic banking services to existing customers; ~~including but not limited to, liquidity (both access to deposits and to credit lines) and account activity reporting; and~~

5. That the bank is able to operate on this basis as a stand-alone entity in the event of separation from its parent every day thereafter.

Objective of the outcomes

ANZ agrees that outsourcing may, if not properly entered into and managed, potentially increase the complexity of effectively managing a bank failure scenario but does not believe it inevitably does so or that outsourcing per se increases the risk of bank failure or poses a significant risk to market stability. Therefore, to the extent that the outsourcing policy relates to crisis management and the ability to effectively resolve bank failure where outsourcing arrangements are in place, the policy should clarify that the outcomes of the policy are relevant to this goal. The separation plan then addresses in practice (and in relation to parent outsourced arrangements only) how these outcomes are achieved.

ANZ believes that bank failure (of either the parent or subsidiary) is the only realistic separation event and scenario in which the crisis management outcomes of an outsourcing policy are relevant. However, ANZ does not believe bank failure will always result in separation. ANZ does not accept the abrupt catastrophic loss scenario (i.e. total loss of parent without notice from either a financial stress or natural disaster event) presented by RBNZ as realistic. ANZ considers that the probability of such an event occurring is extremely remote (particularly in light of significant parent investment in New Zealand entities and the sophistication and attention to risk management typically larger parent banks employ). Further, ANZ considers that compliance with the OBR policy and banks own internal business continuity and disaster recovery planning already addresses appropriate measures to reinstate access to services and functions following an immediate loss event. ANZ considers banks' existing business continuity and disaster recovery plans and processes already in place (and which are tested extensively and were utilised successfully during the Christchurch earthquakes) address abrupt catastrophic loss stemming from system failure or natural disaster so it is unnecessary for the separation plan to also contemplate this scenario. Effective regulation needs to be proportional so that it does not impose undue compliance costs on regulated entities, or introduce new and significant risks to those entities.

However, in preparing a separation plan relevant to bank failure, ANZ considers that existing business continuity and disaster recovery plans and processes are highly relevant to the plan and the wider outsourcing policy. ANZ would encourage the RBNZ to approach the separation plan pragmatically and allow it to leverage off such existing plans and processes and, in particular, consider what, if anything, may be needed beyond these.



Payments and financial risk positions

Redefined outcomes 1 and 2 above are outcomes of the existing BS11 and are already understood and managed by banks. ANZ considers that paragraphs 49(a) and (b) should use the phrases in paragraphs 55(a) and (b) which are already understood and sufficient. In order to support consistent interpretation and application of these outcomes, ANZ suggests that the outsourcing policy contain definitions of relevant terms. Please see Key Message 6.

Substitutability

Outcome 3 requires banks to have appropriate substitutability for outsourced arrangements that are relevant to meeting the other outcomes. ANZ submits that the policy should not put any restrictions on the bank's ability to determine what form of substitutability is appropriate or the geography of the substitute solution, provided that the other outcomes can be met. ANZ suggests the words "at hand" are unclear and may suggest some temporal and immediate proximity to the solution and risks artificially constraining an individual bank's options to demonstrate substitutability. For example, requiring banks to have a warm instance of all outsourced functions effectively undoes the efficiencies (including cost and ability to leverage expertise) gained by outsourcing the function in the first place. It also introduces new operating risks to the environment by requiring banks to ensure that both the outsourced function and warm instance are kept up to date including ensuring systems are synchronised for new releases and that all interfaces are operating.

ANZ submits that, depending on the particular outsourced arrangement, a range of substitutability options may be sufficiently robust and viable, either individually or in combination with another option or options, to address the potential risks associated with that outsourcing. These options include:

- Geography to geography substitution
- Contractual 'step in' rights
- New supplier, with reliance on existing business continuity arrangements for short term interim solution
- New in-house build (with build requirements fully documented), with reliance on existing BCP for short term interim solution
- Warm instance
- Purchase of another financial institution that operates required systems
- Discontinuance of function/service

Basic banking services

ANZ submits the outsourcing policy outcomes should focus on the bank's ability to provide basic banking services to existing customers at the point of bank failure. ANZ supports limiting the outcomes to servicing *existing* customers in respect of their *existing* products/services, as opposed to writing or obtaining new business or providing new products/services. ANZ understands the purpose of the outcomes and separation plan requirement of the outsourcing policy is to aim at protecting the New Zealand financial system through the continued access to and supply of domestic banking services on bank failure. Therefore, aligning the outsourcing policy to the provision of basic banking services aligns with the approach taken by the OBR policy and helps to achieve a level playing field between banks in meeting separation requirements. However, again, in order to support consistent interpretation and application, ANZ suggests that the outsourcing policy contain a definition of 'basic banking services'. Please see Key Message 6.

This approach recognises that it may be impossible or inappropriate for a bank to return to full service proposition following a bank failure event, but ensures that the bank's customer base is protected and the key objectives of section 68 of the Reserve Bank of New Zealand Act 1989 are met. For example, banks should be required to ensure customers can access their New Zealand dollar accounts, deposits, basic lines of credit or lending and make New Zealand dollar payments, rather than returning a complete service offering such as complex structured finance arrangements and derivative products (considered by ANZ to be 'wholesale and international banking services'), on day of failure. In this context, the requirement on banks to return 'basic banking services' (such as an appropriate mechanism or ability for customers to exchange value with each other or goods and service providers (i.e. execute New Zealand dollar payments)) on day of failure must recognise the reality and practicality of graduated reinstatement. For example, there are multiple channels through which payments can be made (including for example, cash, cheque, internet banking, ATM, mobile wallet etc.) but each is an iteration or additional proposition of the original payment function. It would not be necessary, or even potentially appropriate, to restore all the mechanisms at once, provided that ability for customers to continue to make New Zealand dollar payments remains.

ANZ considers that customer liquidity (i.e. the ability of a customer to access money and funding options) is distinct from the bank's liquidity and should not be confused. ANZ considers the outcomes 1 and 2 speak to outcomes relevant to understanding the bank's liquidity and that the term "liquidity" should not be used when referring to customers' access to cash, deposits (on call and term), credit and lending.

Finally, if RBNZ accepts the redefined paragraph 49 outcomes of the outsourcing policy as above, the 'Separation plan outcomes' discussed at paragraph 55(a) and (b) are then aligned and only need to be stated once in the policy. The redefined paragraph 49 outcomes appropriately frame the scope of the separation plan by clarifying the situation it is speaking to (i.e. bank failure and not catastrophic loss), when it would be relied on and what it is required to achieve. ANZ considers that paragraphs 55(c) to (e) address matters relating to the process of effecting a separation plan (i.e. the 'how') together with elements of paragraphs 56 and 57 such as timeframes, roles and testing and should be covered by a 'Separation plan requirements' section in the policy. Please see Appendix II for ANZ's further comments on the separation plan requirement.

4. ANZ considers that certain policy proposals risk having a detrimental effect on New Zealand's ability to provide innovative world class banking services to customers and participate in latest technology and global solutions. This may result in increasing banks' operating risks through reduced technology capability (including expertise and investment), reduced location diversity and heightened exposure to external threats. Specifically, ANZ does not, in any way, support the proposed policy requirement to prohibit outright certain arrangements from being outsourced

ANZ does not support the inclusion of a prohibition on certain arrangements from being outsourced in the new policy. Specifically, ANZ considers that this approach would:

- impose undue restrictions on, and increase operating risks by diminishing, New Zealand's ability to leverage and participate global banking opportunities

- have the unintended effect of applying a harsher standard to outsourcing to an Australian parent bank or affiliated entity rather than a third party which ANZ can see no justifiable basis for.

ANZ is unable to identify in the Consultation Paper justification by RBNZ for the proposal to include a prohibition on outsourcing certain arrangements.

Risks of including a prohibition on certain arrangements being outsourced

New Zealand is a small country and technology is rapidly changing. New Zealand wants and needs to benefit from global systems, including the latest technology developments and expertise that is not otherwise available in New Zealand. Without this ability to access global systems, New Zealand banking systems risk being stuck on a path where technology becomes rapidly obsolete and too expensive to upgrade. Indeed, because of their full service offering, size, scale and relative proximity to customers, New Zealand banks are often considered a 'test ground' for the latest global technologies. Therefore New Zealand has advanced banking infrastructure compared with other major international jurisdictions (for example, compared with localised banks in the United States which are still heavily reliant on cheques, or the pacific islands whose banking system is provided by the Australasian banks). ANZ considers that this policy proposal risks having a detrimental effect on banks, their customers and the New Zealand banking sector. If New Zealand banks are unable to participate in the latest technology and global scale opportunities (including access to technology expertise and investment pools) that exist, New Zealand banking consumers risk paying more for services or not having the service levels they may have otherwise enjoyed. The proposal has the potential to prevent New Zealand from achieving global connectivity and will impair consumer's ability to access banking products and services through the policy requirement dictating that banks own the entire value chain. Loss of ability to participate in global scale opportunities may also increase banks' operational risks through less robust systems leading to greater susceptibility to external threats and loss of location diversity resulting in concentration risk of single location for critical functions.

ANZ considers there are strong reasons (including soundness) to promote and leverage the depth of international expertise that is available, particularly given the scale, sophistication, pace of change and real time nature of banking systems. Technology is rapidly morphing from an expensive challenge to a potent enabler of both customer experience and effective operations. It unquestionably enables increased services and reduced costs. This is particularly relevant in the payments space with the drive towards real time payments and straight through processing.



ANZ encourages the RBNZ to recognise that the review of BS11 comes at a very important time as innovation and information security risks are on the rise in the banking sector. Regulation must avoid dictating or artificially constraining bank business models. New technology and innovation presents banks with innovative partnership opportunities which is imperative given the banking sector is at a digital tipping point.

ANZ also considers that this policy proposal introduces undue transition and operational risks to individual banks and indeed the banking system as a whole (for example, by requiring banks to unwind existing outsourced arrangements). This will also result in significant unwarranted, and inflationary, costs on individual banks. Please see our responses in Questions 19 and 21 of Appendix II for a detailed analysis of these risks and costs. In summary, ANZ believes the on-shoring process has the potential to manifest or increase the very risk the RBNZ is seeking to mitigate due to the complex process of on-

shoring, the need to find the skills and experience to operate the systems onshore and the increased concentration risk.

Basis for applying a harsher standard to outsourcing to a parent or affiliated entity

Following email correspondence of 8 September 2015 with RBNZ (see Appendix VI), ANZ understands that the proposals in paragraphs 63 – 71 of the Consultation Paper mean that New Zealand banks must either:

- own and operate their own data, systems and software for the prohibited outsourcing arrangements, or
- if a third party provides the systems and software, own and control the data, and have appropriately robust contractual arrangements and back up alternatives (i.e. substitutable arrangements) and non-objections from RBNZ,

and that none of the prohibited outsourcing arrangements may reside with the parent entity.

ANZ does not consider there is a justifiable basis that outsourcing to a parent poses more risks than outsourcing to a third party and therefore that a harsher standard should be applied to outsourcing to a parent. ANZ considers the converse may in fact be true. For example:

- when a parent bank faces a stress scenario, it will be seeking to realise all of its key assets. Therefore, prioritising the provision of services to its subsidiary bank (particularly where that subsidiary materially contributes to the earnings of the parent, operates in highly correlated economic and cultural markets, and is closely aligned in strategy, products, services) will be high on the parent's agenda so as to preserve the value of the subsidiary. This is especially the case where the marginal cost of running and maintaining the systems or services for the benefit of the subsidiary as well as for the parent's own banking operations is little or even nothing
- the incentives on a parent bank with the value of the subsidiary bank to preserve are considerably higher than for any third party who only has contractual obligations to perform or default on. This also applies where the subsidiary is under stress. Where brand reputation is shared, the parent has an even stronger incentive to assist a stressed subsidiary in order to preserve its own market value/brand, regardless of whether or not it believes any value remains in the stressed subsidiary
- a parent bank will be more likely to be better positioned to manage loss of services due to force majeure through its own extensive business continuity planning. The parent bank retains complete control of business continuity planning when compared to business continuity planning with a third party, where the parent bank's ability to control is limited to what can be negotiated contractually. Whilst it is might be the case that contractual arrangements might require the service provider to maintain a business continuity plan, the parent bank's visibility of that plan as well as ability to observe it's testing and remediation may be limited. This can be contrasted to internal/inter-company business continuity planning which will be likely to be subject to organisation wide policies and review by established risk and oversight functions. In this context, such internal/inter-company arrangements have the potential to provide greater resiliency and agility when responding to events when compared to arrangements with third parties, and
- New Zealand also benefits from international regulatory approaches to outsourcing and as a result is viewed as an attractive jurisdiction to provide outsourcing arrangements ('in-sourcing') to support parent bank's activities. Accordingly, parent banks are reliant on New Zealand subsidiaries for certain systems and functions,

which ANZ considers lowers the risk of a parent ceasing to support a New Zealand subsidiary in a stress scenario.

[REDACTED] This is especially compared with an independent third party where there may be no indicators of any trouble or stress until total failure of that third party. In addition, any parent bank will also be subject to prudential regulation and oversight in its own jurisdiction. An international technology provider is unlikely to be subject to any regulatory oversight.

[REDACTED]

5. To ensure a truly level playing field of prudential regulatory requirements, particularly in the context of widespread technological and competitive disruption anticipated in the banking sector, ANZ believes the threshold of the new outsourcing policy should align with the OBR policy threshold

ANZ submits that, the outsourcing policy should apply to all registered banks (i.e. a level playing field approach) **except** New Zealand branches of Australian incorporated banks that do not raise money from retail depositors. This could be achieved by replicating the threshold mechanism contained in OBR pre-positioning policy (BS17) in the new outsourcing policy. ANZ considers that if the definition of 'basic banking service' (see Key Messages 3 and 6) is not accepted by RBNZ, then the threshold for the policy's application needs to include systemically important entities to ensure a truly level playing field. ANZ considers that if the current BS11 threshold was maintained and RBNZ's policy proposals proceeded unchanged, [REDACTED]

[REDACTED]

ANZ considers that all banks are likely to engage in some form of outsourcing and applying the outsourcing policy consistently to all banks reflects that the core requirements of an outsourcing policy speak to prudent management of a business and their outsourcing arrangements. Those elements of any final policy that were not relevant to the individual bank would simply not apply.

