

BS11: OUTSOURCING POLICY FOR REGISTERED BANKS

All of the material set out in this document forms part of the requirements referred to in those conditions, except material that is identified as guidance by being included in a shaded box like this.

Prudential Supervision Department
Document BS11

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1. Introduction

1.1 Purpose and policy objectives of this document

- (1) This document sets out the Reserve Bank's policy for Outsourcing by Banks.
- (2) The objectives of this policy are to ensure that Outsourcing Arrangements made by a Bank do not compromise the Bank's ability to:
 - (a) be effectively administered under statutory management or effectively operated following Separation for the purposes of continuing to provide and circulate liquidity to the financial system and the wider economy;
 - (b) facilitate the carrying on of Basic Banking Services by any new owner of all or part of the Bank where such change of ownership arises from the statutory management of the Bank or Separation; and
 - (c) address the impact that the failure of an Outsourcing Arrangement Provider may have on the Bank's ability to carry on all or part of the business of the Bank.

1.2 Legal powers

- (1) The Reserve Bank has powers under Part 5 of the Reserve Bank of New Zealand Act 1989 (the Act) to register Banks and undertake prudential supervision of Banks.
- (2) Section 68 of the Act requires the powers under Part 5 of the Act to be exercised for the purposes of:
 - (a) promoting the maintenance of a sound and efficient financial system; or
 - (b) avoiding significant damage to the financial system that could result from the failure of a Bank.
- (3) Section 68A of the Act requires that the Reserve Bank, when exercising its Part 5 powers, must support Australian authorities in pursuit of Australian financial stability and where reasonably practicable avoid actions that are likely to have a detrimental effect on financial stability in Australia. Actions that are likely to have detrimental effect on financial stability in Australia include action that prevents or interferes with an Outsourcing Arrangement.
- (4) Section 74 of the Act permits the Reserve Bank to impose upon Banks conditions of registration that relate to, among other things, the matters referred to in sections 78(e), 78(1)(f) and 78(1)(fb) of the Act. These matters are, respectively:
 - (a) separation of the business or proposed business from other business and from other interest of any Person owning or controlling the applicant or Banks.
 - (b) internal controls and accounting systems or proposed internal controls and accounting systems; and
 - (c) arrangements for any business, or functions relating to any business, of the applicant or Bank to be carried on by any Person other than the applicant or the Bank.
- (5) Section 74 and the respective conditions of registration made under it (see Appendix I) provide the legal basis for the policy described in this document.

2. Definitions and explanations for the policy

2.1 Definitions

(1) In this policy—:

- (a) **Act** means the Reserve Bank of New Zealand Act 1989.
- (b) **Alternative Arrangement** means an Outsourcing Arrangement given non-objection by the Reserve Bank under paragraph 5.3.
- (c) **Annual and Annually** means a period of 12 months, commencing on the day after the day on which the relevant obligation was last performed.
- (d) **Bank or Banks** means a Person registered under Part 5 of the Act.
- (e) **Basic Banking Services** means the New Zealand Dollar denominated banking services in respect of all customer segments that:
 - i. Bank customers typically rely on for transactions and economic life;
 - ii. if disrupted or suddenly discontinued would be reasonably likely to have a material negative impact on a significant number of Third Parties that rely on such services; and
 - iii. if disrupted or discontinued could reasonably be expected to lead to contagion effects, including significant adverse effects on market confidence,

which, for the purposes of BS11, is comprised of the following New Zealand Dollar denominated products, services and channels:

- 1) transactional or similar accounts used by customers for their transactional, everyday banking needs, which customers must be able to access via Automatic Teller Machines (ATMs) and make payments from, and receive payments into, via at least two other of the most commonly used channels;
- 2) savings accounts and term deposit accounts, which are usually held by customers who engage in transactional banking with the Bank, which such deposits are either on-call or mature on a regular basis and are an integral part of customers' common banking needs;
- 3) credit services to customers, including credit cards, overdraft and revolving credit facilities, secured lending and home loan facilities (including pre-approvals);
- 4) credit card merchant acquiring services to merchant customers;
- 5) account activity reporting for relevant accounts in respect of (1) to (4) held by customers; and
- 6) agency banking services to Third Party domestic financial institution customers which relate to the types of products and services specified in (1) to (5),

and for the avoidance of doubt, excludes foreign currency payments, letters of credit, trade finance, foreign currency accounts, foreign currency term deposits, foreign currency loans and Bespoke Services.

Guidance: The definition of basic banking services makes no distinction between customer types. i.e. there is no difference among consumer, small- to-medium business, or institutional customers under the definition.

- (f) **BCP/DR Capability** means appropriate and adequate disaster recovery and business continuity capabilities of the Outsourcing Arrangement Provider, as determined by the Bank.
- (g) **Bespoke Services** means products or services, the features of which are specifically structured to meet the needs of customers to whom the product or service is provided.
- (h) **BS11** means this policy document, BS11: Outsourcing Policy for Registered Banks.
- (i) **Business Day** means a working day as defined in the Interpretation Act 1999.
- (j) **Compendium** means a formal and centralised record of all Outsourcing Arrangements of a Bank in accordance with the requirements of Section 7.
- (k) **Controlled Entity** means a subsidiary (as defined in section 5(1)(a)(iii) and (b) of the Companies Act 1993) of a Bank that is subject to BS11, that could be subject to an Order in Council under section 117 of the Act.
- (l) **Critical Functions** means:
 - i. the meeting of a Bank's daily domestic interbank settlement obligations (howsoever made now or in the future);
 - ii. the monitoring and management of a Bank's financial position, including credit, liquidity and market risk positions, together with prudential supervision reporting, including the relevant systems and data to do so; and
 - iii. the provision of Basic Banking Services to existing customers.

Guidance: if Failure Event (i) or (ii) occurs then the prudential supervision reporting required under (ii) above will be appropriate to that situation

- (m) **Disruption of a Required Outcome Outsourcing Arrangement** means a situation where the interruption, suspension or unavailability of a Required Outcome Outsourcing Arrangement will result in a Bank being unable to fully perform a Required Outcome.
- (n) **Effective** means the point an Outsourcing Arrangement has been signed by both the Bank and the Outsourcing Arrangement Provider.
- (o) **Existing Outsourcing Arrangement** means an Outsourcing Arrangement that was entered into by the Bank before the date that the Bank's revised conditions of registration in relation to BS11 first take effect, and includes In-Progress Arrangements.

