



18 November 2016

Grant Spencer
Deputy Governor
Reserve Bank of New Zealand
2 The Terrace
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Wellington, 6140

Dear Grant

THE REVIEW OF THE OUTSOURCING POLICY FOR REGISTERED BANKS

We represent three of the banks that are materially impacted by the proposed changes to the BS11 outsourcing policy that will regulate outsourcing arrangements to third parties, including between group entities.

Consistent with our prior joint submission, we remain very concerned that the RBNZ'S approach would divert resources across many parts of the sector away from innovation, divert investment to the prejudice of system resilience, and impose very significant establishment and additional ongoing operational compliance costs that are not proportionate to the remoteness of the risks concerning RBNZ. This concern is particularly acute given that those risks ought to be able to be addressed effectively through means other than wholesale restrictions on the sourcing of services.

As outlined previously, we consider that the more strategic approach to ensure RBNZ's objectives are met, while giving industry the necessary flexibility in the way services are sourced in a rapidly changing digital environment, is to:

- strengthen the regulatory framework (the trans-Tasman regulatory legislation and Memorandum of Cooperation on Trans-Tasman Bank Distress Management (MOC)) so that it provides sufficient certainty that outsourced services would continue to be provided in a crisis event, including where a New Zealand registered bank is separated from its Australian parent, for so long as is reasonably necessary for the New Zealand registered bank to transition out those services by bringing them in-house or outsourcing to another provider; and
- require robust enforceable contractual provisions that help ensure services will continue to be provided on normal commercial terms notwithstanding the appointment of a statutory manager in respect of the New Zealand registered bank or the supplier entity.

In support of this approach, Chapman Tripp has prepared drafts of the following for consideration (**copies attached**):

- amendments to the trans-Tasman legislation;
- amendments to the MOC; and
- robust enforceable contract provisions.



These drafts should be considered an indication of the types of changes that we think would address the concerns outlined above (for example, the contractual provision suggestions are bespoke to one bank and only provide an example of the types of provisions that could be used to provide comfort as to robustness of an arrangement). We would appreciate the opportunity to engage further on the detail of these proposals at a policy level before the finalisation of any decision.

We understand that management of intra-group outsourcing arrangements in a crisis will be raised for discussion at the meeting of the Trans-Tasman Council on Banking Supervision, which is being held in Sydney on 21 November 2016.

Ahead of this meeting we (and our parent banks) will be engaging with Treasury officials and Government on both sides of the Tasman regarding alternative solutions to the issue.

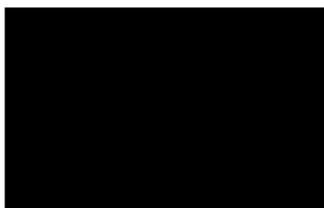
Noting RBNZ’s public comments regarding the timeframe for the policy reform, and the fact that its priority is ensuring the policy is fit for purpose, rather than being completed in haste, the IMF FSAP report findings must be considered as an essential input into the final policy. We therefore urge RBNZ to pause on its reform until those findings are available to allow affected banks to consider them, and for the findings to be incorporated, where possible and appropriate, into the final policy. Given that we understand the IMF is due to release its report around April 2017, and given the significant impact that this reform will have on the shape of New Zealand banking for many years, to come we consider such a pause to be the reasonable course of action in the circumstances.

We would welcome the opportunity for further dialogue on the proposed approach, including legislative, regulatory, and contractual provisions attached to this letter, as well as confirmation of RBNZ’s commitment in relation to timing of the policy finalisation to enable IMF FSAP report findings to be considered and accommodated where appropriate.

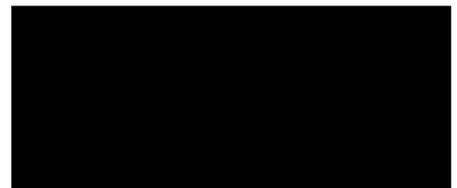
Kind regards



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