6. ANZ considers that the new policy must define key terms to ensure that it is consistently interpreted and applied by banks and the regulator, and across industry

ANZ understands that the current BS11 outsourcing policy has been interpreted and is applied inconsistently across the industry. ANZ considers that the new outsourcing policy should contain definitions of certain key terms that are used in the policy to ensure that it is interpreted and applied consistently. ANZ considers that the following key terms and definitions are appropriate:

- *financial risk positions*: the bank's financial risk position is the potential for financial loss as a result of the Bank's management of its credit, market and liquidity positions. Includes balance sheet as well as off balance sheet items.
- *basic banking service*: access to New Zealand dollar transactional bank accounts, deposits, basic lines of credit and lending and ability for customers to make New Zealand dollar payments.
- *clearing, settlement and payment obligations*:

clearing: the time a payment/transaction that results in a payment enters a system in preparation for settlement (i.e. within ANZ, or with another bank).

settlement: the exchange of value between two parties i.e. within ANZ, or between banks.

payment: customers' ability to issue payment instructions to the bank in a timely manner to ensure a sharp and disruptive contraction in financial system liquidity is avoided. The bank must be able to receive these instructions across a variety of touch-points in order to facilitate the transaction through the clearing and settlement phases.

obligations: the outcome of clearing and settling payments on the day of failure.

This approach also aligns with the RBNZ's suggestions made in the RBNZ Regulatory Stocktake consultation paper dated July 2015 which suggests that a Glossary of key terms may be included as part of the revised banking standards (either in individual standards or across the entire set).

Appendix II – Specific feedback sought

#	Question	ANZ response
1	<p>Do you agree with the analysis of the problem? Do you agree that the issues identified in paragraph 24 appropriately identify the potential problems with the banks' use of outsourcing?</p>	<p>ANZ agrees in part with the analysis of the problem in the Consultation Paper.</p> <p>Is an outsourcing policy necessary and what does outsourcing achieve?</p> <p>ANZ agrees that an outsourcing policy administered by RBNZ is part of a sound prudential regulatory framework. This is international best practice of all major international prudential regulators. ANZ also agrees that it is good practice to carry out periodic reviews of major prudential policies to ensure they remain appropriate in the context of RBNZ's regulatory powers and wider developments since the original policy was implemented.</p> <div data-bbox="763 635 2168 769" style="background-color: black; width: 100%; height: 84px; margin: 10px 0;"></div> <p>ANZ also strongly agrees that the purpose of an outsourcing policy and the policy review should not result in prohibiting banks from entering into outsourcing arrangements (either onshore or offshore), but instead should consider how a policy can best support banks to manage any wider risks that may arise from entering into outsourcing arrangements. In ANZ's experience outsourcing:</p> <ul style="list-style-type: none"> • brings about cost reductions to the benefit of banking consumers (and, in a stress event, potentially to an administrator) • drives efficiencies, innovation and scalability • allows access to external expertise • assists in the management of, and reduces, operational risk. An example is enabling efficient investment in global systems justified over a greater transaction volume. This enhances the ability to keep up to date with system releases and reduces code variances and risks stemming from operating and maintaining multiple instances or variations of similar systems <p>and importantly,</p> <ul style="list-style-type: none"> • enables banks to provide services to customers that they would otherwise not have available to them, or would have to pay substantially more to access, due to the cost to provide or geographical distance of New Zealand from major international financial markets; and • actively contributes to mitigating risks that arise in the provision of banking services.

#	Question	ANZ response
		<p>For example, an outsourcing service provider may in fact, have more adequate resources (e.g. with higher levels of security and redundancy) or be a more structured organisation with better internal controls and experience.</p> <p>Is RBNZ intervention necessary?</p> <p><i>An outsourcing policy's role in the crisis management framework</i></p> <p>ANZ agrees that an outsourcing policy reflective of the way banks currently utilise highly sophisticated technology systems forms part of the overall prudential framework for RBNZ to discharge its obligations under section 68 of the Reserve Bank of New Zealand Act 1989. However, the focus of an outsourcing policy should not be narrowly focused on simply responding to, and providing a mechanism for RBNZ management under, section 68. The intent of the policy, and those of equivalent institutions internationally, is much broader than simply statutory management.</p> <p>ANZ considers that an outsourcing policy needs to be considered against the wider prudential policy framework administered by the RBNZ and the availability to RBNZ of other oversight and crisis management powers, such as:</p> <ul style="list-style-type: none"> • Oversight of Financial Market Infrastructures including the Designation and Oversight of Designated Settlement Systems (DSS1) • BS17 Open Bank Resolution (OBR) • The Reserve Bank's statutory management powers in Part 5 of the Reserve Bank of New Zealand Act (sections 117 – 129) and ability to give directions under section 113 • The Trans-Tasman provisions of section 68A of the Reserve Bank of New Zealand Act and section 8A of Australian Prudential Regulation Authority Act 1998 and the Memorandum of Cooperation on Trans-Tasman Bank Distress Management <p>ANZ notes banks also have internal Crisis Management Policies, including business continuity planning and disaster recovery which therefore are already available to a statutory manager.</p> <p>ANZ questions the appropriateness of an outsourcing policy the dominant purpose of which appears to be the requirement for banks to explain to a regulator how to administer a bank failure. ANZ would encourage the RBNZ to review and consult on the wider crisis management framework in the event RBNZ does not believe they have appropriate powers or mechanisms to address a crisis.</p> <p><i>Risks posed by outsourcing</i></p> <p>ANZ agrees that outsourcing, if not properly entered into and managed has the potential to pose certain risks to banks. In the Consultation Paper RBNZ suggests that these risks are:</p>

#	Question	ANZ response
		<ul style="list-style-type: none"> • Outsourcing may increase the risk of a bank or all banks' failure • Outsourcing may increase the risk of resolving a bank or all banks' failure • Extensive outsourcing may undermine the maintenance of a sound and efficient financial system. <p>ANZ has emphasised the reference to "may" in the above bullet points to highlight its agreement that the above risks are not inevitable consequences of outsourcing. ANZ also agrees with the second risk identified by RBNZ.</p> <p>ANZ submits that in analysing the problem, RBNZ has made a significant number of assumptions and assertions that do not appear supported with evidence or prior experience:</p> <ul style="list-style-type: none"> • that outsourcing has the potential to increase the risk of bank failure (paragraph 12) • that in determining whether to enter into an outsourcing arrangement, a bank is likely to consider only the costs and benefits that affect it directly, but not the impact the decision has on the wider financial system or the effectiveness or efficacy of resolution options (paragraph 15) • that banks will generally only take account of the potential impact on their own business (paragraph 18) • that a potential for market failure justifies a need to regulatory intervention due to widespread economic costs or single supplier concentration risk (paragraph 19) • that bank owners and managers have no incentive to, or are unwilling to, ensure arrangements are robust at the point of failure of a bank because they are no longer in control of the bank after that failure (paragraph 21 and paragraph 28). <p>ANZ contends with RBNZ's assessment of these assumptions as warranting justification for intervention and for certain RBNZ proposals to mitigate these risks. In response to the assumptions:</p> <ul style="list-style-type: none"> • ANZ's view is that outsourcing per se, does not increase, or inevitably increase, the risk of individual or systemic bank failure. Major international bank failures have typically stemmed from internal and organisation-related issues. However, outsourcing may, if not properly entered into and managed, increase the complexity, and therefore risk, of resolution in a bank or supplier failure scenario. To counter this, it is of paramount importance that banks have robust internal outsourcing governance and risk management frameworks and processes in place and that each outsourcing arrangement is considered according to that framework. This framework includes a consideration of resolution options in the event of bank or supplier failure. Further, in ANZ's view there are some instances where internally operated functions may pose equal, or more risk

#	Question	ANZ response
		<p>than outsourcing. For example, outsourcing allows greater efficiency, flexibility and secure delivery of a function through significantly greater access to expertise, global best practices, enhanced functionality, real-time responsiveness and substitutable arrangements. Outsourcing allows for efficient utilisation of industry shared services [REDACTED]. Internally operated functions may increase risks to efficiency, flexibility and sound delivery [REDACTED].</p> <ul style="list-style-type: none"> • ANZ's view is that in making an outsourcing determination, banks will make a wider consideration that includes costs and benefits of outsourcing that arrangement. It is not in the interest of banks, from a cost, reputational or risk mitigation perspective, to enter outsourcing arrangements that expose the bank to undue risks in the event of a failure of that outsourcing arrangement. ANZ does not believe that banks would view only considering the costs and benefits of an outsourcing arrangement as managing their business in a prudent manner. In practice, this may mean banks consider the appropriateness of outsourcing the particular arrangement, conduct appropriate due diligence on a third party supplier or related group provider (e.g. considering whether the provider has appropriate disaster recovery capability, controls assurance practices and financial capability), ensure appropriate controls (e.g. legal arrangements) around the outsourced arrangement are in place, identify relevant substitutable arrangements (if any) in the event of poor performance or failure, and document all the above. Each outsourcing arrangement will turn on its own facts, and each bank's outsourcing risk management framework will be relevant to that particular bank's situation. Finally, ANZ contends that substitutability in and of itself is not a solely appropriate mitigation strategy for the risks associated with outsourcing, as it may defeat the purpose, benefit and risk reduction of the original decision to outsource. This is the reason that the assessment of the service provider under the bank's internal outsourcing governance framework is particularly important. • In ANZ's view, concentration risk is an unavoidable inherent risk of outsourcing. It may be that there is only a single provider (for example, ACM for cash in transit) available to provide the function or service. The most obvious examples of these are the facilities provided by SWIFT and the Trans-Tasman link (which the whole of New Zealand is reliant on for connectivity to the rest of the globe). ANZ submits that these facilities are either managed externally through appropriate mechanisms (for example, SWIFT is operated under co-operative model which requires members to work together) or that the risk of a failure is impossible to provide for due to how widespread its effects would be and unnecessarily onerous given the remoteness of risk

#	Question	ANZ response
		<p>of such failure actually occurring. ANZ also submits that it would be inappropriate for a regulator to dictate which supplier should be used for an outsourcing arrangement (for example, where there is more than one provider of core banking systems) as that may result in competitive disadvantage through one bank being unable to provide as good a proposition as another.</p> <ul style="list-style-type: none"> ANZ does not believe that bank owners/managers have no incentive to ensure that arrangements are robust at the point of failure. Good outsourcing governance/management would ensure that banks have considered arrangements to address failure prior to the point of it actually occurring, and that appropriate mechanisms were in place, rather than nothing, to address issues at point of failure. Additionally, it is unlikely that it would be in owners/managers interests to not continue to manage arrangements during a failure. When a parent bank faces a stress scenario, it will be seeking to realise all of its key assets. Therefore, prioritising the provision of services to its subsidiary bank [REDACTED] will be high on the parent's agenda so as to preserve the value of the subsidiary. The incentives on a parent with the value of the subsidiary bank to preserve are considerably higher than for any third party who only has contractual obligations to perform or default on. This also applies where the subsidiary is under stress. Where brand reputation is shared, the parent has an even stronger incentive to assist a stressed subsidiary in order to preserve its own market value/brand, regardless of whether or not it believes any value remains in the stressed subsidiary. ANZ also notes the trans-tasman provisions of the empowering legislation of Australian and New Zealand prudential regulators which requires parties to consider the effect of any actions taken by that regulator on the other country. <p>ANZ's view of an appropriate outsourcing policy framework</p> <p>Consistent with international precedent, ANZ considers that a core tenet of a sound regulatory outsourcing policy is recognition of the positive and important role outsourcing plays in the service proposition a financial institution provides to customers while simultaneously requiring financial institutions to consider, develop and implement a robust risk management framework to manage risks arising from outsourcing. Requirements typically imposed by central banks around outsourcing focus on the requirement:</p> <p>Requirements typically imposed by central banks around outsourcing focus on the requirement:</p>

#	Question	ANZ response
		<ul style="list-style-type: none"> • for a bank to have an outsourcing policy, approved by the Board • for a bank to have a robust outsourcing governance and risk management framework in place to ensure that risks arising from outsourcing arrangements being appropriately identified and managed. This framework would be approved by the Board and RBNZ and include: <ul style="list-style-type: none"> ○ assessment of whether outsourcing/the outsourcing supplier is appropriate (i.e. due diligence) ○ identification of solutions to manage failures associated with that outsourcing arrangement/supplier ○ ongoing monitoring of the outsourcing arrangement/service provider • to have robust legal arrangements governing outsourcing arrangements in place • that a bank notifies the regulator of entry into material outsourced arrangements and informs the regulator as soon as practicable about any issues that have arisen in respect of a material outsourced arrangement, and • to record the arrangement in the compendium. <p>ANZ's understanding is that such an approach aligns with each of:</p> <ul style="list-style-type: none"> • the Basel Committee's recommendations in the Joint Forum Outsourcing in Financial Services paper (2005) • the Committee of European Banking Supervisors' Guidelines to Outsourcing (2006), and • the International Organisation of Securities Commissions' (IOSCO) Principles on Outsourcing by Markets (2009), <p>and that this approach recognises the role outsourcing plays in the service proposition a financial institution provides to customers while requiring financial institutions to consider, develop and implement a robust risk management framework to manage risks arising from outsourcing. Please see Appendix IV for a more detailed analysis of the outsourcing policy approaches by central banks internationally.</p> <p>ANZ wishes to stress that it cannot support any proposed policy change that could increase the risk profile of ANZ or that which ANZ considers would be detrimental to New Zealand's banking consumer. That is, ANZ will not support changes that ANZ considers have the potential to put ANZ, our customers or New Zealand at risk and which would be an outcome not proportionate to the regulatory objective of the RBNZ.</p>