- (p) **Failure Event** means:
- i. the Bank is placed into statutory management; or
 - ii. a Separation occurs; or
 - iii. a direction is given under the Act in relation to an Initial Financial Position Function or a Critical Function; or
 - iv. a Disruption of a Required Outcome Outsourcing Arrangement.
- (q) **Foreign-Owned Banking Group** means a group of companies, or other Persons (which includes one or more Banks), where the Parent of the Bank(s) is an Overseas Party.
- (r) **Fully Automated Basis** means, in respect of a Robust Back-Up Arrangement, that the Robust Back-Up Arrangement can operate with a sufficient degree of automation to perform the Critical Functions with minimal impact and disruptions to both the Bank's customers and the Bank's own business operation.
- (s) **General Procurement** means goods or services used by a Bank which are operational in nature, not unique to the operation of a Bank, and are utilised by businesses generally.
- (t) **Implementation Plan** means a plan prepared by the Bank that sets out how the Bank will meet its requirements under BS11 by the applicable timeframes.
- (u) **Independent Third Party** means a Third Party that is not a Related Party.
- (v) **Initial Financial Position Function** means the collation and reporting of financial data that would be necessary for the New Zealand authorities to determine a range of options for managing the Bank from the start of the first Business Day after the day of a Failure Event and Thereafter.
- (w) **In-Progress Arrangement** means an Outsourcing Arrangement:
- i. in respect of which, at the date that the Bank's revised conditions of registration in relation to BS11 first take effect:
 - 1) the Bank's internal supplier risk acceptance and approval processes have commenced; and
 - 2) Reserve Bank non-objection has been sought (if applicable); and
 - 3) a draft contract or statement of work is already under negotiation with the Outsourcing Arrangement Provider or its external counsel;
 - ii. which will be finalised no later than three months after the date that the Bank's revised conditions of registration in relation to BS11 first take effect.
- (x) **Large Bank** means a Bank, incorporated as a company in New Zealand, whose Net Liabilities exceed \$10 billion.
- (y) **Legal ability to control and execute a service or function** means the Bank's ability to invoke statutory, contractual or other rights to ensure that the relevant function or service continues to be provided.

- (z) **List of Pre-Approved Functions and Services** means a list maintained by the Reserve Bank of functions and services that do not require Reserve Bank non-objection before a Bank can enter into the Outsourcing Arrangement.
- (aa) **Net Liabilities** means the total liabilities of the Bank, net of amounts owing to Related Parties.
- (bb) **Other Related Party** means a Related Party that is not a Controlled Entity.
- (cc) **Outsourcing Arrangement Provider** means the service provider of an Outsourcing Arrangement.
- (dd) **Outsourcing** means the use, now and in the future, by a Bank of a Third Party to perform services on a regular or continuing basis that could be undertaken by the Bank, but does not include General Procurement or any services on the White List, and **Outsourced** has a corresponding meaning.
- (ee) **Outsourcing Arrangement** means a contractual or other arrangement for Outsourcing.
- (ff) **Outsourcing Arrangement Types** means an:
- i. Outsourcing Arrangement with an Independent Third Party;
 - ii. Outsourcing Arrangement with a Controlled Entity;
 - iii. Outsourcing Arrangement with a Controlled Entity who outsources the function to an Independent Third Party;
 - iv. Outsourcing Arrangement with an Other Related Party; and
 - v. Outsourcing Arrangement with an Other Related Party who outsources the function to an Independent Third Party.
- (gg) **Overseas Party** means a company, or other Person, that is incorporated, formed, or established in a jurisdiction other than New Zealand, whether or not that company or Person has a primary place of business in New Zealand and whether or not it carries on business in New Zealand.
- (hh) **Parallel Rights** means:
- i. step-in rights allowing the Bank continuing access to the service in question (or parts thereof) which relates to the Bank should Separation occur or upon the failure of the Other Related Party providing the relevant Outsourcing Arrangement; or
 - ii. a separate contract or contingent contractual arrangement for the service in question (or parts thereof) which relates to the Bank should Separation occur or upon the failure of the Other Related Party providing the relevant Outsourcing Arrangement.

A contingent contractual arrangement is an arrangement where a Bank receives products and services through an arrangement entered into by an Other Related Party with a contractual counterparty. Typically, these contracts provide for the Bank to receive the benefit of goods and services on the same terms as by an Other Related Party, but the Bank does not have direct contractual rights in respect of the counterparty. The effect of a contingent deed with such a counterparty is to create direct contractual rights between the Bank and the counterparty if the relationship between the counterparty and the Other Related Party ends for any reason (including by reason of the failure of the by an Other Related Party), but where the Bank requires the relationship to continue.

- (ii) **Parent** means, in relation to a Bank, the bank that is the Bank's holding company and is not itself a subsidiary of another bank.
 - (jj) **Person** includes a corporation sole, a body corporate, and an unincorporated body.
 - (kk) **Practical ability to control and execute a service or function** means the Bank's ability to secure continued provision of the service or function within the timeframes set out in BS11, taking into account any delays associated with the enforcement of legal rights. Practical ability to control a service or function depends heavily on the availability and responsiveness of personnel with the technical and business knowledge needed to control and execute the service or function, as well as physical access to and control of the required systems and data.
- (II) **Prescribed Contractual Terms** means a contractual provision:
- i. to ensure continuing access on arms-length commercial terms to an Outsourcing Arrangement when a Bank enters statutory management; and

Guidance: arms-length commercial terms includes that the Bank continues to pay for the service under the existing contract with the Third Party.

Guidance: Further contractual terms the Reserve Bank would expect, but does not require, to see included in robust outsourcing arrangements:

- a) the scope of the arrangement and services to be supplied;
- b) commencement and end dates;
- c) escrow arrangements;
- d) review provisions;
- e) pricing and fee structure;
- f) service levels and performance requirements;
- g) the form in which the data is to be kept and clear provisions identifying ownership and control of data;
- h) reporting requirements, including content and frequency of reporting;
- i) audit and monitoring processes;
- j) business continuity management around how the service provider will deal with a failure of the service it is providing;
- k) confidentiality privacy and security of arrangements;
- l) default arrangements and termination provisions;
- m) dispute resolution arrangements;
- n) liability and indemnity;
- o) sub-contracting; and
- p) insurance.

- ii. providing the Reserve Bank with the ability to have access to documentation and information controlled by an Outsourcing Arrangement Provider to the extent that it relates to the Bank's Outsourcing Arrangement.

Guidance: The Reserve Bank only expects that Third Party providers be contractually required to provide access to documentation and information about a relevant Outsourcing Arrangement, when such documentation and information belongs to or is accessible to the Third Party itself.

- (mm) **Qualifying Change to an Existing Outsourcing Arrangement** means a proposed rollover of, extension to, or change to, an Existing Outsourcing Arrangement that does not relate to a materially different service or function.

Guidance:

(i) The Reserve Bank recognizes that, because there is a five year implementation timeline on which the Reserve Bank will be consulted by each Bank, Banks that have a pre-existing contractual right to rollover an Outsourcing Arrangement should have the flexibility to do so within that five year period. The Banks would be expected to consult with the Reserve Bank in respect of any such rollover.

(ii) Banks must consult with the Reserve Bank in respect of any proposed changes to Existing Outsourcing Arrangements which Banks consider do not relate to a materially different service or function.

- (nn) In BS11, a Person is a **Related Party** of the Bank, if:
- i. the Person is a Controlled Entity; or
 - ii. the Person is a Parent; or
 - iii. the Person holds (whether directly or indirectly, but other than in a fiduciary capacity) more than half of the issued shares of the Bank (other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital); or
 - iv. more than half of the issued shares of the Bank (other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital) and of that Person are held (whether directly or indirectly, but other than in a fiduciary capacity) by members of that Person; or
 - v. the businesses of the Bank and that Person have been carried out such that the separate business of the Bank and that Person, or a substantial part of it, is not readily identifiable; or
 - vi. there is another Person to which the Bank and the other Person are related,
- and **Related Parties** has a corresponding meaning.
- (oo) **Required Outcome** means the ability to perform the Initial Financial Position Function and/or the Critical Functions in the timeframes contemplated by paragraph 4.1(1).
- (pp) **Required Outcome Outsourcing Arrangements** means Outsourcing Arrangements that are directly relevant to a Required Outcome such that without it the Bank would be unable to perform the Required Outcome.
- (qq) **Required Risk Mitigants** means, subject to paragraph 5.1(3), the risk mitigants in paragraph 5.1(2).
- (rr) **Reserve Bank** means the Reserve Bank of New Zealand.
- (ss) **Robust Back-Up Arrangement** means a robust back-up arrangement for a Critical Function or the Initial Financial Position Function, which complies with paragraph 5.2.
- (tt) **Separation or Separates** means where a Bank is required to operate services that were previously provided by an Other Related Party as a result of the complete technical and operational disconnection of the Bank from its Parent, other than pursuant to normal business dealings.

- (uu) **Separation Plan** means a plan required in accordance with paragraph 8.1(1) that describes the processes the Bank would undertake in the event that Separation occurs.
- (vv) **Thereafter** means an indefinite period.
- (ww) **Third Party** means a person who is not the Bank.
- (xx) **White List** means a list maintained by the Reserve Bank of functions and services that if carried out by a Third Party for a Bank do not fall within the definition of Outsourcing.

3. Application of the policy

3.1 Application of the outsourcing policy

- (1) All Large Banks will ordinarily be subject to conditions of registration requiring them to comply with BS11 once they have been a Large Bank for 12 consecutive months.
- (2) A Bank that was a Large Bank but is no longer a Large Bank for 12 consecutive months will ordinarily no longer be subject to conditions of registration requiring them to comply with BS11.
- (3) The standard conditions of registration for Banks subject to BS11 are set out in Appendix I of this policy.

4. Required Outcomes

4.1 Requirements for Banks

- (1) To meet the policy objectives in paragraph 1.1(2), a Bank must have the Required Risk Mitigants in place at all times for all Required Outcome Outsourcing Arrangements, to ensure that the following Required Outcomes are able to be achieved by the Bank if a Failure Event occurs (and if the Bank is part of a Foreign-Owned Banking Group, it must be able to meet the Required Outcomes as a standalone entity in the event of Separation):
 - (a) in relation to the Failure Events i. and ii.:
 - i. undertake the Initial Financial Position Function on the day of the Failure Event; and
 - ii. undertake all of the Critical Function(s) from the start of the Business Day following the day of the Failure Event and Thereafter.
 - (b) in relation to the Failure Events iii. and iv.:
 - i. undertake the Initial Financial Position Function on any day (should a Failure Event i. or ii. occur); and/or
 - ii. undertake the Critical Function(s) relevant to the particular Failure Event from the start of the Business Day following the day of the Failure Event and Thereafter.

Guidance: The intention of this policy is to ensure that any outsourcing arrangements that banks put in place cannot frustrate the objectives of the policy.

5. Policy scope and risk mitigation requirements

5.1 Risk mitigation requirements for Initial Financial Position Function and Critical Functions

- (1) All Required Outcome Outsourcing Arrangements must have the relevant Required Risk Mitigants in place at all times, in accordance with the requirements for the relevant Outsourcing Arrangement Type as set out in paragraph 5.1(2) below.
- (2) The Required Risk Mitigants for each Outsourcing Arrangement Type are as follows:
 - (a) for Required Outcome Outsourcing Arrangements with an Independent Third Party:
 - i. the BCP/DR Capability of the Independent Third Party is evidenced as being in place;
 - ii. the Prescribed Contractual Terms are included in the Outsourcing Arrangement; and
 - iii. the Outsourcing Arrangement is entered onto the Compendium;
 - (b) for Required Outcome Outsourcing Arrangements with a Controlled Entity:
 - i. the BCP/DR Capability of the Controlled Entity is evidenced as being in place;
 - ii. the Prescribed Contractual Terms are included in the Outsourcing Arrangement; and
 - iii. the Outsourcing Arrangement is entered onto the Compendium;
 - (c) for Required Outcome Outsourcing Arrangements with a Controlled Entity who outsources the function to an Independent Third Party:
 - i. the BCP/DR Capability of the Independent Third Party is evidenced as being in place;
 - ii. the Prescribed Contractual Terms are included in the Outsourcing Arrangement; and
 - iii. the Outsourcing Arrangement is entered onto the Compendium;
 - (d) for Required Outcome Outsourcing Arrangements with an Other Related Party:
 - i. a Robust Back-Up Arrangement is in place;
 - ii. the Prescribed Contractual Terms are included in the Outsourcing Arrangement;
 - iii. the Outsourcing Arrangement is entered onto the Compendium; and
 - iv. the Outsourcing Arrangement is provided for in the Bank's Separation Plan;