#	Question	ANZ response
		<p><i>Requirement for policy to include definitions to support consistent interpretation</i></p> <p>ANZ understands that the current BS11 outsourcing policy has been interpreted and is applied inconsistently across the industry. ANZ considers that the new outsourcing policy should contain definitions of certain key terms that are used in the policy to ensure that it is interpreted and applied consistently. ANZ considers that the following key terms and definitions are appropriate:</p> <ul style="list-style-type: none"> • <i>financial risk positions:</i> the bank's financial risk position is the potential for financial loss as a result of the Bank's management of its credit, market and liquidity positions. Includes balance sheet as well as off balance sheet items. • <i>basic banking service:</i> access to New Zealand dollar transaction bank accounts, deposits, basic lines of credit and lending, ability of customers to make New Zealand payments. • <i>clearing, settlement and payment obligations:</i> <p><i>clearing:</i> the time a payment/transaction that results in a payment enters a system in preparation for settlement (i.e. within ANZ, or with another bank).</p> <p><i>settlement:</i> the exchange of value between two parties i.e. within ANZ, or between banks.</p> <p><i>payment:</i> customers' ability to issue payment instructions to the bank in a timely manner to ensure a sharp and disruptive contraction in financial system liquidity is avoided. The bank must be able to receive these instructions across a variety of touch-points in order to facilitate the transaction through the clearing and settlement phases.</p> <p><i>obligations:</i> The outcome of clearing and settling payments on the day of failure.</p> <p>This approach also aligns with the RBNZ's suggestions made in the RBNZ Regulatory Stocktake consultation paper dated July 2015 which suggests that a Glossary of key terms may be included as part of the revised banking standards (either in individual standards or across the entire set).</p>
2	Without an outsourcing policy how would you propose that a failure is managed?	<p>In ANZ's view an outsourcing policy is not a mechanism to manage bank failure. Without an outsourcing policy, ANZ suggests that banks would manage a failure:</p> <ul style="list-style-type: none"> • in accordance with other relevant prudential policies and regulatory crisis management framework tools (e.g. OBR and DSS1)

#	Question	ANZ response
		<ul style="list-style-type: none"> • in accordance with any internal individual bank outsourcing governance and risk management framework, including exercising any relevant contractual rights to manage a supplier failure • under internal individual bank crisis management policies and processes that address how banks manage a material interruption to the provision of a service • in the event the failure related to a statutory management event, pursuant to the powers of the RBNZ under Part 5 of the RBNZ Act (sections 117 – 129) and ability to give directions under section 113 • if relevant, in accordance with the Trans-Tasman provisions of section 68A of the Reserve Bank of New Zealand Act and section 8A of Australian Prudential Regulation Authority Act 1998 and the Memorandum of Cooperation on Trans-Tasman Bank Distress Management.
3	Do you agree that the current outcomes-focus should be retained?	<p>Yes. In the context of the policy setting an appropriate framework for banks to manage risks associated with outsourcing, ANZ supports an outcomes focussed outsourcing policy. An outcomes-focused policy recognises the role outsourcing plays in fostering competition, innovation, efficiency and risk reduction, while also ensuring outsourcing does not compromise banks' abilities to operate. However, ANZ believes this is achieved through, for example, requiring banks to appropriately assess and manage actual and inherent risks associated with outsourcing. ANZ submits that it is crucial that the policy is approached in a manner that ensures banks retain the ability to organise themselves to deliver outcomes in a prudent, effective and efficient manner. The policy should not result in banks being artificially restrained to achieve objectives solely directed at ensuring the regulator's potential needs in a highly unlikely are met.</p> <p>In relation to the inclusion of outcomes relating to risks posed by outsourced arrangements in a bank failure scenario, ANZ supports, subject to certain qualifications, the revised outcomes proposed at paragraph 49 of the Consultation Paper in relation to the functions a statutory manager would require in a bank failure event (of either parent or the bank) and to ensure the bank can continue to operate following separation as a result of bank failure.</p> <p>However, ANZ notes that paragraph 49 and paragraph 55 (relating to the separation plan outcomes) are not aligned in their use of terminology which makes an assessment of the required outcomes of a separation plan more difficult. These outcomes should be aligned. Therefore, ANZ suggests some changes to the current statement of outcomes at paragraph 49 to add greater clarity and better align to existing BS11 outcomes (paragraph 39) and the parameters of an appropriate separation plan (paragraph 55).</p>

#	Question	ANZ response
		<p>ANZ's view is that the outcomes of the policy in relation to bank failure (and any separation plan), should be <u>to enable the New Zealand authorities to have available on the day of failure a range of options for managing the failed bank by enabling the statutory manager to restore services or functions necessary to ensure:</u></p> <ol style="list-style-type: none"> 1. That the bank is able to <u>execute its New Zealand dollar clearing, settlement and payment obligations</u> continue to meet its daily settlement and other time-critical obligations, so as to avoid disruption and damage to the rest of the financial system; 2. That the bank is able to <u>identify, monitor and manage its financial risk positions</u> understand the bank's credit and market risk positions, thereby limiting further damage to the bank's balance sheet; 3. That the bank has at hand the systems and balance sheet data necessary for the New Zealand authorities <u>to be able to ensure the outcomes of 1 and 2 are met</u> have available on the day of the failure a range of options for managing the failed bank; 4. That the bank is able to provide basic <u>banking</u> services to existing customers; including but not limited to, liquidity (both access to deposits and to credit lines) and account activity reporting; <u>and</u> 5. That the bank is able to operate on this basis as a stand-alone entity in the event of separation from its parent every day thereafter.
4	Do you agree that changing the objectives to focus more on resolution is right?	<p>No. ANZ agrees with the objectives for an outsourcing policy stated in paragraph 39 (and clarified in paragraphs 40 – 42) of the Consultation Paper. These objectives set the parameters for banks' consideration of how to manage risks associated with outsourcing by stating what outcomes must be met. However, ANZ considers that the focus on the statutory management outcome should be reconsidered. Please see our responses to Questions 2 and 3 above and 5 below.</p> <p>In particular, in relation to a statutory management event, ANZ submits the outsourcing policy outcomes should focus on the bank's ability to provide basic banking services to existing customers at the point of bank failure. ANZ supports limiting the outcomes to servicing <i>existing</i> customers in respect of their <i>existing</i> products/services, as opposed to writing or obtaining new business or providing new products/services. ANZ understands the purpose of the outcomes and separation plan requirement of the outsourcing policy is to aim at protecting the New Zealand financial system through the continued access to and supply of domestic banking services on bank failure. Therefore, aligning the outsourcing policy to the provision of basic banking services aligns with the approach taken by the OBR policy. In order to support consistent interpretation and application, ANZ suggests that the outsourcing policy</p>

#	Question	ANZ response
		<p>contain a definition of 'basic banking services' as follows:</p> <ul style="list-style-type: none"> access to New Zealand dollar transaction bank accounts, deposits, basic lines of credit and lending, ability of customers to make New Zealand dollar payments. <p>This approach recognises that it may be impossible or inappropriate for a bank to return to full service proposition following a bank failure event, but ensures that the bank's customer base is protected and the key objectives of section 68 of the Reserve Bank of New Zealand Act 1989 are met. For example, banks should be required to ensure customers can access their New Zealand dollar accounts, deposits, basic lines of credit or lending and make New Zealand dollar payments, rather than returning a complete service offering such as complex structured finance arrangements and derivative products (considered by ANZ to be 'wholesale and international banking services') on day of failure. In this context, the requirement on banks to return 'basic banking services', such as an appropriate mechanism or ability for customers to exchange value with each other or goods and service providers (i.e. execute New Zealand dollar payments), on day of failure must recognise the reality and practicality of graduated reinstatement. For example, there are multiple channels through which payments can be made (including for example, cash, cheque, internet banking, [REDACTED], ATM, [REDACTED], mobile wallet etc.) but each is an iteration or additional proposition of the original payment function. It would not be necessary, or even potentially appropriate, to restore all the mechanisms at once, provided that ability for customers to continue to make New Zealand dollar payments remains.</p>
5	<p>Do you agree that the current outcomes are appropriate? Do you agree that the outcomes should also include a resolution-focused requirement? Please explain.</p>	<p>ANZ agrees that the current objectives found in the current Condition of Registration and noted at paragraph 34 of the Consultation Paper are appropriate.</p> <p>ANZ does not support the outcomes of an outsourcing policy unduly focusing on resolution requirements. An outsourcing policy should not be designed to provide mechanisms for a regulator to manage a statutory management event. In ANZ's view, this approach would lead to artificially constraining what banks ought to be able to reasonably outsource, and therefore not deliver a regulatory outsourcing policy that is sensible.</p> <p>The policy should instead focus on requiring banks to establish an appropriate framework to manage outsourcing and the actual and inherent risks associated with outsourcing.</p> <p>To the extent that the outsourcing policy relates to crisis management and the ability to effectively resolve bank failure where outsourcing arrangements are in place, the policy should clarify that the</p>

#	Question	ANZ response
		<p>outcomes of the policy are relevant to this goal. ANZ generally agrees with the outcomes stated at paragraph 49 of the Consultation Paper provided the amendments noted at Question 3 above are made. ANZ notes that in some cases it may be completely inappropriate to return a bank to full service proposition and that this should be reflected in the policy by focussing the policy on the outcomes relevant to the provision of <i>basic banking services</i> to existing customers. Please see our answer to Question 4 above.</p> <p>In ANZ's view, the key events that could cause failure of an outsourcing arrangement, and that can be managed appropriately by a robust internal outsourcing governance and risk management framework, are:</p> <ul style="list-style-type: none"> • financial stress events affecting parent or subsidiary bank (including statutory management); • complete (third party or related provider) supplier failure; and • contained and localised catastrophic loss of one or more outsourcing arrangements stemming from technology failure or natural disaster affecting third party supplier or related party provider.
6	<p>Do you agree that the matters identified above are the appropriate matters for inclusion in a separation plan? Are there any matters that have not yet been identified above, but should be included?</p>	<p>ANZ supports the new outsourcing policy including an explicit requirement to prepare a separation plan. However, ANZ supports only the following requirements relating to a separation plan:</p> <ul style="list-style-type: none"> • <u>Inter-group arrangements</u>: the separation plan only applies to material outsourced arrangements provided by or obtained via the parent or a related party (and not independent third party suppliers who contract directly with the NZ registered bank). • <u>Bank failure scenario</u>: the separation plan should ensure that it details arrangements to cover the following separation events: statutory management of the NZ registered bank or parent failure due to financial stress (an Event). ANZ submits that the policy must provide flexibility for banks in their design of separation plans that: <ul style="list-style-type: none"> ○ recognises that banks will prioritise returning services to functionality that are critical to achieving customers' objectives ahead of prioritising regulator objectives (for example, banks may prioritise restoring access to payments in order to satisfy customer requirements for services ahead of regaining access to systems that deliver regulatory reporting) ○ recognises that banks will not be in a position to provide all services from Day 1 and that it may not be appropriate for banks to return to 'business as usual' (i.e. to full proposition) at all. That is, the plan should address the bank's ability to provide <i>basic</i>

#	Question	ANZ response
		<p><i>banking services</i> to existing customers at the point of bank failure.</p> <ul style="list-style-type: none"> ○ recognises the reality and practicality of graduated reinstatement of a function (i.e. a payment channel (e.g. ATM, internet banking) but not all payment channels [REDACTED] need to be restored at Day 1), and ○ recognises banks' existing business continuity and disaster recovery plans and processes are highly relevant to the separation plan and permits banks to leverage off such existing plans and processes. <ul style="list-style-type: none"> • <u>Materiality</u>: the separation plan covers material outsourced arrangements only. • <u>Timeframes</u>: the separation plan recognises an Event lasting indefinitely and sets out timeframes in which all steps relating to resolving the loss of an outsourced arrangement have to be completed. After this point, existing business processes for the ongoing management of the arrangement apply. • <u>Indefinite solution</u>: the separation plan does not assume that the bank goes into wind-down after an Event. • <u>Scope & Substitutability</u>: the separation plan addresses the requirements of the outcomes of paragraph 49, as amended per ANZ's suggestions. Please see Question 3 above for ANZ's proposed wording for these outcomes. ANZ notes that these outcomes include the requirement for the plan to detail alternative arrangements (i.e. substitutability) for outsourced arrangements that are owned or controlled by the parent or a related party. • <u>Operational responsibility</u>: operational responsibilities for the separation by function or role responsible. • <u>Currency</u>: a requirement to keep a separation plan up to date on an ongoing basis • <u>Triennial Testing</u>: testing of the separation plan on a rolling 3 year basis. The test requirement should permit banks to conduct a desktop test rather than a test in a live environment. A desktop test is a simulation and end-to-end walk-through of the separation scenario to validate plans, processes and allocation of roles and responsibilities to complete tasks. <p>ANZ does not support the following requirements relating to a separation plan:</p> <ul style="list-style-type: none"> • <u>Abrupt catastrophic loss scenario</u>: The separation plan addressing a separation event that is abrupt catastrophic loss of its parent (i.e. total loss of parent without notice from either a financial stress or natural disaster event). ANZ considers that the probability of such an event occurring is extremely remote [REDACTED] and that compliance with the OBR policy and banks own internal business

#	Question	ANZ response
		<p>continuity and disaster recovery planning already addresses appropriate measures to reinstate access to services and functions following an immediate loss event. ANZ considers banks' existing business continuity and disaster recovery plans and processes already in place (and which are tested extensively and were utilised successfully during the Christchurch earthquakes) address abrupt catastrophic loss stemming from system failure or natural disaster so it is unnecessary for the separation plan to also contemplate this scenario. Effective regulation needs to be proportional so that it does not impose undue compliance costs on regulated entities, or introduce new and significant risks to those entities.</p> <ul style="list-style-type: none"> • <u>Board Approval</u>: ANZ submits that approval of any detailed plan should be delegable as the plan is an operational and technical document describing how arrangements will be 'separated'. • <u>RBNZ approval</u>: Again, ANZ considers such plan is an operational and technical document that RBNZ is not best placed to determine the adequacy of. There is no international precedent for regulator approval. Instead, ANZ submits that RBNZ should have a right of access to/inspection of, at any time, the separation plan maintained by a bank. ANZ views it as an operational risk to seek RBNZ approval to changes to the plan as a business-as-usual activity. • <u>Parallel rights</u>: That the separation plan ensures parallel rights for the New Zealand bank are available for material outsourced arrangements through parent or related entity. ANZ submits that this requirement sits better under requirements of the outsourcing policy that address contractual arrangements. <p>ANZ does not agree with the position that contractual arrangements in place with parent or related entities cannot be relied on for separation. These contractual relationships are necessary and a critical part of the overall infrastructure – separation cannot occur without the ability to legally invoke rights; the separation plan then details how separation is completed (i.e the processes that are undertaken) in relation to these rights.</p> <ul style="list-style-type: none"> • <u>Staff member responsibility</u>: That the separation plan details staff members responsible for completing processes. Staff change frequently; the plan should note instead the role or function responsible for the process. • <u>Communications</u>: That the separation plan sets out the chain of command and communications plan. ANZ submits that these matters are covered in existing crisis management policies. Instead, the plan should note any deviations required from the existing Crisis Management policy due to the type of Event (e.g. where the Board is no longer in place, who their responsibilities are assigned to). • <u>Annual Testing</u>: That the separation plan be tested annually. This would incur significant time and resource and may introduce new risks to the bank that it would not face other than in an Event scenario, when risks will be specific to the situation at the time. ANZ submits that the plan

#	Question	ANZ response
		<p>should be tested on a rolling 3 year basis (i.e. test in stages across a 3 year period with the whole plan covered during the 3 years).</p> <p><i>Condition of registration status</i> Finally, ANZ submits that a requirement to prepare a separation plan is an operational requirement of the banking standard and should be included in the standard but either:</p> <ul style="list-style-type: none"> • not form part of a condition of registration • only form part of a condition of registration where a materiality threshold applies to the disclosure of breaches of conditions of registration. Please see Question 36 in ANZ's submission dated 16 September 2015 to the RBNZ on the RBNZ Regulatory Stocktake Consultation Paper for further information. <p>This is necessary to ensure that while banks must report a breach to RBNZ, they are not required to publicly disclose breaches of conditions of registration that relate solely to immaterial operational matters that do not pose a material risk to bank customers or reflect material failures in the bank's ability to manage its risks, such as failing to update a single change to a separation plan.</p> <p><i>Substitutability for the purposes of separation</i> ANZ submits that the policy should not put any restrictions on the bank's ability to determine what form of substitutability is appropriate or the geography of the substitute solution, provided that the other outcomes can be met. ANZ suggests the words "at hand" are unclear and may suggest some temporal and immediate proximity to the solution and risks artificially constraining an individual bank's options to demonstrate substitutability. For example, requiring banks to have a warm instance of all outsourced functions effectively undoes the efficiencies (including cost and ability to leverage expertise) gained by outsourcing the function in the first place. It also introduces new operating risks to the environment by requiring banks to ensure that both the outsourced function and warm instance are kept up to date including ensuring systems are synchronised for new releases and that all interfaces are</p> <p>ANZ submits that, depending on the particular outsourced arrangement, a range of substitutability options may be sufficiently robust and viable, either individually or in combination with another option or options, to address the potential risks associated with that outsourcing. These options include:</p> <ul style="list-style-type: none"> • Geography to geography substitution

#	Question	ANZ response
		<ul style="list-style-type: none"> • Contractual 'step in' rights • New supplier, with reliance on existing business continuity arrangements for short term interim solution • New in-house build (with build requirements fully documented), with reliance on existing BCP for short term interim solution • Warm instance • Purchase of another financial institution operating required systems • Discontinuance of function/service <p><i>Worked example of how separation plan from a markets perspective</i></p> <div style="background-color: black; height: 20px; width: 100%;"></div> <ul style="list-style-type: none"> • [Redacted] • [Redacted] • [Redacted]
7	Does the proposed definition appropriately define outsourcing? If not, please provide an alternative definition that, in your opinion, better captures what is meant by the term outsourcing.	ANZ supports the new policy containing a definition of outsourcing to set the scope for the policy's application. However, ANZ considers that the definition needs to be more tightly drafted so that it does not unintentionally capture arrangements that are not outsourcing, in particular, procurement (such as generic and industry standard IT contracts for services) and standard industry clearing and settlement infrastructure which the RBNZ already has sufficient oversight powers across to ensure interoperability and system stability.

#	Question	ANZ response
		<p><i>Suggested changes to definition</i></p> <p>ANZ also considers that the definition of outsourcing should be tied more specifically to the fundamental business activities of a bank (i.e. the business of carrying on a bank), rather than a general reference to <i>activities that could be undertaken</i> by a registered bank. For example, a bank <i>could</i> invest in building a switch that processes card payments, but as this would not be cost effective because establishing and maintaining a card switch is expensive and technically difficult, it is highly unlikely that it would. Therefore, the bank would rely on an appropriate external provider for this function [REDACTED].</p> <p>[REDACTED] We would submit that such a switch is not something that is a fundamental banking activity, and so should not be captured by the outsourcing policy even though in theory, it is something that a bank <i>could</i> do. This is therefore not a helpful way to consider the scope of the outsourcing policy's application. ANZ suggests the following wording:</p> <p style="padding-left: 40px;">“Outsourcing is defined in this policy as a registered bank’s use of a third party (either an affiliated entity within a corporate group or an entity that is external to the corporate group) to <u>provide services and functions</u> perform activities, on a continuing basis, <u>that are necessary for the provision of banking services</u> could be undertaken by the registered bank, now or in the future.</p> <p style="padding-left: 40px;"><u>For the purposes of this definition, an affiliated entity within a corporate group does not include a wholly owned New Zealand incorporated subsidiary. ”</u></p> <p>ANZ notes this approach aligns more closely with the definition used by the European Central Bank. ANZ considers that the use of ‘functions’ and ‘services’ is more accurate than ‘activities’ and captures both technology and manual processes. Finally, ANZ submits the policy should clarify that outsourcing to an entity that is a 100% owned subsidiary of the registered bank is not included in the definition of outsourcing on the basis that that entity is fully under the control of the bank already and that the potential risks posed by outsourcing to a third party or affiliated entity that is not a wholly owned subsidiary do not arise here.</p> <p>ANZ considers that if outsourcing and other key terms used in the policy are appropriately defined, it will not be necessary to include a list of outsourcing arrangements that are not captured by the policy. This future proofs the policy, including for technology developments, by ensuring that the policy does not need to be continually updated to add matters to this list for clarity and to reflect technological advancements.</p>

#	Question	ANZ response
		<p><i>Inclusion of a materiality threshold</i></p> <p>A materiality threshold is standard practice in outsourcing policies published by international regulators, including APRA (Australia), MAS (Singapore) and the Office of the Superintendent of Financial Institutions (Canada). ANZ submits that the policy should contain a definition of “material outsourced service or function”. ANZ considers that a “material outsourced service or function” is one that has the potential, if disrupted, to have a significant impact on the ability of the registered bank to provide banking or other financial services, or its ability to manage risks effectively, having regard to factors such as:</p> <ul style="list-style-type: none"> • the financial, operational and reputational impact of a failure of the service provider to perform on a continuing basis • the cost of the outsourcing arrangement as a share of total costs • the degree of difficulty, including the time taken, to find an alternative service provider or bring the business activity in-house • the ability of the registered bank to meet regulatory requirements if there are problems with the service provider • potential losses to the registered bank’s customers and other affected parties in the event of a service provider failure, and • affiliation or other relationship between the registered bank and the service provider. <p>The materiality threshold would dictate which additional policy requirements must be met to permit such an outsourced arrangement to proceed. ANZ considers that the following requirements should apply only to material outsourced arrangements:</p> <ul style="list-style-type: none"> • the requirement to notify and obtain non-objection from RBNZ • the requirement to have appropriate substitutable arrangements identified and in place if relevant (as required by the bank’s internal outsourcing governance and risk management framework), and • the requirement to include in the separation plan (where such separation plans are required). <p>For clarity, ANZ considers that the following policy requirements should apply to all outsourcing arrangements, regardless of materiality:</p> <ul style="list-style-type: none"> • assessment as to appropriateness to be outsourced under the bank’s internal outsourcing policy and outsourcing governance and risk management framework (including conducting due diligence)

#	Question	ANZ response
		<ul style="list-style-type: none"> the requirement to have robust legal arrangements in place the requirement to record the arrangement in the compendium, and the ongoing monitoring of the arrangement (as required by the bank's internal outsourcing governance and risk management framework).
8	Are there any other functions that should be excluded from the outsourcing policy, but are not captured in the list above?	ANZ considers that if outsourcing is appropriately defined, it will not be necessary to include a list of outsourcing arrangements that are not captured by the policy. This future proofs the policy, including for technology developments, by ensuring that the policy does not need to be continually updated to add matters to this list for clarity and to reflect advancements.
9	Do you agree that there are functions that are so integral to carrying on the business of a bank that they should not be outsourced? Do you agree that these examples are appropriate? Are there any other functions or systems that should not be outsourced?	<p>ANZ does not believe that any functions are so integral to carrying on the business of a bank that they should not be outsourced (ANZ refers to this as a 'black list'). ANZ opposes the revised outsourcing policy including a black list of any sort. The inclusion of a black list introduces untenable regulatory uncertainty for participants, in the event that functions are added to the list on an iterative, on-going basis.</p> <p>Specifically, ANZ considers that this approach would:</p> <ul style="list-style-type: none"> impose undue restrictions on, and increase operating risks by diminishing, New Zealand's ability to leverage and participate global banking opportunities <p>[REDACTED]</p> <ul style="list-style-type: none"> have the unintended effect of applying a harsher standard to outsourcing to an Australian parent bank or affiliated entity rather than a third party for which ANZ can see no justifiable basis for. <p>Following email correspondence of 8 September 2015 with RBNZ (see Appendix IV), ANZ understands that the proposals in paragraphs 63 – 71 of the Consultation Paper mean that New Zealand banks must either:</p> <ul style="list-style-type: none"> own and operate their own data, systems and software for the prohibited outsourcing arrangements, or if a third party provides the systems and software, own and control the data, and have appropriately robust contractual arrangements and back up alternatives (i.e. substitutable arrangements) and non-objections from RBNZ,

#	Question	ANZ response
		<p>and that none of the prohibited outsourcing arrangements may reside with the parent entity. ANZ does not consider there is a justifiable basis that outsourcing to a parent poses more risks than outsourcing to a third party and therefore that a harsher standard should be applied to outsourcing to a parent. ANZ considers the converse may in fact be true. Please see our comments under Key Message 4 on pages 14 and 15 above for details.</p> <p>ANZ considers that individual banks may determine, in accordance with their outsourcing governance and risk management framework, that they should not outsource certain functions. This should be an individual determination by each bank not a blanket prohibition.</p> <p>ANZ also notes the requirement to prepare a separation plan will be, potentially entirely, redundant if this policy proposal proceeds.</p> <p><i>Costs associated with transitioning to compliance with a black list requirement</i></p> <p>ANZ considers the potential impact and costs associated with the revised outsourcing policy including a black list would be significantly detrimental to individual banks, and to New Zealand. In ANZ's view, this approach would:</p> <p>[REDACTED]</p> <ul style="list-style-type: none"> • in ANZ's view would stifle future innovation and New Zealand's access to world class technology and related services; • risk increasing banks' operational risks in the short term due to needing to run parallel systems (one the current system until time to transition and the other to deliver the on-shored system and ensure the transition to that system will be seamless) and, in the long term through reduced access to technology capability (including expertise), introducing single location concentration risk and heightened exposure to external threats; • increase the costs an administrator would have to meet on an ongoing basis to run the bank. <p>[REDACTED]</p>

#	Question	ANZ response
		<p>ANZ also notes that it is likely significant opportunity and inflationary costs would also be incurred as a result of on-shoring. [REDACTED]</p> <p>[REDACTED]</p> <p>In summary, ANZ believes the on-shoring process has the potential to manifest or increase the very risk the RBNZ is seeking to mitigate due to the complex process of on-shoring, the need to find the skills and experience to operate the systems onshore and the increased concentration risk.</p>
10	<p>Do you think an outsourcing arrangement compendium would be useful as a reference record between the Reserve Bank and a bank?</p>	<p>ANZ believes an outsourcing arrangement compendium, in relation to outsourcing arrangements captured by the outsourcing policy, would be a useful reference record between the Reserve Bank and a bank and is good discipline to record outsourcing arrangements. All outsourcing arrangements captured by the outsourcing policy should be required to be recorded in the compendium. [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>ANZ does not agree that the compendium is a key accountability document that should be embedded in board compliance or that the Board should be required to undertake oversight and governance reviews of the compendium. It is an operational requirement of a highly detailed nature. Instead, there should be a requirement that the compendium is audited by a bank's internal audit function or an external auditor no less than every 3 years.</p> <p>ANZ submits that the policy should require banks to keep the compendium up to date, but not submit changes to that compendium to RBNZ as they occur. As part of the notification of material outsourced</p>

#	Question	ANZ response
		<p>arrangements, RBNZ will already be aware of material compendium additions. Instead, ANZ submits that banks should be required to submit a copy of the compendium annually to RBNZ (similar to the OBR annual attestation) and that RBNZ is entitled to request access to inspect the compendium at any time. ANZ also agrees that banks should inform RBNZ when material outsourced arrangements are brought back in house (and updating of the compendium to support this).</p>
11	<p>Are there any other matters not addressed above that should be included in the compendium?</p>	<p>ANZ agrees with the compendium record via the form of Appendix 2. ANZ suggests that a column is added to the compendium to reflect the "Date" of the outsourced arrangement.</p> <p>ANZ also notes that it interprets the "Parent company/related party" column to include only a yes/no answer. If this is not the case, ANZ requests that RBNZ clarifies what they are expecting to see in this column.</p>
12	<p>What are the costs to you of establishing and maintaining an outsourcing arrangement compendium that forms part of your conditions of registration?</p>	<p><i>Establishment</i> ANZ has already established a compendium of outsourcing arrangements so would not incur any additional costs to establish one.</p> <p><i>Maintenance</i> It is difficult to accurately answer this question in absence of the final policy positions. [REDACTED]</p> <p>[REDACTED]</p> <p><i>Requirement of condition of registration</i> ANZ submits that a requirement to keep a compendium is an operational requirement of the banking standard and should be included in the standard but either:</p> <ul style="list-style-type: none"> • not form part of a condition of registration, or • only form part of a condition of registration where a materiality threshold applies to the disclosure of breaches of conditions of registration. Please see Question 36 in ANZ's submission dated 16 September 2015 to the RBNZ on the RBNZ Regulatory Stocktake Consultation Paper for further information.