- (e) for Required Outcome Outsourcing Arrangements with an Other Related Party who outsources the function to an Independent Third Party:
- i. at the Bank's determination of the optimal means to meet the Required Outcomes:
 - 1) a Robust Back-Up Arrangement is in place; and/or
 - 2) Parallel Rights with the Independent Third Party are in place;
 - ii. the Prescribed Contractual Terms are included in the Outsourcing Arrangement;
 - iii. the Outsourcing Arrangement is entered onto the Compendium; and
 - iv. the Outsourcing Arrangement is provided for in the Bank's Separation Plan.

- (3) The Required Risk Mitigants in paragraphs 5.1(2)(d)i. and iv. and 5.1(2)(e)i. and iv. do not apply to Banks that are not members of a Foreign-Owned Banking Group. Banks that are not members of a Foreign-Owned Banking Group instead need to evidence that the BCP/DR capability of the Other Related Party is in place and/or have Parallel Rights with the Independent Third Party.

Guidance:

(i) While the Robust Back-Up Arrangement requirement has certain timeframes set around it to ensure that a Bank will be able to reopen at 9am the next Business Day after being placed into statutory management, it is important for banks to recognise that these timeframes do not affect the timeframes for a bank's conditions of registration relating to BS17 – Open Bank Resolution Pre-positioning Requirements Policy (or other applicable requirements under other conditions of registration) and banks must ensure that they can meet the requirements of these as well as the policy requirements.

(ii) The Required Risk Mitigants are only required for Required Outcome Outsourcing Arrangements. However, all Outsourcing Arrangements must be included on the Compendium.

5.2 Robust Back-Up Arrangements for functions Outsourced to an Other Related Party

- (1) A Robust Back-Up Arrangement (as required in paragraph 5.1(2)(d) or potentially required in paragraph 5.1(2)(e)) must meet the following requirements:
- (a) There is no possibility of permanently losing transactions. This requirement will be met if all disrupted transactions will be processed within 48 hours of a Failure Event.
 - (b) The switch over from the relevant Outsourcing Arrangement to its Robust Back-Up Arrangement must be capable of being delivered within six hours of a Failure Event occurring in relation to Critical Function (i) or the Initial Financial Position Function.

Guidance: The Bank must also meet its obligations for a bank's conditions of registration relating to BS17 – Open Bank Resolution Pre-positioning Requirements Policy (or other applicable requirements under other conditions of registration).

- (c) The switch over from the relevant Outsourcing Arrangement to its Robust Back-Up Arrangement must be capable of being delivered before 9:00 am on the Business Day after the day a Failure Event occurs in relation to Critical Functions (ii) and (iii).
- (d) The Robust Back-Up Arrangement must be sustainable, in that it could be equally substituted for the Outsourcing Arrangement on an on-going and Fully Automated Basis. However this requirement does not apply to:
 - i. the Initial Financial Position Function; and/or
 - ii. Critical Function ii. functions relating to non-Basic Banking Services.
- (e) Testing must be conducted on an Annual basis in a testing environment that simulates the live environment, or, as appropriate, that part of the live environment which is replicated in the Robust Back-Up Arrangement environment, to ensure that the Robust Back-Up Arrangement will work as intended. A Bank must ensure that changes made to the live environment will also be made or appropriately provided for in the Robust Back-Up Arrangement environment.
- (f) The Bank must have direct ownership and/or legal ability to control and execute a service or function, and practical ability to control and execute a service or function over the Robust Back-Up Arrangement. This does not mean that the system has to be located in New Zealand, but requires that the Bank should have the legal and practical ability to control the Robust Back-Up Arrangement (i.e. that they own the system (or have a direct relationship with the Outsourcing Arrangement Provider for that system) and the data that is required to use it). The Robust Back-Up Arrangement cannot be provided by an Other Related Party.

5.3 Alternative Arrangements

- (1) Where a Related Party Outsourcing Arrangement Provider in relation to a Required Outcome Outsourcing Arrangement is an Other Related Party (or otherwise not considered by the Reserve Bank to be a Controlled Entity), but the Bank believes that the Required Outcome Outsourcing Arrangement is not capable of being frustrated by that Other Related Party or another Other Related Party or an overseas prudential regulatory authority, the Reserve Bank may consider alternative risk mitigant requirements to the Robust Back-Up Arrangement requirement of Other Related Parties under Outsourcing Arrangement Types iv. and v. In considering a proposed Alternative Arrangement, the Reserve Bank will consider the following matters:
 - (a) the relationship between the Bank or the Other Related Party and the Outsourcing Arrangement Provider;
 - (b) what functions or services the Outsourcing Arrangement Provider will undertake on behalf of the Bank;
 - (c) whether the Outsourcing Arrangement Provider will also be providing functions or services to any Other Related Party; and/or
 - (d) how the Alternative Arrangement is funded, including whether it is dependent on funding provided by any Other Related Party being available after the Bank is in statutory management or if the Outsourcing Arrangement Provider ceased to provide services to any Other Related Party.

6. Engagement process

6.1 Non-objection required for certain Outsourcing Arrangements

- (1) The Bank must obtain non-objection from the Reserve Bank before entering into a proposed Outsourcing Arrangement, unless the proposed Outsourcing Arrangement is:
- (a) on the List of Pre-Approved Functions and Services; or
 - (b) with an Independent Third Party.

Guidance: Where a Bank proposes to Outsource a function or service that is on the List of Pre-Approved Functions and Services (and therefore not subject to non-objection from the Reserve Bank), a Bank must otherwise comply with all other relevant provisions of BS11 when entering into the Outsourcing Arrangement.