#	Question	ANZ response
		<p>This is necessary to ensure that while banks must report a breach to RBNZ, they are not required to publicly disclose breaches of conditions of registration that relate solely to immaterial operational matters that do not pose a material risk to bank customers or reflect material failures in the bank's ability to manage its risks, such as failing to include a single outsourced arrangement in a compendium.</p>
13	<p>Do you agree that all contracts for outsourcing arrangements should be required to include the terms outlined in paragraph 81</p>	<p>ANZ supports the three requirements proposed at paragraph 81 for terms and conditions that a contractual agreement relating to a material outsourcing arrangement must contain. For the avoidance of doubt, ANZ believes a contractual agreement is part of a good outsourcing governance and risk management framework for both outsourcing to parent and related parties and independent third parties. We also believe it important to note however the expected practical implications in terms of attempting to negotiate such required clauses into all relevant commercial agreements. We reasonably expect, although cannot specifically quantify at this time, that there are likely to be significant monetary and time costs associated with trying to ensure outsourcing contracts satisfy these requirements.</p> <p>In relation to Appendix 1, ANZ considers that the outsourcing policy should reflect that the proposed contractual terms must be included in contracts with outsourcing arrangement service providers, <i>where applicable</i>. The policy must allow flexibility for situations where certain contractual provisions cannot be negotiated with service providers, without unduly restricting banks' access to certain service providers because the contract with that service provider does not include one or more of the Appendix 1 terms, but is otherwise, in the context of the service and relationship, sufficiently robust.</p> <div data-bbox="763 879 2170 1050" style="background-color: black; width: 100%; height: 100%;"></div> <p>Further, ANZ considers that not all of the contractual terms are relevant to prudential regulatory requirements. Contracts will include commencement and end dates, review provisions and pricing and fee structure provisions as a matter of course, but to the extent Appendix 1 is included in the final outsourcing policy as matters to satisfy RBNZ of, these provisions should not be a requirement of the policy as they are not relevant to the robustness of contractual arrangements from a prudential perspective. In particular, ANZ notes that escrow arrangements are typical to sale and purchase agreements, particularly in the case of licensing of software and support of software, but that such escrow clauses are only relevant in very particular situations, and it not obvious what purpose they serve if required to be included in all contractual agreements for outsourcing arrangements.</p>

#	Question	ANZ response
14	Do you agree that option two is the most appropriate option for the assessment of outsourcing arrangements? Please explain.	<p>ANZ does not support either option. In particular, ANZ strongly advocates against Option 1. ANZ considers that this option poses a significant risk to unnecessarily impeding banks' ability to undertake day to day business activities. As proposed, ANZ considers that Option 2 also results in the requirement to seek RBNZ non-objection for all outsourcing arrangements, as banks will need to wait for a determination of whether the non-objection is required. This essentially results in RBNZ conducting a non-objection assessment, and then for certain proposals, conducting a full non-objection (and more lengthy consideration) process.</p> <p>ANZ supports an amended Option 2. ANZ considers that banks should be required to seek RBNZ non-objection using a prescribed template that outlines key information required for RBNZ to make a determination of non-objection <i>for material outsourced arrangements</i> only. Please see our response to Question 7 above for ANZ's comments on the definition of outsourcing and the materiality threshold. This approach resolves the necessity for RBNZ to conduct a non-objection assessment, as it will have been conducted by the bank itself under the internal outsourcing governance framework. ANZ considers that banks should be required to satisfy RBNZ as to the robustness of their internal assessment process in place of RBNZ needing to conduct each assessment itself. This removes RBNZ from getting unnecessarily involved in the detail of day to day business decisions of the bank, while delivering upon the policy outcome of achieving a sound prudential outsourcing risk management framework.</p> <p>Finally, ANZ does not support notifying RBNZ within 20 days of entering into non-material outsourcing arrangements. As per our response to Question 10 above, ANZ supports documenting all outsourced arrangements – material or not – in its internal compendium, but does not support submitting updates to the compendium to RBNZ.</p> <p><u>Form of Appendix 3</u></p> <p>ANZ submits that item 2(f) of the proposed template for engagement with RBNZ is amended to require a statement about whether the service provider is a new provider or an existing provider of outsourced arrangements, rather than document all the arrangements that have already been outsourced to that provider. That information will be available in the compendium and from previous submissions made.</p>
15	Do you agree that the approach outlined above is an appropriate way to manage the assessment of	Please see our comments above in Question 14 in relation to submitting all outsourcing arrangements to RBNZ for review.

#	Question	ANZ response
	outsourcing proposals? If not, please explain.	<p>For <i>material outsourced arrangements</i> submitted to RBNZ for non-objection, ANZ submits that RBNZ should be required to advise the bank within 20 working days of non-objection. ANZ submits that policy should permit banks to proceed with the material outsourced arrangement in the event that RBNZ does not object within 20 working days. Otherwise, banks risk substantial delays to technology deployment and day to day operations in the event that RBNZ does not, or is unable to, process the application in a timely manner. Banks should then be required to notify RBNZ within 10 working days of entering into or go-live of the material outsourced arrangement.</p> <p>In relation to the robustness of substitutable arrangements for all outsourcing arrangements, ANZ submits that the policy should not put any restrictions on the bank's ability to determine what form of substitutability is appropriate or the geography of the substitute solution, provided that the other outcomes can be met. ANZ suggests the words "at hand" are unclear and may suggest some temporal and immediate proximity to the solution and risks artificially constraining an individual bank's options to demonstrate substitutability. For example, requiring banks to have a warm instance of all outsourced functions effectively undoes the efficiencies (including cost and ability to leverage expertise) gained by outsourcing the function in the first place. It also introduces new operating risks to the environment by requiring banks to ensure that both the outsourced function and warm instance are kept up to date including ensuring systems are synchronised for new releases and that all interfaces are operating.</p> <p>ANZ submits that, depending on the particular outsourced arrangement, a range of substitutability options may be sufficiently robust and viable, either individually or in combination with another option or options, to address the potential risks associated with that outsourcing. These options include:</p> <ul style="list-style-type: none"> • Geography to geography substitution • Contractual 'step in' rights • New supplier, with reliance on existing business continuity arrangements for short term interim solution • New in-house build (with build requirements fully documented), with reliance on existing BCP for short term interim solution • Warm instance • Purchase of another financial institution that operates required systems • Discontinuance of function/service

#	Question	ANZ response
16	Do you agree that having standardised applications would assist in reducing the time taken to assess outsourcing proposals?	In general yes. Please see our responses to Questions 14 and 15 above.
17	How many requests per annum do you expect to file in a business-as-usual state? How many request do you expect to file at the outset of the policy?	<p>ANZ estimates it expects to file around ■ requests in relation <i>to material outsourced arrangements</i> per annum in a business-as-usual state. This state is wholly determined by ongoing investment decision, competitor approaches and risk environments. ANZ submits that if a materiality threshold is not applied, it would expect to file more than ■ requests per annum in a business-as-usual state.</p> <p>ANZ is unclear what the question around filing requests at the outset of the policy is asking. To the extent relevant to this question, ANZ does not support retrospective application of the revised outsourcing policy (i.e. filing a request for RBNZ non-objection for every existing outsourced arrangement). These arrangements should be included and documented in the compendium (to the extent a bank has not yet developed or maintained a compendium).</p>
18	Do you think that the threshold for the outsourcing policy should be aligned with the threshold for OBR pre-positioning, given the inter-linkages of the two policies? Would your bank be impacted by an alignment? If so, provide detailed comments.	<p>For clarity, ANZ submits that the BS17 (OBR) and BS11 (Outsourcing) policies should not be viewed as intertwined policies that address a common underlying issue or risk. ANZ considers the OBR policy and Outsourcing policy are separate and distinct policies that address different underlying issues and risks.</p> <p>Looking in isolation at the threshold contained in the OBR policy as a mechanism that might be applied within another policy to determine the coverage of that policy, ANZ submits that the threshold mechanism contained in the outsourcing policy should replicate the threshold mechanism for OBR pre-positioning. Therefore, the outsourcing policy should apply to all registered banks (i.e. a level playing field approach, except New Zealand branches of Australian incorporated banks in certain situations, for example, the situation where the branch does not raise money from retail depositors.</p> <p>ANZ considers that all banks are likely to engage in some form of outsourcing and applying the outsourcing policy consistently to all banks reflects that the core requirements of an outsourcing policy speak to prudent management of a business and their outsourcing arrangements. Those elements of any final policy that were not relevant to the individual bank would not need to be applied.</p> <p>ANZ would not be impacted by a replication of the threshold mechanism, as the outsourcing policy would apply regardless of whether the current 'large bank' threshold was retained or the policy was</p>

#	Question	ANZ response
19	Do you agree that 6 months is an appropriate amount of time for banks to provide the Reserve Bank with a plan for how it will come to compliance with the revised outsourcing policy, noting that its form has not yet been finalised?	<p>applied to all banks.</p> <p>ANZ supports the inclusion of transitional timeframes and arrangements in the policy.</p> <p>However, ANZ is not in a position to answer this question without further information about the final policy positions and detail of what these require. In the absence of this information, ANZ is unable to scope the impact and work required to comply with any new policy requirements or material policy amendments to determine how long ANZ would require to prepare a plan to compliance.</p> <p>Rather, ANZ submits that an appropriate transitional arrangement in the final policy is a timeframe that provides for banks to deliver a path to compliance to RBNZ within 12 months of the policy taking effect, but does not stipulate an end date as to when full compliance must be achieved. This allows banks to determine this in relation to the level and impact of any changes required and document in the plan. Banks should be required to inform RBNZ if they have failed to meet any of the timeframes contained in the plan.</p> <p>That is, there is no specific timeline but regular and open dialogue between the RBNZ and banks to agree the most appropriate actions and the timeframes for delivering on those actions.</p>
20	Do you agree that 2 years would provide a sufficient timeframe to reach compliance with the policy?	<p>ANZ supports the inclusion of transitional timeframes and arrangements in the policy and acknowledges the transition timeframe proposed by RBNZ.</p> <p>However, ANZ is not in a position to answer this question without further information about the final policy positions and detail of what these require.</p> <p>Regardless, ANZ submits that a 2 year transitional timeframe is too short and refers RBNZ to ANZ's comments on appropriate transitional arrangements under Question 19 above.</p> <p>Moreover, some vendors may simply refuse to agree to</p>

#	Question	ANZ response
		<p>retrospective changes to existing contracts governing outsourced services.</p> <p>ANZ is strongly of the view that some of the proposals contained in the consultation paper, if adopted without change in the final policy, will have the effect of introducing significant additional risks [REDACTED]</p> <p>[REDACTED]</p> <p>In this context ANZ strongly argues that any 'path to compliance' will need a sufficient period of time to achieve this, prior to taking steps to achieve compliance with any new policy outcomes.</p>
21	How much do you think transitioning to compliance will cost and how could these costs be reduced by an appropriate transitional path?	<p>ANZ is not in a position to answer this question without further information about the final policy positions and detail of what these require.</p> <p>ANZ submits that costs would be reduced by inclusion of an appropriate transition timeframe and requirements. For example, requiring banks to prepare a plan to compliance is an additional cost on top of actually making changes to comply. A short transitional timeframe will increase costs as it will require appropriate planning to achieve compliance outcomes, and delivery of those outcomes, to be conducted more quickly. A shorter transition timeframe also increases risks that arise from changes required to achieve compliance outcomes and therefore associated costs to mitigate those risks. However, depending on the final policy outcomes, significant costs are likely to be incurred through lost opportunities for the New Zealand financial sector as banks undertake work to reach compliant outcomes. For example, global (including Australian) banks continually assess the viability, and often undertake development of, technology solutions that can be deployed globally in New Zealand. New Zealand is perceived as having a smaller but significant market in which to prototype and develop banking solutions.</p> <p>[REDACTED]</p> <p>ANZ also submits that the calculation of costs must contemplate a significant inflationary impact that the proposals contemplated in the consultation paper will have across the market. New Zealand is a very small market in terms of the pool of:</p>

#	Question	ANZ response
		<ul style="list-style-type: none"> • available human resources generally • human resources with specific skills, expertise and experience; and • the pool of available technology, systems, and services providers. <p>The proposals will see industry compete for these resources, and ANZ reasonably expects a significant inflationary impact on the pricing of those human resources and technology/systems/services. In this context, it is imperative that current dollar values associated with human capital and other infrastructure not be used as the basis for any calculations of cost, but that these must be considered as base figures which need an inflationary component built into them.</p> <p>ANZ further submits that the inflationary impact and cost of the proposals contemplated in the consultation paper cannot simply be limited to activities directly related to achieving compliance with the proposed future policy. ANZ believes that the inflationary impact on bank costs will permeate across all aspects of banks' ongoing activities. For instance, the inflationary impact across the market of achieving compliance with the proposed new policy will also inflate prices across existing human, technology, and other resources. In this context, RBNZ's analysis cannot be limited simply to the cost of achieving compliance with the proposed new policy, but must also consider the significant increases in the costs of operating bank business as a result of the overall inflationary impact of the proposals.</p> <p>This inflationary impact is relatively inelastic with regards to the transition time frame. The fundamental problem industry will face is the competition for very scarce resources that will be required to achieve compliance initially and on an ongoing basis.</p>

Appendix III: Comparison of core elements of international regulators' outsourcing policies