- (2) Notwithstanding paragraph 6.1(1)(b), where a Bank considers that an Outsourcing Arrangement with an Independent Third Party is not a Required Outcome Outsourcing Arrangement, the Bank may choose to follow the process set out in paragraph 6.1(4).
- (3) In order to obtain non-objection from the Reserve Bank, the applicable process set out in paragraphs (4), (5) and (6) will apply.
- (4) Where the Bank considers that the proposed Outsourcing Arrangement is not a Required Outcome Outsourcing Arrangement, the following process will apply:
- (a) the Bank may submit Application Form A to the Reserve Bank (annexed as Appendix III) ("**Application A**");
 - (b) within 20 Business Days of receipt of Application A, the Reserve Bank must either:
 - i. accept Application A, with the effect that the proposed Outsourcing Arrangement is not a Required Outcome Outsourcing Arrangement, to take effect immediately; or
 - ii. decline the application;
 - (c) the Reserve Bank may request reasonable additional information from the Bank to clarify any information provided in Application A during the period stated in (b) (in which case, the 20 Business Day period will be suspended from the date of the request to the date that the Bank complies with the request); and
 - (d) in the event that Application A is accepted, the Bank may request that the service or function that is the subject of Application A is added to the White List, in accordance with the process in paragraph 10.2.
- (5) Where the Bank believes that the Outsourcing Arrangement is a Required Outcome Outsourcing Arrangement, or the Reserve Bank declines Application A, and the Bank believes that the proposed Outsourcing Arrangement is Outsourced to, or through, a Controlled Entity, the following process will apply:
- (a) the Bank may submit Application Form B to the Reserve Bank (annexed as Appendix IV) ("**Application B**");
 - (b) within 20 Business Days of receipt of Application B, the Reserve Bank must either:

- i. accept Application B, with the effect that non-objection is obtained, to take effect immediately; or
 - ii. decline the application; and
 - (c) the Reserve Bank may request reasonable additional information from the Bank to clarify any information provided in Application B, during the period stated in (b) (in which case, the 20 Business Day period will be suspended from the date of the request to the date that the Bank complies with the request).
- (6) Where the Bank believes that the Outsourcing Arrangement is a Required Outcome Outsourcing Arrangement, or the Reserve Bank declines Application A, and the Bank believes that the proposed Outsourcing Arrangement is Outsourced to, or through, an Other Related Party, or the Reserve Bank declines Application B, the following process will apply:
- (a) the Bank may submit Application Form C to the Reserve Bank (annexed as Appendix V) ("**Application C**");
 - (b) within 20 Business Days of receipt of Application C, the Reserve Bank must either:
 - i. accept Application C, with the effect that non-objection is obtained, to take effect immediately; or
 - ii. decline the application; and
 - (c) the Reserve Bank may request reasonable additional information from the Bank to clarify any information provided in Application C, during the period stated in (b) (in which case, the 20 Business Day period will be suspended from the date of the request to the date that the Bank complies with the request).
- (7) In respect of an application under paragraph (6), the Reserve Bank may provide non-objection on condition that certain modifications to the proposed Outsourcing Arrangement are made.
- (8) It is the responsibility of the Bank to ensure the Outsourcing Arrangement in question is compliant, and that it remains compliant. A notice of non-objection does not guarantee that the Outsourcing Arrangement complies with BS11.

7. Compendium

7.1 Purpose of a Compendium

- (1) The purpose of the Compendium is to help New Zealand authorities and a statutory manager understand what functions and processes have been Outsourced by a Bank. This information must be readily accessible.

7.2 Information to be kept in Compendiums

- (1) A Compendium must include the following information:
 - (a) the legal name, physical address, and address for service of the Outsourcing Arrangement Provider;
 - (b) the expiry of, and any renewal date, of the Outsourcing Arrangement contract;

- (c) the arrangements in place for the termination of the Outsourcing Arrangement contract; and
- (d) an overview of the function or system that has been Outsourced.

Australian-owned Large Banks: We understand that the information set out above is not final, and that the Reserve Bank intends to consider what information will be required in greater detail. We note that we are unable to build our Compendiums until such requirements are finalised, and would encourage further engagement with the Reserve Bank

7.3 Banks must maintain Compendiums

- (1) The Compendium should:
 - (a) be a key accountability document embedded in board compliance;
 - (b) be kept up to date; and
 - (c) form part of the oversight and governance reviews undertaken by the board and senior management of the Bank.

7.4 Compendiums must be up to date

- (1) Banks must have appropriate processes in place to maintain a Compendium such that information on new Outsourcing Arrangements, as detailed in paragraph 7.2, is entered into the Compendium within 20 Business Days of the Outsourcing Arrangement being Effective.

7.5 Compendium to be reviewed Annually

- (1) A Bank's Compendium should be reviewed at least Annually to ensure it is up to date, by either:
 - (a) the Bank's internal audit function; or
 - (b) an external reviewer.

7.6 Banks must be able to provide their Compendium to the Reserve Bank

- (1) The Compendium must be kept in an electronic form that is capable of being printed, and can be sent to the Reserve Bank on request.

Guidance: The Reserve Bank will likely ask for a copy of a Bank's compendium at least once a year as part of normal supervisory practice. Outside of this annual request the Reserve Bank will likely only ask for a copy of a Bank's compendium in special circumstances.

8. Separation Plan

8.1 Requirement to have a Separation Plan

- (1) A Bank must have a Separation Plan, unless:
 - (a) the Bank is not subject to BS11; or

- (b) the Bank is subject to BS11 but it is not a member of a Foreign-Owned Banking Group.

8.2 Purpose and content of Separation Plans

(1) A Separation Plan must describe:

- (a) the processes a Bank would undertake in respect of any Required Outcome Outsourcing Arrangements that were previously provided by an Other Related Party in the event that Separation occurs; and
- (b) how the Bank will, from the first Business Day after the day of Separation and, if necessary, Thereafter, continue to meet the Required Outcomes.

(2) Specifically, the objective of the Separation Plan should be that, after Separation, the Bank is able to undertake the Initial Financial Position Function and the Critical Functions that were previously provided by an Other Related Party.

Guidance: The purpose of the Separation Plan is to provide for circumstances where a Bank has Required Outcome Outsourcing Arrangements in place, and Separation may occur. The Separation Plan is intended to address how the Banks will continue to undertake the Critical Functions.

A Bank is not required to describe the processes it would undertake upon Separation in respect of Basic Banking Services that are not subject to a Required Outcome Outsourcing Arrangement.