Country/ Grouping	Bank for International Settlements Basel Committee on Banking Supervision	European Union CEBS	International Organization of Securities Commissions Technical Committee	Australia APRA	UK FCA	Singapore MAS	Hong Kong HKMA	Canada OSFI
Name of Policy	Outsourcing in Financial Services	Guidelines on Outsourcing	Principles on Outsourcing by markets	APRA Prudential Standard CPS 231	Chapter 8: Outsourcing	Guidelines on Outsourcing	Supervisory Policy Manual SA2 - Outsourcing	Guideline: Outsourcing of Business Activities, Functions and Processes
Outsourcing Policy & Framework required	<ul style="list-style-type: none"> Regulated entities (RE) should have a comprehensive policy to guide the outsourcing assessment. Board is responsible for to guide assessment of whether and how activities can be appropriately outsourced, in addition to retaining responsibility for all outsourced activities. REs should have a comprehensive outsourcing risk management programme to address the outsourced activities and relationship with service provider. 	<ul style="list-style-type: none"> A credit institution's (CI) outsourcing framework should include a policy on approach to outsourcing, including material and non-material and intra-group or third party. Policy should cover: <ul style="list-style-type: none"> Decision to outsource or vary an outsourcing arrangement Due diligence checks Contracts and SLAs Ongoing monitoring & management 	<ul style="list-style-type: none"> Regulated institution retains full legal liability and accountability to the regulator for all functions outsourced to same extent as if service was provided in-house. Due diligence in selecting outsourcing providers should be exercised and conflicts of interest should be managed. Principles apply regardless of outsourcing to external or affiliated entities but recognises that intra-group 	<ul style="list-style-type: none"> Banks must have a Board approved policy. Policy must set out approach to outsourcing material business activities & include detailed framework (which includes taking risks and controls into account) for managing these outsourcing arrangements. Policy must set out specific requirements for outsourcing to related 	<ul style="list-style-type: none"> A firm remains fully responsible for discharging functions under regulatory system. Requires a firm to have effective processes to identify, manage, monitor and report risks and internal control mechanisms. 	<ul style="list-style-type: none"> Outsourcing does not diminish the responsibilities of the board and senior management to comply with laws and regulations. Responsibility for risk awareness and appropriate risk management remains with the institutions board and senior management regardless of outsourcing. Nothing should restrict the regulator's ability to carry out supervisory functions, regardless of 	<ul style="list-style-type: none"> Board of Directors and management of AIs should retain ultimate accountability for the outsourced activity. AI should retain ultimate control of outsourced activity. Outsourcing can only allow them to transfer their day-to-day managerial responsibility, but not accountability, for an activity or a function to a service provider. The Board of Directors and 	<ul style="list-style-type: none"> Federally Regulated Entities (FREs) have the flexibility to configure their operations in the way most suited to achieving their corporate objectives. However, the Guideline operates on the premise that FREs retain ultimate accountability for all outsourced activities. OSFI's supervisory powers should not be constrained, irrespective of whether an activity is conducted in-house, outsourced, or otherwise

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	<ul style="list-style-type: none"> Due diligence on third party service providers should be conducted 	<ul style="list-style-type: none"> Process for dealing with expected or unexpected termination and service interruptions. Outsourced activities should be performed to the standard that would apply if activity was performed in-house. Responsibility remains with CI for the proper management of the outsourcing risks. 	outsourcing risks are different that outsourcing to an unaffiliated entity.	bodies corporate or providers outside Australia.		<p>where outsourcing service provider is located.</p> <ul style="list-style-type: none"> Institution must monitor and maintain control over outsourcing, so that in the event of disruption or unexpected termination, it can conduct business with integrity and competence. 	<p>management of AIs should ensure that the proposed outsourcing arrangement has been subject to a comprehensive risk assessment and that all the risks identified have been adequately addressed before launch. In particular:</p> <ul style="list-style-type: none"> Importance and criticality of service to be outsourced Reasons for outsourcing Impact on risk profile 	<p>obtained from a third party.</p> <ul style="list-style-type: none"> The board, or a committee of the board, is expected to ensure that an FRE has appropriate risk management policies and practices and that these are regularly reviewed. Policies are expected to include: <ul style="list-style-type: none"> An outsourcing risk philosophy – how outsourcing links to overall business and strategic objectives, business case for it, and adequacy of internal

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								<ul style="list-style-type: none"> - management of outsourcing, - Materiality assessment for outsourcing arrangements, - An outsourcing risk management programme, - Limits regarding the level of authority of FREs officers to approve outsourcing arrangements of various magnitudes.
Outsourcing definition	<ul style="list-style-type: none"> • An RE's use of a third party (either an affiliated entity within a corporate group or an entity external to the 	<ul style="list-style-type: none"> • A licensed CI's use of a third party to perform activities that would normally 	<ul style="list-style-type: none"> • No definition provided, however use of "third party service providers to perform 	<ul style="list-style-type: none"> • "Outsourcing" involves an institution entering into an arrangement 	<ul style="list-style-type: none"> • Defined as "the use of a person to provide customised services to a firm other 	<ul style="list-style-type: none"> • Defined as "an arrangement whereby an institution engages a third party (the 	<ul style="list-style-type: none"> • "Outsourcing" refers to an arrangement under which another party (i.e. the service 	<ul style="list-style-type: none"> • Outsourcing arrangement defined as "an agreement between an FRE and a service

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	<p>corporate group) to perform activities on a continuing basis that would normally be undertaken by the RE, now or in the future.</p> <ul style="list-style-type: none"> Outsourcing can be the initial transfer of an activity (or a part of that activity) from an RE to a third party or the further transfer of an activity (or a part thereof) from one third-party service provider to another, sometimes referred to as "subcontracting." In some jurisdictions, the initial outsourcing is also referred to as subcontracting. Explicitly excludes purchasing 	<p>be undertaken by the CI, now or in the future. The outsourcing provider may itself be a CI or unauthorised entity.</p> <ul style="list-style-type: none"> Explicitly excludes purchasing contracts. Purchasing defined as supply of services, goods or facilities without information about, or belonging to CI coming within control of the supplier or standardised products (e.g. market information or 	<p>processes, services, or activities (regulated or not_ that would otherwise be undertaken by markets or market operators themselves" is referred to as outsourcing.</p>	<p>with another party (including a related body corporate) to perform, on a continuing basis, a business activity that currently is, or could be, undertaken by the institution itself."</p>	<p>than: (a) a member of the firm's governing body acting in his capacity as such; or (b) an individual employed by a firm under a contract of service."</p>	<p>"service provider") to provide the institution with a service that may already or may conceivably be performed by the institution itself and which includes the following characteristics:</p> <ul style="list-style-type: none"> - the institution is dependent on the service on an ongoing basis but excludes services that involve the provision of a finished product; - the service is integral to the provision of a financial service by the institution and/or the service is provided to the 	<p>provider) undertakes to provide to an AI a service previously carried out by the AI itself or a new service to be launched by the AI. Outsourcing can be to a service provider in Hong Kong or overseas and the service provider may be a unit of the same AI (e.g. head office or an overseas branch), an affiliated company of the AI's group or an independent third party.</p>	<p>provider, whereby the service provider performs a business activity, function or process that is, or could be, undertaken by the FRE itself."</p>

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	contracts.	office inventory).				market by the service provider in the name of the institution; and		
Materiality threshold	<ul style="list-style-type: none"> • Yes. In first instance, principles should be applied to the “materiality” of the outsourced activity to the RE’s business. But the exact definition of “materiality” is at the discretion of the national authorities. <p>RE in assessing, establishing and implementing their outsourcing risk management programmes, the scope and materiality (in addition to other factors) of the outsourcing activity should be considered.</p>	<ul style="list-style-type: none"> • Yes. Activities of such an importance that any weakness or failure could have a significant effect on a CI’s ability to meet regulatory responsibilities and/or continue in business; any activities requiring a licence; any activities having significant impact on risk management and the 	<ul style="list-style-type: none"> • The proposed principles set forth by IOSCO should be applied according to the degree of materiality and the nature of the outsourced activity. • A process for determining the materiality of outsourcing arrangements should be developed with particular emphasis on the potential impact on the market if service provider 	<ul style="list-style-type: none"> • Yes. Entire policy only applies to a “material business activity”. This is an activity that has the potential, if disrupted, to significantly impact the institution or group’s business operations or ability to manage risks effectively, having regard to: <ul style="list-style-type: none"> - the financial, operational and 	<ul style="list-style-type: none"> • Yes. Defined as “outsourcing services of such importance that weakness, or failure, of the services would cast serious doubt upon the firm’s continuing satisfaction of the threshold conditions or compliance with the Principles”. <ul style="list-style-type: none"> • Operational function is regarded as critical or important if a 	<ul style="list-style-type: none"> • Yes. Defined as “an outsourcing arrangement which either: <ol style="list-style-type: none"> 1. in the event of a service failure or security breach, has the potential to materially impact an institution’s business operations, reputation or profitability; or adversely affect an institution’s ability to manage risk and comply with applicable laws and regulations; or 2. involves customer 	<ul style="list-style-type: none"> • Not defined except that the risk assessment should state importance and criticality of function being outsourced 	<ul style="list-style-type: none"> • Materiality based on the extent the arrangement has potential to have an important influence – whether quantitative or qualitative – on a significant line of business. • Guideline lists factors that should be considered when assessing materiality and questions the FRE might consider in assessing materiality. • OSFI expects the robustness of the

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	<ul style="list-style-type: none"> RE should consider the appropriateness of applying principles to wider activities. 	<p>management of risks related to those activities.</p> <ul style="list-style-type: none"> Particular care should be taken when outsourcing material activities. Intergroup outsourcing can be material. 	<p>fails.</p> <ul style="list-style-type: none"> Assessment of materiality is subjective. Most market authorities limit their assessment of outsourcing arrangements to material or core activities, 	<p>reputational impact of a failure of the service provider to perform over a given period of time;</p> <ul style="list-style-type: none"> the cost of the outsourcing arrangement as a share of total costs; the degree of difficulty, including the time taken, in finding an alternative service provider or bringing the business activity in-house; the ability of the institution or member of 	<p>defect or failure in its performance would materially impair the continuing compliance of a common platform firm with the conditions and obligations of its authorisation or its other obligations under the regulatory system, or its financial performance, or the soundness or the continuity of its relevant services and activities.</p> <ul style="list-style-type: none"> Where a firm 	<p>information and, in the event of any unauthorised access or disclosure, loss or theft of customer information, may materially impact an institution's customers.</p> <ul style="list-style-type: none"> Outsourcing all risk management and internal control functions including compliance, internal audit and financial accounting is material. Implementation of Guidelines is proportionate to materiality of outsourcing. 		<p>FRE's management of outsourcing risks to reflects the materiality of the arrangement</p> <ul style="list-style-type: none"> With respect to outsourcing arrangements that are deemed clearly immaterial, the FRE is not expected to follow the risk management program outlined in this Guideline. All other material arrangements should have the risk management programme applied to it depending on the type of outsourcing arrangement. Those deemed

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				<p>the group to meet regulatory requirements if there are problems with the service provider;</p> <ul style="list-style-type: none"> - potential losses to the institution's or group's customers and other affected parties in the event of a service provider failure; and - Affiliation or other relationship between the institution or group and the service provider. 	<p>relies on a third party for the performance of operation functions which are not critical or important for the performance of relevant services and activities it should take into account in a manner that is proportionate given the nature, scale and complexity of the outsourcing, the outsourcing rules.</p>			<p>material should have the full risk management programme applied to it, unless it is reasonable to conclude that it would be inappropriate.</p>

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List of activities outside scope of outsourcing definition	<ul style="list-style-type: none"> See Outsourcing definition re purchasing contracts. 	<ul style="list-style-type: none"> See Outsourcing definition re purchasing contracts. 	<ul style="list-style-type: none"> Not apparent 	<ul style="list-style-type: none"> Not apparent 	<ul style="list-style-type: none"> The functions below are exception to the requirement to take the outsourcing rules into account in a proportionate manner for non-critical outsourced functions. Without prejudice to the status of any other function, the following functions will not be considered as critical or important for the purposes of this chapter: (1) the provision to the 	<ul style="list-style-type: none"> Three categories generally not considered outsourcing: <ol style="list-style-type: none"> Arrangements in which certain industry characteristics require the use of third-party providers. (Telephone utilities, postal services, market information, clearing and settling arrangements etc.); Arrangements that pertain to principal-agent relationships rather than outsourcing (sale of insurance policies by agents or 	<ul style="list-style-type: none"> Not apparent 	<ul style="list-style-type: none"> The Guideline generally would not apply to the following: <ul style="list-style-type: none"> Courier services, regular mail, utilities, telephone; Procurement of specialized training; Discrete advisory services (e.g., legal opinions, certain investment advisory services that do not result directly in investment decisions, independent appraisals, trustees in bankruptcy); Purchase of goods, wares, commercially

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					<p>firm of advisory services, and other services which do not form part of the relevant services and activities of the firm, including the provision of legal advice to the firm, the training of personnel of the firm, billing services and the security of the firm's premises and personnel;</p> <p>(2) the purchase of standardised services, including market information services and the provision of price feeds;</p>	<p>3. brokers); and Arrangements that the institution is not legally or administratively able to provide (statutory audit arrangements, discrete advisory services, independent consulting).</p>		<p>available software and other commodities</p> <ul style="list-style-type: none"> - Independent audit reviews; - Credit background and background investigation and information services; - Market information services (e.g., Bloomberg, Moody's); - Independent consulting; - Services the FRE is not legally able to provide; - Printing services; - Repair and maintenance of fixed assets; - Supply and service of leased telecommunicati

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					(3) the recording and retention of relevant telephone conversations or electronic communications subject to [another standard]			<ul style="list-style-type: none"> - on equipment; - Travel agency and transportation services; - Correspondent banking services; - Maintenance and support of licensed software; - Temporary help and contract personnel; - Fleet leasing services; - Specialized recruitment; - External conferences; - Clearing and settlement arrangements between members or participants of recognized clearing and settlement

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								<ul style="list-style-type: none"> - systems; - Sales of insurance policies by agents or brokers; - Ceded insurance and reinsurance ceded; and - Syndication of loans.
Prohibition on certain functions being outsourced ("black list")	<ul style="list-style-type: none"> • No particular activity proscribed at the point in time Joint Forum developed principles. 	<ul style="list-style-type: none"> • Yes. Activities relating to accepting deposits or licensed lending may not be outsourced. • Core management functions (such as setting risk strategy, final responsibility, oversight in operations and processes) 	<ul style="list-style-type: none"> • Notes that in many jurisdictions there are no restrictions/prohibitions on outsourcing provided legal obligations are met. • On the contrary, ISOCO notes that in some jurisdictions some activities can only be outsourced to 	<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • Should not undertake outsourcing of operational functions that would materially impair quality of internal control or the regulator's ability to monitor compliance. • Not delegation of senior personnel 	<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • Two elements that should not be outsourced to external auditor: any actuarial service (with exceptions) and any internal audit service related to internal accounting controls, financial systems or financial statements of the FRE

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		<p>may not be outsourced.</p> <ul style="list-style-type: none"> Anything that impairs the orderliness of the CI's conduct, senior management ability to manage and control, ability of internal governance bodies to fulfil their oversight tasks; and supervision of outsourcing institution should not be outsourced. No restriction on outsourcing non-material activities. 	<p>self-regulated organisations or regulated entities.</p>		<p>responsibility</p> <ul style="list-style-type: none"> Not conditions subject to which the authorisation was granted 			

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Regulator involvement: consultation and notification of proposed outsourcing	<ul style="list-style-type: none"> No notification /engagement with regulator about outsourced activities required. Regulators must be able to on request, obtain promptly any books and records about the outsourcing activity from either RE or the service provider and any additional information about the outsourced activities. 	<ul style="list-style-type: none"> CI should adequately inform regulator of outsourcing of material (other than prohibited) activities to allow regulator to consider whether proposal raises prudential concerns and action required. CI's must inform regulator of material developments affecting outsourcing provider's ability to fulfil obligations. 	<ul style="list-style-type: none"> Regulator, regulated institution and auditors should have access to books and records of the service provider relating to the outsourced activities and regulator should be able to obtain necessary information on request. 	<ul style="list-style-type: none"> Must consult with APRA prior to entering into offshore agreements. Must notify APRA within 20 days after entering into agreements to outsource. Include a summary of key risks of outsourcing arrangement and risk mitigation strategies. APRA must have access to the outsourcing arrangement's documentation and information APRA must be 	<ul style="list-style-type: none"> Must notify regulator after due diligence completed and firm has determined service provider is suitable to carry out outsourced activity. Notification must include a number of minimum criteria. Can enter arrangement if no regulator objection received within a month. Outsourcing must not materially impair the 	<ul style="list-style-type: none"> The outsourcing contract should not hinder MAS in its exercise of supervisory powers over the institution or from accessing information on the institution or service provider. An institution should notify MAS before it commits to or amends any material outsourcing arrangements and be prepared to demonstrate to MAS its observance of the Guidelines. MAS may require additional measures and may also take 	<ul style="list-style-type: none"> "As outsourcing can bring significant benefits to AIs and their customers, the HKMA will not stand in the way of AIs using outsourcing arrangements to achieve their business objectives, provided that such arrangements are well structured and properly managed and the interests of customers will not be compromised." AIs should discuss outsourcing plans with HKMA 	<ul style="list-style-type: none"> States min OSFI expectations for processes/assessments to enter a material outsourcing arrangement. Includes that OSFI expects to access in Canada any records necessary to fulfil its mandate. OSFI have access to list of outsourcing and be notified about events expected to have a significance negative impact on provision of service

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				allowed to perform onsite visits.	ability of the regulator/competent authority to monitor the firm's compliance • Service provider must cooperate with appropriate regulator and any other competent authority in relation to outsourced activities.	other supervisory functions. • MAS may directly communicate with relevant regulators. • MAS may require an institution to modify, make alternative arrangements or re-integrate an outsource service into the institution in certain circumstances. • AN institution should notify MAS of any adverse developments.	in advance and show can satisfy the guideline. • HKMA wants access to service providers/data	

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Contractual legal requirements	<ul style="list-style-type: none"> Written contracts required that clearly describe all material aspects of the outsourcing arrangement (including what activities are outsourced), including rights, responsibilities and expectations of parties. Contract should provide for continuous monitoring and assessment of the service provider. Include termination clauses and minimum period to execute a termination, including provisions relating to insolvency, other 	<ul style="list-style-type: none"> Must have formal and comprehensive written contract that clearly defines the outsourced activity. Performance levels should be documented and there should be quantitative and qualitative performance targets. Requirement for outsourcing provider to immediately inform CI or regulator directly or material issues/impact on ability to provide 	<ul style="list-style-type: none"> Must have legally binding written contract, nature and detail of contract should be appropriate to the materiality and nature of the outsourced activity to the ongoing business of the regulated institution. Contract may cover: responsibilities of parties; service levels; how performance will be monitored; confidentiality; limits on sub-contracting, payment; liability for unsatisfactory performance and breach of contract; 	<ul style="list-style-type: none"> Legally binding agreements unless otherwise agreed by APRA, signed by all parties before outsourcing arrangement commences. Must include the following elements: scope of arrangement & services; commencement/end dates; review; pricing/fees; SLAs and performance; form of data and identification of control and ownership of data; reporting 	<ul style="list-style-type: none"> Rights and responsibilities must be clearly set out in a written agreement. Agreement must require service provider to provide all requested information to the firm in the UK for access by the FCA. If the common platform firm and service provider are members of the same group the level of control can be taken into account for what required in the 	<ul style="list-style-type: none"> Contractual terms and conditions governing relationships, functions, obligations and responsibilities of the contracting parties in the outsourcing should be carefully and properly defined in written agreements. The detail in these agreements should be appropriate for the nature and materiality of the arrangement. They should also be vetted by a competent authority e.g. the institutions' legal 	<ul style="list-style-type: none"> The type and level of services to be provided and the contractual liabilities and obligations of the service provider should be clearly set out in a service agreement between AIs and their service provider. These should be regularly (annually) reviewed. Where the service provider is a wholly-owned subsidiary of an AI or the head office or another branch of a foreign AI, a memorandum of understanding 	<ul style="list-style-type: none"> OSFI expects material outsourcing arrangements to be documented by a written contract that addresses all elements of the arrangement and has been reviewed by the FRE's legal counsel. Includes if applicable: <ol style="list-style-type: none"> Nature and scope of service being provided Performance measures Reporting requirements Resolution of differences Defaults and termination Ownership and access Contingency planning

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	<p>material changes, and clear delineation of ownership of intellectual property, including transfers of property.</p> <ul style="list-style-type: none"> For service providers in another jurisdiction, choice of law provision and jurisdictional covenants for adjudication of disputes. Conditions of sub-contracting should be covered. Take appropriate steps to protect confidential information such as include provision prohibiting the service provider from using or disclosing the confidential 	<p>outsourced arrangement.</p> <ul style="list-style-type: none"> Rights and obligations of parties should be defined. Termination and exit clauses allowing transfer to another provider or bringing activity back in-house and for termination on notice if the regulator requires it. Provisions to allow for continuous monitoring and for audits to be undertaken. 	<p>guarantees and indemnities; access to records; dispute resolution; BCP; choice of law provisions; termination, transfer and exit strategies.</p> <ul style="list-style-type: none"> IOSCO places particular emphasis on BCP, security, protection of confidential information, termination, and rights of inspection and access. 	<p>requirements; audit; BCP; confidentiality; termination; dispute resolution; liability & indemnity; sub-contracting; insurance; offshoring.</p> <ul style="list-style-type: none"> The above requirements do not apply to an outsourcing arrangement with a related body corporate unless APRA has notified otherwise or another prudential standard requires so. Must include a clause which 	<p>agreement.</p> <ul style="list-style-type: none"> The outsourcing agreement should entitle the firm to terminate the outsourcing in particular circumstances. The firm should take particular issues into account where the service provider is not authorised or registered in its home country and/or not subject to prudential supervision. 	<p>counsel on their legal effect and enforceability.</p> <ul style="list-style-type: none"> Every outsourcing agreement needs to address the risks and risk mitigation strategies identified at the risk evaluation and due diligence stages. Each agreement should allow for renegotiation and renewal to enable the institution to retain an appropriate level of control over the outsourcing and the right to intervene with appropriate measures to meet its legal 	<p>may be acceptable.</p> <ul style="list-style-type: none"> AIs should ensure that the outsourcing agreement with the service provider contains a clause which allows for supervisory inspection or review of the operations. AIs should have controls in place to ensure that the requirements of customer data confidentiality are observed e.g. contractual rights to take action in the events of a breach of confidentiality. 	<p>h) Audit rights i) Subcontracting j) Confidentiality and security k) Pricing l) Insurance</p> <ul style="list-style-type: none"> When a Canadian branch or a Canadian subsidiary enters into a material outsourcing arrangement with a member of its Regulated Financial Institution Parent group (RFIP group) this includes: <ul style="list-style-type: none"> a) a due diligence process that addresses the qualitative aspects of the arrangement, particularly those pertaining to the unique

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	<p>formation</p> <ul style="list-style-type: none"> • The agreement should: <ul style="list-style-type: none"> - define activities; service and performance levels; - not impeded on RE meeting regulatory obligations; and not impede regulator from exercising regulatory powers. 	<ul style="list-style-type: none"> • Contract must permit for regulator to have direct access to relevant data and premises of the outsourcing provider. • Outsourcing contract should oblige provider to protect confidential information. 		<p>allows to have access to the outsourcing arrangement's documentation and information</p> <ul style="list-style-type: none"> • Must include a clause which allows APRA to perform onsite visits. 		<p>and regulatory obligations.</p> <ul style="list-style-type: none"> • Outsourcing agreement should not hinder MAS in the exercise of its supervisory powers. • Outsourcing agreement should include provisions which address: <ul style="list-style-type: none"> o the scope; o performance, operational, internal control and risk management; o confidentiality and security; o business continuity; o monitoring and control; o audit and inspection; 		<p>operational requirements of the FRE;</p> <ul style="list-style-type: none"> b) an outsourcing agreement that details, among other things, the scope of the arrangement, the services to be supplied, the nature of the relationship between the FRE and the service provider (e.g., roles, responsibilities and expectations); c) procedures governing the subcontracting of services; d) an appropriate business continuity plan; e) a process for monitoring and oversight; and

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						<ul style="list-style-type: none"> o notification of adverse developments; o dispute resolution; o default termination and early exit; o sub-contracting; and o applicable laws. 		<ul style="list-style-type: none"> f) legislative requirements relating to location of records
Requirement to keep a compendium	<ul style="list-style-type: none"> • Not stated. 	<ul style="list-style-type: none"> • Not stated. 	<ul style="list-style-type: none"> • Not stated. 	<ul style="list-style-type: none"> • Not stated. 	<ul style="list-style-type: none"> • Not stated. 	<ul style="list-style-type: none"> • Part of effective monitoring • A central record of all material outsourcing that is readily accessible for review by the board and senior management of the institution. Information maintained in the record should include the name and location(s) of the service 	<ul style="list-style-type: none"> • Not stated. 	<ul style="list-style-type: none"> • The FRE should maintain a centralized list of all its material outsourcing arrangements. A parent FRE may maintain the list on behalf of its subsidiaries. • The list should contain information pertaining to the name of the service provider, the country where

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						<p>provider, the value and expiry or renewal dates of the contract, and reviews on the performance of the outsourced arrangement. The record should be updated promptly and form part of the corporate governance reviews undertaken by the board and senior management of the institution.</p>		<p>the service is provided, the expiry or renewal date of the contract or outsourcing agreement and the estimated value (dollar amount) of the contract or outsourcing agreement.</p> <ul style="list-style-type: none"> The list should be updated on an ongoing basis and should form part of the documentation delivered to the FRE board of directors or the branch's chief agent or principal officer. OSFI should have access to the list at any time upon request

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Offshoring	<ul style="list-style-type: none"> Defined as outsourcing activities beyond national borders, either with an unrelated party or in an offshore affiliate. Typical services provided are transaction processing or call centres. Noted that India, China, Malaysia and Philippines are the most desirable offshoring locations. Noted regulators and RE both need to monitor and assess governmental policies, political, social, economic and legal conditions in their respective roles. 	<ul style="list-style-type: none"> No special rules need to apply in relation to geographical location of outsourcing provider. 	<ul style="list-style-type: none"> Principles apply equally to third party service providers and/or offshore affiliates. Recognised additional challenges around effective supervision and control of providers located abroad, such as access to and translation of books. Location of service provider is a factor in a materiality assessment. 	<ul style="list-style-type: none"> “Offshoring” = outsourcing of a material business activity associated with Australian business to a service provider (including related body corporate) where the activity will be conducted outside Australia.” It includes where the service provider is incorporated in Australia but the physical location of the outsourced activity is outside Australia. 	<ul style="list-style-type: none"> No specific distinction apart from there needing to be an appropriate coordination agreement between the FCA and the supervisor in the non-EEA state. 	<ul style="list-style-type: none"> Agreement should be tailored to the situation. Governmental, political, social, legal, regulatory and economic conditions should be taken into account. In principle outsourcing agreements should only be entered into with service providers in jurisdictions which uphold confidentiality clauses. MAS may communicate with home regulator of outsourced jurisdiction 	<ul style="list-style-type: none"> HKMA may communicate with the regulator in the outsourced jurisdiction. Where overseas outsourcing AI needs to consider the implications on risk profile, rights of overseas authorities to data, notification to customers, rights of HKMA access to data, governing law of contract and another chapter on transfer of personal data outside Hong Kong. Shall ensure that HKMA has right 	<ul style="list-style-type: none"> When out-of-Canada outsourcing is being contemplated, the FRE should pay attention to the legal requirements of that jurisdiction, as well as the potential foreign political, economic and social conditions, and events that may reduce the foreign service provider’s ability to provide the service.

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				<ul style="list-style-type: none"> • Where the international business of a group outsources activities to a service provider in its local jurisdiction, this does not constitute offshoring. • Permission required from APRA. • If APRA views arrangement as involving risks that are not being managed appropriately, APRA may require other arrangements to be made ASAP. 			to access of data. This right should be confirmed in writing.	

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Threshold for policy application	<ul style="list-style-type: none"> Applies to all REs. 	<ul style="list-style-type: none"> Consistent application to all CIs, contributing to a level playing field for them. Proportionality applies to reflect size of institutional and sophistication of outsourced activities. Regulator response should be proportionate to institution. 	<ul style="list-style-type: none"> Not apparent 	<ul style="list-style-type: none"> Applies to all ADIs (including foreign ADIs) and their subsidiaries. 	<ul style="list-style-type: none"> Common platform firms must comply while other firms treat it as guidance. 	<ul style="list-style-type: none"> Guidelines generally applicable to outsourcing to parties within an institution's group, including its HO or parent institution, another branch or related company, whether located within or outside Singapore. The requirements may be addressed within group -wide risk management policies and procedures. Expectation the institution can provide information demonstrating the structure and processes by which its board and senior management discharge their role in the oversight and management of outsourcing risks on a group-wide basis. 	<ul style="list-style-type: none"> Non-statutory guideline issued by MA as guidance note. Applies to all AIs. 	<ul style="list-style-type: none"> The Guideline applies to all the outsourcing arrangements of an FRE or an FRE group. In applying the Guideline the FRE is expected to consider the impact on the FRE and on its consolidated operations, of outsourcing arrangements entered into by all its subsidiaries and business operations, including those located in foreign jurisdictions. OSFI expects the FRE to ensure that its subsidiaries and branches follow the guideline when entering into material outsourcing arrangements.