(3) The Separation Plan must also set out how the processes to deliver the Required Outcomes, in respect of the Bank's Required Outcome Outsourcing Arrangements, will be completed from the point of Separation to the point the Required Outcomes are attained on a standalone basis. The Separation Plan should include:

- (a) which staff positions are responsible for taking these actions, including a clear chain of command and a communications plan; and
- (b) the relevant timeframes under which the Separation and transition will be undertaken; and
- (c) the technology and other resource needs.

Guidance: The Separation Plan is not intended to be a crisis management plan for a Bank. It should address how the Bank will manage the Required Outcome Outsourcing Arrangements in the event that Separation occurs.

(4) In preparing its Separation Plan, a Bank must prepare for an abrupt and permanent loss of access to Required Outcome Outsourcing Arrangements provided by Other Related Parties. While a Bank may have contractual arrangements in place with an Other Related Party to provide transition services in the event of Separation, these arrangements should not be relied upon for the purposes of the Separation Plan. However, Banks may continue to rely on contractual arrangements that are in substance unaffected by the Separation.

(5) The Reserve Bank may issue additional guidance to Banks on how to produce Separation Plans which sufficiently detail how the Required Outcomes may be achieved. The Reserve Bank will consult with the Banks before issuing such guidance.

8.3 Separation Plans to require Reserve Bank non-objection

- (1) A Bank required to have a Separation Plan must provide a draft Separation Plan to the Reserve Bank. The Bank will consult with the Reserve Bank, in an ongoing process, to ensure the Separation Plan includes the content required by paragraphs 8.2(1),8.2(2) and 8.2(3).
- (2) During the five year transition period, the content of the Separation Plan will be updated periodically (as agreed between the Reserve Bank and the Bank) to reflect the Bank's path to compliance.
- (3) Banks required to have a Separation Plan must receive Reserve Bank non-objection to their specific Separation Plan before it can be finalised.
- (4) A Bank may only submit a draft Separation Plan for Reserve Bank final non-objection after it has been approved by the senior management and board of the Bank.
- (5) The Reserve Bank may require changes to a Bank's Separation Plan before it issues a non-objection. The Required Outcomes will inform any decision by the Reserve Bank to require changes to a Separation Plan before issuing a non-objection.
- (6) It is the responsibility of the Bank to ensure the Separation Plan is compliant. A notice of non-objection does not guarantee that the Separation Plan complies with BS11.
- (7) A Bank must report all changes to its Separation Plan to the Reserve Bank, other than changes which do not impact the substantive operation of the Separation Plan. The Reserve Bank may require a Bank to seek non-objection to a substantive change to its Separation Plan.

Guidance: Examples of changes which do not need to be reported to the Reserve Bank include changes in staff positions responsible for taking actions, changes in personnel (for example, where the same staff position remains responsible for taking actions, but the individual in that position has changed), or changes in job titles of the staff positions responsible for taking actions.

- (8) The Reserve Bank may review a Bank's Separation Plan at any time on reasonable notice and, after consulting with the Bank, may require the Bank to make changes to its Separation Plan in order to ensure that the Required Outcomes can be met. In such a case, the Bank must submit a draft of a revised Separation Plan as per the process in paragraphs 8.3(3) - 8.3(4). However, in such circumstances, the Bank is not required to obtain board approval before submitting a revised Separation Plan.

8.4 Separation Plans to be tested annually

- (1) A Bank required to have a Separation Plan must test that the plan works as intended on at least an Annual basis.
- (2) The results from the Separation Plan test are required to be reported back to the Bank's supervisor within four weeks of the Bank's board meeting (or board committee meeting) that considers the test results.
- (3) If a Bank identifies any impediments during the test which mean that the Required Outcomes would not be met in the requisite timeframes it must inform the Reserve Bank within 24 hours of the impediment being identified. The notice given is only required to inform that an impediment has been identified, and does not need to include a root cause analysis or identify a solution to the impediment.

- (4) Separation Plans must be included within scope of the external reviews of a Bank's compliance with its conditions of registration in relation to BS11 as set out in paragraphs 11.4(3) -11.4(4) and 12.1-12.2.

9. Maintenance of List of Pre-Approved Functions and Services

9.1 Reserve Bank to maintain List of Pre-Approved Functions and Services

- (1) The Reserve Bank must maintain the List of Pre-Approved Functions and Services.

9.2 Process to update the List of Pre-Approved Functions and Services

- (1) Banks may apply in writing to the Reserve Bank to have a function or service added to the List of Pre-Approved Functions and Services. The Reserve Bank will make the final decision on such an application, in a timely manner and on a best-efforts basis.
- (2) The Reserve Bank may itself also determine that a function or service should be added to, or removed from, the List of Pre-Approved Functions and Services.
- (3) In the event that the Reserve Bank considers that a function or service should be added to, or removed from, the List of Pre-Approved Functions and Services it will consult with all Large Banks before making a decision to add or remove the function or service. If the Reserve Bank is proposing to add a service or function to the List of Pre-Approved Functions and Services it will also consult with all Large Banks to determine a definition of the service or function to be added.
- (4) The Reserve Bank must, within 20 Business Days (with time being of the essence) after making a decision referred to in paragraphs (2) or (3) above, amend the List of Pre-Approved Functions and Services to reflect that decision.
- (5) A Bank must ensure that all Outsourcing Arrangements in respect of functions or services on the List of Pre-Approved Functions and Services that it enters into are compliant with BS11.

Guidance: A Bank may apply to have a function or service added to the List of Pre-Approved Functions and Services in advance of entering into, or separately to, any specific Outsourcing arrangement application.

10. Maintenance of the White List

10.1 Reserve Bank to maintain the White List

- (1) The Reserve Bank will maintain the White List.

10.2 Process to update the White List

- (1) Banks may apply in writing to the Reserve Bank to have a function or service added to the White List, if they consider that the function or service is not relevant to the Required Outcomes. The Reserve Bank will make the decision on such an application, in a timely manner and on a best-efforts basis.
- (2) The Reserve Bank may itself also determine that a function or service should be added for removed from the White List.