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Substitutability	<ul style="list-style-type: none"> • Not apparent 	<ul style="list-style-type: none"> • Not apparent 	<ul style="list-style-type: none"> • Not apparent 	<ul style="list-style-type: none"> • Not apparent 	<ul style="list-style-type: none"> • Not apparent 	<ul style="list-style-type: none"> • In the business continuity plan an institution is required to identify viable alternatives for resuming operations without incurring prohibitive costs in order to mitigate the interdependency risk created by being highly interdependent on another financial system institution as service provider 	<ul style="list-style-type: none"> • Factor in a viable contingency plan. • In establishing a viable contingency plan, AIs should consider the availability of alternative service providers. 	<ul style="list-style-type: none"> • Materiality factor – degree of difficulty and time to find an alternative service provider or bring it in house • Arrangements that likely do not represent material outsourcing include those where there are numerous providers in the market place and the cost and inconvenience in switching between them is low.
Exit plan/ Exit strategy	<ul style="list-style-type: none"> • Exit strategies should be developed to mitigate exit strategy risk (which includes concentration risk, loss of relevant skills in the RE preventing it being brought 	<ul style="list-style-type: none"> • A CI should have a policy in place on its approach to outsourcing, including contingency plans. This should cover 	<ul style="list-style-type: none"> • Outsourcing with third party service providers should include contractual provisions relating to the termination of the contract and 	<ul style="list-style-type: none"> • Regulated institution must be able to demonstrate that contingency plans that would enable the outsourced 	<ul style="list-style-type: none"> • If a firm is considering outsourcing it should have an 'Exit Plan' in place when the relationship comes to an end. Questions 	<ul style="list-style-type: none"> • Early exit plan is related to default termination. An institution should have the right to terminate the outsourcing agreement: <ul style="list-style-type: none"> - in the event of 	<ul style="list-style-type: none"> • Part of contingency planning should be possibility of bringing the outsourced activity back in-house in an emergency. 	<ul style="list-style-type: none"> • Defaults and termination to be included in contract: Appropriate notice should be given for termination of service and assets returned to the

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	back in-house, contracts which make timely exit prohibitively expensive, lack of staff, or loss of intellectual history.)	<p>all aspects of outsourcing whether the outsourcing takes place within a corporate group or not.</p> <ul style="list-style-type: none"> The policy should deal with the expected or unexpected termination of a contract and other service interruptions. In particular, CIs should plan and implement arrangements to maintain the continuity of their businesses in the event that the provision of ser 	appropriate exit strategies including what will occur on termination and how activity will be transferred to another provider or back in-house.	activity to be provided by an alternate service provider or brought back in-house are in place.	<p>to ask are:</p> <ul style="list-style-type: none"> how will a firm transition to an alternative service provider; how will a firm get its data back; and how will the data be removed from the service provider's systems? <ul style="list-style-type: none"> A firm should document its strategy for maintaining continuity of its operations, and its plans for communicating and regularly testing the adequacy and 	<p>default (including change in ownership, insolvency, liquidation, receivership, judicial management)</p> <ul style="list-style-type: none"> breach of security, confidentiality; or demonstrable deterioration in the ability of the service provider to perform the service as contracted. <ul style="list-style-type: none"> Provisions to be included are: <ul style="list-style-type: none"> The minimum period to execute a termination Other provisions to ensure a smooth 	<ul style="list-style-type: none"> Where a local AI is planning to outsource a major part of its data processing function to outside Hong Kong, HKMA will expect the AI to have a robust back-up system and contingency plan. The back-up system should be properly documented, and regularly tested. 	FRE in a timely fashion. In particular, data and records relating to data processing outsourcing arrangements should be returned to the FRE in a format that would allow the FRE to sustain business operations without prohibitive expense.

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		<p>vices by an outsourcing provider fails or deteriorates to an unacceptable degree, or the firm experiences other changes. This policy should include contingency planning and a clearly defined exit strategy.</p>			<p>effectiveness of this strategy.</p>	<p>transition when the contract is terminated or being amended by either party. (E.g. facilitate transferability of the outsourced services to a bridge institution or a third party acquirer).</p> <ul style="list-style-type: none"> • Where the outsourcing agreement involves an intra-group entity, the agreement should be legally enforceable. • Exit also mentioned re offshoring – ability to execute exit strategy is 		

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						factor to assessing offshoring risk.		
Business Continuity Plan (BCP)	<ul style="list-style-type: none"> The RE and service providers should establish and maintain contingency plans including for disaster recovery and periodic testing of backup facilities. For offshored services, RE's should consider ability to quickly revert processes to home country in extremis. 	<ul style="list-style-type: none"> See above. 	<ul style="list-style-type: none"> Regulated institution should take appropriate measures to determine that service providers establish and maintain emergency procedures and a plan for disaster recovery, with periodic testing of backup facilities. Provisions in the outsourcing market's own contingency plans that addresses circumstances in which one or more service providers fail to 	<ul style="list-style-type: none"> Separate APRA policy. BUT outsourcing contractual agreements must cover BCP requirements 	<ul style="list-style-type: none"> Separate FCA guidance. 	<ul style="list-style-type: none"> Separate guideline but mentioned in outsourcing regulation. In line with the separate guideline an institution should take steps to evaluate and satisfy itself that the interdependency risk arising from the outsourcing arrangement can be adequately mitigated such that the institution remains able to conduct its business with integrity and 	<ul style="list-style-type: none"> Separate chapter. Contingency plan needs to be part of outsourcing agreements In establishing a viable contingency plan, AIs should consider, among other things, the availability of alternative service providers or the possibility of bringing the outsourced activity back in-house in an emergency, and the costs, time and resources that would be 	<ul style="list-style-type: none"> The BCP should address reasonably foreseeable situations where the service provider fails to continue to provide. The BCP and backup should be commensurate with the risk of service disruption. In particular, the FRE's BCP should ensure that the FRE has in its possession, or can readily access, all records necessary to allow it to sustain business operations, meet

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			adequately perform their contractual obligations. This may include regulatory reporting.			competence in the event of a service failure or disruption in, or unexpected termination of the outsourcing arrangement or liquidation of the service provider.	involved.	its statutory obligations, and provide all information as may be required by OSFI to meet its mandate, in the event the service provider is unable to provide the service. • Contract should set out contingency plan.
Source	http://www.bis.org/publ/joint12.pdf	https://www.eba.europa.eu/documents/10180/104404/GL02OutsourcingGuidelines.pdf.pdf	https://www.iosco.org/library/pubdocs/pdf/IOSCOPD299.pdf	http://www.apra.gov.au/CrossIndustry/Documents/CPS-231-Outsourcing-August-2014.pdf	https://www.handbook.fca.org.uk/handbook/SYSC/8.pdf	http://www.mas.gov.sg/~media/MAS/News%20and%20Publications/Consultation%20Paper/ConsultationPaper_Guidelines%20on%20Outsourcing.pdf	http://www.hkma.gov.hk/media/eng/doc/key-functions/banking-stability/supervisory-policy-manual/SA-2.pdf	http://www.osfi-bsif.gc.ca/eng/financial-rq-ro/qdn-ort/qlld/pages/b10.aspx

Appendix IV: Email correspondence with RBNZ seeking clarification of certain policy proposals

-----Original Message-----

[REDACTED]

Sent: Tuesday, 8 September 2015 3:13 p.m.

[REDACTED]

Subject: RE: BS11 Outsourcing consultation - clarification questions

Hi,

Yes, that appears to be a typo. It should refer to paragraph 24. I'd interpret the question more generally anyway, as we are interested in your views on whether we have identified the correct issues and risks.

Thanks.

[REDACTED]

-----Original Message-----

[REDACTED]

Sent: Tuesday, 8 September 2015 3:01 p.m.

[REDACTED]

Subject: RE: BS11 Outsourcing consultation - clarification questions

[REDACTED]

Many thanks. It clarifies the position perfectly.

May I ask yet another, however, question. In your posed Consultation Paper Question 1, it refers to the 'issues identified at paragraph 21'. There only appears to be one issue in this paragraph. Does the question mean to refer to paragraph 24 instead?

Thanks

[REDACTED]

-----Original Message-----

[REDACTED]

Sent: Tuesday, 8 September 2015 1:46 p.m.

[REDACTED]

Subject: RE: BS11 Outsourcing consultation - clarification questions

Hi [REDACTED]

Thanks for your email. Let me clarify a couple of points you raise.

The proposed prohibition on outsourced functions does not mean that all the data has to be held or managed by ANZ NZ in New Zealand. Third party providers can be used. What it means is that ANZ NZ has to have ownership and control of the data. That ownership and control cannot reside with the parent (see blue box). If third parties are used to manage the data, then the contract for the services provided by that third party has to meet the proposed requirements of paragraph 81 of the consultation paper (see paragraph 66).

Furthermore, the proposal envisages ANZ NZ to calculate its financial position, including the general ledger, with its own data, systems and software. It would not be enough to have those calculations performed by the parent during BAU times with a back up capability available in New Zealand. That is a marked difference between the functions that are prohibited from being outsourced and those that are not. For functions that are not prohibited from being outsourced, this sort of arrangement might be okay subject to the robustness of any back up alternatives and non-objections from the Reserve Bank. For the calculation of financial positions and the general ledger it would not be.

I hope this helps but feel free to contact me if you want to discuss it further.

Regards,

[REDACTED]

[REDACTED]

[REDACTED]

Sent: Monday, 7 September 2015 5:43 p.m.

[REDACTED]

Subject: RE: BS11 Outsourcing consultation - clarification questions

Hi [REDACTED]

Thanks very much for your helpful responses below. We do have an additional question in relation to the prohibition on outsourcing activities section.

In the context of a prohibition, typically this means something that you cannot do – at all. We are trying to interpret the scope of the application of the suggested prohibition/s in the consultation paper.

The proposals (i.e. the examples in the purple boxes) seem to assume that as long as you have the data required to input to any given system/process in New Zealand (e.g. an NZ based data centre) then you have met the requirements of any prohibition. It appears as though the prohibition does not apply to systems/processes feeding into the required outcomes as long as the data that feeds into those systems/processes is replicated somewhere in NZ (i.e. the system/process itself could still be outsourced). From there, as long as you complied with the rest of the arrangements (ie could substitute an outsourced process for another process if a failure event occurred) you would still be compliant with the policy.

However, it may be that in fact the paper is suggesting both the data and the systems/processes required to achieve the outcomes (e.g financial positions and regulatory reports) must both be in NZ (and as a flow on effect, substitution becomes irrelevant). Effectively, this would mean matters that are prohibited to be outsourced and all such things must be run/operated entirely from NZ.

Could you confirm which of the above the paper is suggesting? (Or are we to respond to both potential approaches?)

Thanks

[REDACTED]

[REDACTED]
Sent: Thursday, 3 September 2015 11:04 a.m.

[REDACTED]
Subject: FW: BS11 Outsourcing consultation - clarification questions

Hi [REDACTED]

[REDACTED] has asked me to respond to your email directly.

Definition of outsourcing

As noted in our earlier email, an earlier version of paragraph 61 on the website had a typo in it. It was corrected, but not before you downloaded it. The online version has been updated and the sentence should read: "It will also assist in interpreting the use of the word "could" in the proposed definition above."

Separation plan

First question

In response to your first question, the purpose of the separation plan is to set out the processes by which the NZ bank would separate from its parent. The trigger for such a scenario may be financial stress causing the failure of the parent or any other reason you can think of. The separation plan is intended to bolster OBR and will require banks to set out the processes for separation and the timeframes under which the separation will be completed.

The Outsourcing policy more generally will focus on contingency plans that banks have in place, including where there is a separation from the parent or where there is a failure of a service provider. The bank will be required to satisfy the Reserve Bank that its contingency plans for situations of supplier failure, including a catastrophic failure, are robust.

Second question

The separation plan is intended to cover how the bank will provide basic banking services following a separation from its parent. We would expect that to include, but not be limited to, services that are ordinarily requested by private customers and businesses, including SMEs. The separation plan needs to prepare for an abrupt loss of access to functions provided by the parent and related parties for an indefinite period. The plan is not intended to cover only how the bank would regain access to their parent or a related party functions.

If you have any further queries please contact us.

Kind regards,
[REDACTED]

Please consider the environment before printing this e-mail

[REDACTED]

Sent: Tuesday, 1 September 2015 11:29 a.m.

[REDACTED]

Subject: FW: BS11 Outsourcing consultation - clarification questions

[REDACTED]

Sent: Tuesday, 1 September 2015 11:21:07 a.m.

[REDACTED]

Subject: BS11 Outsourcing consultation - clarification questions Hi Peter

Trust you are well. I was hoping you could assist with a couple of points of clarification on the current BS11 outsourcing consultation. I realise you're not in the policy team, but wonder if you could direct these for us?

Definition of outsourcing

- Paragraph 59 contains a proposed definition of outsourcing in a yellow box.
- Paragraph 61 then refers to the functions that will be included in the policy as not relevant for the outsourcing policy and states that these will help "assist in interpreting the use of the word "normally" in the proposed definition above.
- I am probably being exceptionally blind, but I cannot see the word "normally" in the yellow box anywhere. Is this an oversight and the yellow box should say "to perform activities on a continuing basis that could normally be undertaken by the registered bank..."

Separation Plan

- Could we please confirm that for the purposes of the separation plan/outsourcing generally, the proposed scenarios that a separation plan would be invoked include both a financial stress event or catastrophic physical outage (eg earthquake destroying all sites in an outsourced location (eg Melbourne)).
- Could we also please confirm that the plan is to be designed to ensure the bank can be run at full service proposition (ie all products and services available)? Or will a plan be considered appropriate/viable if it covers a cut down proposition [REDACTED]

[REDACTED] In this situation we envisage the plan would be designed to get the bank back to full service over a period of time (timing details covered in the plan), unless that proposition was no longer required to service customers [REDACTED]

I am happy to discuss these with you if that's easier?

Many thanks

[REDACTED]

[REDACTED]

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