- (3) In the event that the Reserve Bank considers that a function or service should be added to, or removed from, the White List, it will consult with all Large Banks before making a decision to add or remove the function or service. If the Reserve Bank is proposing to add a service or function to the White List it will also consult with all Large Banks to determine a definition of the service or function to be added.
- (4) Where a function or service is being removed from the White List, the Reserve Bank will agree with impacted Large Banks a path to compliance to transition the previously White Listed function into compliance with BS11.
- (5) The Reserve Bank must, within 20 Business Days (with time being of the essence) after making a decision referred to in paragraphs (2) or (3) above, amend the White List to reflect that decision.
- (6) A Bank must ensure that all Outsourcing Arrangements that it enters into are compliant with BS11.

Guidance: A Bank may apply to have a function or service added to the White List in advance of entering into, or separately to, any specific Outsourcing Arrangement application.

11. Path to compliance and external review

11.1 Application of path to compliance

- (1) This section 11 applies to all Banks subject to BS11. Where a Bank was not previously a Large Bank but at some stage becomes a Large Bank, this section 11 will also apply to that Bank from the time at which it becomes a Large Bank.

11.2 Engagement process

- (1) The engagement process described in section 6 of this policy will be established from the date that the Bank's revised conditions of registration in relation to BS11 first take effect.

11.3 Outsourcing Arrangements entered into after the new conditions of registration in relation to BS11 first take effect

- (1) In relation to Outsourcing Arrangements entered into after the date a Bank's revised conditions of registration in relation to BS11 first take effect, the Bank must comply with BS11 from that date, unless the Outsourcing Arrangement is an In-Progress Arrangement or a Qualifying Change to an Existing Outsourcing Arrangement.
- (2) For the avoidance of doubt, an extension of or change to an Existing Outsourcing Arrangement that is not a Qualifying Change to an Existing Outsourcing Arrangement is required to comply with BS11 from the date the Bank's revised conditions of registration in relation to BS11 first take effect.

11.4 Existing Outsourcing Arrangements and In-Progress Arrangements

- (1) All Existing Outsourcing Arrangements and Qualifying Changes to Existing Outsourcing Arrangements must be compliant with BS11 no later than five years after the Bank's revised conditions of registration in relation to BS11 first take effect.
- (2) The Bank must prepare an Implementation Plan within six months of the Bank's revised conditions of registration in respect of BS11 first taking effect. The Reserve Bank will, within three months of receipt of the Implementation Plan, agree to the Implementation Plan if the Implementation Plan:

- (a) clearly sets out the scope and impact of BS11 on Existing Outsourcing Arrangements, including impacted systems and processes;
 - (b) in respect of Outsourcing Arrangement Types where Robust Back-Up Arrangements are a Required Risk Mitigant, identifies the types of solutions that might be implemented (but is not required to specify the solution to be adopted in relation to each Existing Outsourcing Arrangement);
 - (c) in respect of Outsourcing Arrangement Types where Robust Back-Up Arrangements are a Required Risk Mitigant, indicates the timeframe to implement the potential solution work in relation to each impacted Existing Outsourcing Arrangement;
 - (d) identifies known key considerations with regard to other related planned or potential system and process changes; and
 - (e) identifies an expected percentage rate of completion of the total change work within each year (but is not required to conclusively state which Existing Outsourcing Arrangements will be changed each year).
- (3) During the five year transition period a Bank must obtain an Annual independent external review to assess whether the Bank is on target to achieve compliance with the new BS11 policy by the end of the transition period, and to review Existing Outsourcing Arrangements that have been amended to meet the requirements of BS11.
- (4) The Reserve Bank will approve the person nominated by a Bank to carry out an independent external review and their terms of reference. The Bank will pay for the review. The Reserve Bank will ensure that the terms of reference for external reviewers are consistent for all Banks.

12. Three-yearly external review following the transition path to compliance

12.1 Three-yearly review

- (1) Five years after the Bank's revised conditions of registration in respect of BS11 first take effect, the Bank will have its compliance with those conditions of registration externally reviewed within three years and then no later than once every three years since the last review was undertaken.

12.2 Terms of reference for the external review

- (1) A Bank must obtain the Reserve Bank's approval of its independent reviewer and the terms of reference of the review.
- (2) The external review will be paid for by the Bank.
- (3) The external review will review the Bank's Outsourcing Arrangements to ensure that they are compliant with its conditions of registration in respect of BS11.

12.3 Action following non-compliance

- (1) If any Outsourcing Arrangement entered into by a Bank fails to comply with the requirements of BS11, the Reserve Bank will require the Bank to amend the terms of the Outsourcing Arrangement to achieve compliance and may, if necessary, take enforcement action against the Bank to ensure compliance.

Appendix I: Conditions of registration

I.1 Conditions of registration

Appendix II – Application Form A

[Evidence why / Application for confirmation that] Outsourcing Arrangement not directly relevant to BS11 Required Outcomes

1. Description of the function proposed to be Outsourced
2. Description of the service/system proposed to be Outsourced including:
a. Name of the Outsourcing Arrangement Provider
b. Location(s) of the Outsourcing Arrangement Provider and/or system
c. Duration of the Outsourcing Arrangement
d. Expected timeframe for implementation of the Outsourcing Arrangement
e. Whether the service/system is Outsourced through or with a Controlled Entity or Other Related Party – if yes, description of Outsourcing Arrangement with this party.
f. Nature of relationship between the Bank and the Controlled Entity or Other Related Party
g. Other functions that have been Outsourced to the Outsourcing Arrangement Provider
3. Impact of disruption – in the event that the Outsourcing Arrangement Provider becomes unable to deliver the Outsourcing Arrangement, either on a temporary or permanent basis:
a. Would a disruption impact the Bank’s ability to meet its obligations in relation to the collation and reporting of financial data that would be necessary for the New Zealand authorities to determine a range of options for managing the Bank from the start of the first Business Day after the day of the Failure Event and Thereafter?
b. Would a disruption impact the Bank’s ability to meet its daily domestic interbank settlement obligations?
c. Would a disruption impact the Bank’s ability to monitor and manage its financial position, including credit, liquidity and market risk positions, together with prudential supervision reporting, including the relevant systems and data to do so?
d. Would a disruption impact the Bank’s ability to continue to provide New Zealand Dollar denominated transactional or similar accounts used by customers for their transactional, everyday banking needs, which a customer must be able to access via Automatic Teller Machines (ATMs) and make payments from, and receive payments into, via at least two other of the most commonly used channels?
e. Would a disruption impact the Bank’s ability to continue to provide New Zealand Dollar denominated savings accounts and term deposit accounts, which are usually held by customers who engage in transactional banking with the Bank, which such deposits are either on-call or mature on a regular basis and are an integral part of customers’ common banking needs?
f. Would a disruption impact the Bank’s ability to continue to provide New Zealand Dollar denominated credit services to customers, including credit cards, overdraft and revolving credit facilities, secured lending and home loan facilities (including pre-approvals)?

g. Would a disruption impact the Bank's ability to continue to provide credit card merchant acquiring services to merchant customers?
h. Would a disruption impact the Bank's ability to continue to provide account activity reporting for relevant accounts in respect of 3(d) to (g) held by customers?
i. Would a disruption impact the Bank's ability to continue to provide agency banking services to Third Party financial institution customers which relate to products and services specified in 3(d) to (h)?

Appendix III – Application Form B

[Evidence the relationship with Controlled Entity]

1. Description of the function proposed to be Outsourced
2. Description of the Controlled Entity and service/system proposed to be Outsourced, including:
a. Name of Controlled Entity
b. Name of the Outsourcing Arrangement Provider (if different to a. above)
c. Location(s) of the Controlled Entity (or Outsourcing Arrangement Provider in b. above)
d. Duration of the Outsourcing Arrangement
e. Expected timeframe for implementation of the Outsourcing Arrangement
f. What other functions have been Outsourced to the Controlled Entity or Outsourcing Arrangement Provider
3. Description of the Bank's control over the Controlled Entity under Section 5 of the Companies Act 1993.
4. Could the Controlled Entity be subject to an order under Section 117(1) of the Reserve Bank Act 1989?

Appendix IV – Application Form C

[Evidence that the back-up capability for functions Outsourced with or through Other Related Parties is robust]

1. Description of the function proposed to be Outsourced
2. Description of the service/system proposed to be Outsourced, including:
a. Description of Outsourced Arrangement with or through Other Related Party including name of the ultimate service provider (e.g., Independent Third Party if arrangement is through Other Related Party)
b. Location(s) of the Outsourcing Arrangement Provider and/or system
c. Duration of the Outsourcing Arrangement
d. Expected timeframe for implementation of the Outsourcing Arrangement
e. Nature of the relationship between the Bank and the Other Related Party
f. Other functions that have been Outsourced to the Outsourcing Arrangement Provider
3. Impact of disruption – in the event that the Outsourcing Arrangement Provider supplier becomes unable to deliver the Outsourcing Arrangement , either on a temporary or permanent basis:
a. Would a disruption impact the Bank’s ability to meet its obligations in relation to the collation and reporting of financial data that would be necessary for the New Zealand authorities to determine a range of options for managing the Bank from the start of the first Business Day after the day of the Failure Event and Thereafter?
b. Would a disruption impact the Bank’s ability to meet its daily domestic interbank settlement obligations?
c. Would a disruption impact the Bank’s ability to monitor and manage its financial position, including credit, liquidity and market risk positions, together with prudential supervision reporting, including the relevant systems and data to do so?
d. Would a disruption impact the Bank’s ability to continue to provide New Zealand Dollar denominated transactional or similar accounts used by customers for their transactional, everyday banking needs, which a customer must be able to access via Automatic Teller Machines (ATMs) and make payments from, and receive payments into, via at least two other of the most commonly used channels?
e. Would a disruption impact the Bank’s ability to continue to provide New Zealand Dollar denominated savings accounts and term deposit accounts, which are usually held by customers who engage in transactional banking with the Bank, which such deposits are either on-call or mature on a regular basis and are an integral part of customers’ common banking needs?
f. Would a disruption impact the Bank’s ability to continue to provide New Zealand Dollar denominated credit services to customers, including credit cards, overdraft and revolving credit facilities, secured lending and home loan facilities (including pre-approvals)?

g. Would a disruption impact the Bank's ability to continue to provide credit card merchant acquiring services to merchant customers?

h. Would a disruption impact the Bank's ability to continue to provide account activity reporting for relevant accounts in respect of 3(d) to (g) held by customers?

i. Would a disruption impact the Bank's ability to continue to provide agency banking services to Third Party financial institution customers which relate to products and services specified in 3(d) to (h)?

4. Description of back-up arrangement

a. Is there a risk of permanently losing transactions (i.e. would all disrupted transactions be processed within 48 hours of the Failure Event)?

b. Is the switch over from the Outsourcing Arrangement to its Robust Back-Up Arrangement able to be delivered within 6 hours of the Failure Event for functions related to the meeting of a Bank's daily domestic interbank and Reserve Bank settlement obligations?

c. Is the switch over from the Outsourcing Arrangement to its Robust Back-Up Arrangement able to be delivered within 6 hours of the Failure Event for functions related to the Bank's the collation and reporting of financial data that would be necessary for the New Zealand authorities to determine a range of options for managing the Bank from the start of the first Business Day after the day of the Failure Event and Thereafter?

d. Is the switch over from the Outsourcing Arrangement to its Robust Back-Up Arrangement able to be delivered before 9:00 am on the Business Day after the day on which the Failure Event occurs (and Thereafter) for functions related to the monitoring and management of a Bank's financial position, including credit, liquidity and market risk positions (together with prudential supervision reporting), including the relevant systems and data to do so?

e. Is the switch over from the Outsourcing Arrangement to its Robust Back-Up able to be delivered before 9:00 am on the Business Day after the Failure Event occurs (and Thereafter) for functions related to the provision of Basic Banking Services to existing customers?

f. Where necessary, is the Robust Back-Up Arrangement sustainable, in that it could be equally substituted for the Outsourcing Arrangement on an on-going and Fully Automated Basis, with minimal impact and disruption to both the Bank's customers and the Bank's own business operation?

g. Does the Bank have direct ownership and/or legal and practical control over the Robust Back-Up Arrangement? Note that this does not mean that the system has to be located in New Zealand, but requires that the Bank should have the legal and practical ability to control the Robust Back-Up Arrangement (i.e. that they own the system (or have a direct relationship with the Outsource Arrangement Provider for that system) and the data that is required to use it).

5. Date of internal sign-off and level, i.e. name and position of senior manager, following

supplier risk analysis and due diligence.