MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

RESERVE BANK
OF NEW ZEALAND
TE PŪTEA MATUA

Impact Summary: A New Zealand response to foreign derivative margin requirements

Section 1: General information

Purpose
The Reserve Bank of New Zealand (RBNZ) and the Ministry of Business, Innovation and Employment (MBIE) (together, the Agencies) are solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.

Key Limitations or Constraints on Analysis
In conducting policy work to define the nature and scope of the problem and possible solutions, the Agencies naturally relied to some extent on the expertise of industry participants about derivative market practice. However, we conducted a public consultation over six weeks in July and August 2017, and respondents were unanimous about the nature of the problem and disagreed only to a small extent about the scope of a proposed solution. Following consultation, we also followed up extensively with respondents to the consultation, as well as other stakeholders who did not contribute to the consultation, to ensure we fully understood the nature of the problem and implications of the proposed solution. The Agencies also (separately) obtained independent legal advice about the nature of the problem (specially the impediments in New Zealand law that could be restricting banks' and others' ability to comply with the foreign requirements). Overall, we are confident in our scoping and evidence of the problem. There was potentially a limitation on one of the options we could consider given the need to implement a solution quickly. This was a standalone piece of legislation that covered not only the issues raised by international derivative reforms but wider policy issues related to netting contracts (of which derivatives are a type). This option was not pursued, as we believe it raised broader policy issues that are less pressing and would have significantly delayed implementation of the proposed changes. While some respondents to the consultation were in favour of a standalone legislative solution, this was subject to it not materially delaying implementation of the current proposed changes. We are therefore comfortable that discounting this option was an acceptable outcome for key stakeholders.

With respect to consultation, we note that while we conducted a public consultation over six weeks and held follow-up meetings with respondents to the consultation and other key stakeholders, we did not get specific feedback from any general consumer interest representatives during this process. Despite this, we are confident in our understanding of the proposal's likely impacts on general consumers. This is due to our consultation with insolvency practitioners, who have expertise on the likely impacts of corporate insolvency across all creditors, including, for banks, retail depositors who could be impacted by the proposal. We consider this part of our consultation therefore gave us the insight and evidence we needed to understand the likely impacts of the proposal on consumers, despite not obtaining feedback directly from consumer representatives.

We also did not receive any submissions during the consultation from non-financial corporate entities. We are aware that some such entities use derivatives in the course of their activities, but as none submitted during consultation, we are not aware of the extent that they may be affected by the international derivative reforms, if at all (or any mitigation strategies they may have in place to avoid the impacts of the reforms).

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Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

Background

New Zealand banks use offshore (and domestic) finance to fund their activities. They enter into derivatives contracts to protect or "hedge" against the exchange rate risk of raising money in foreign currencies. Other large, public sector asset managers (eg Accident Compensation Corporation (ACC) and the New Zealand Super Fund) also use derivatives for hedging purposes. Large non-financial corporates also use derivatives but we are not aware that they are impacted by the problem as set out in this problem definition.

Banks and public sector asset managers are facing a barrier to accessing international derivatives markets due to new Group of Twenty (G20) rules for certain types of derivatives. The G20 rules require that parties to "over-the-counter" (OTC) uncleared bilateral derivatives exchange security (also known as "margin") under a derivative contract to support the performance of the contract. If one party fails to honour its obligation under the contract (for example, if it is in financial distress), the other party can call on margin to shield it from any losses that might result from its counterpart's non-performance. The reforms were introduced as a way of reducing systemic risk in international derivatives markets that contributed to the Global Financial Crisis.

There are certain features of New Zealand's insolvency, statutory management, and personal property securities laws that may impede banks' ability to comply with the margin requirements. In particular, these laws restrict the ability of entities to post margin that the other party to the derivative contract can call upon immediately in the event of a default by the posting party (which is required under the G20 rules).

Counterfactual

Inability to comply with margin requirements may restrict affected New Zealand entities' access to overseas derivatives markets and thus their ability to hedge the exchange rate risk of underlying funding. Inability to access these global financial markets would mean that the cost of offshore finance would likely rise, as affected entities may be forced to use options other than derivatives to protect against exchange rate risk, or not protect against that risk at all. This would create upward pressure on domestic interest rates, which could increase the cost of borrowing for New Zealand businesses and consumers. Ultimately, these impacts and reduced integration into global financial markets could undermine the soundness and efficiency of the New Zealand financial system.

The current value of the big four New Zealand banks' derivative activity that could be impacted if no action were taken is around $8.7 trillion annually. This represents the total gross flow of cross-currency basis swaps transacted by the big four banks against international counterparts. The outstanding notional amount of cross-currency basis swaps contracted against international counterparts is around $90 billion across the big four banks (as at the end of 2016). This is the maximum value of derivative contracts that would no longer comply with the foreign margin requirements if no action is taken.

We do not expect banks would lose the full benefit of this derivatives activity as a result of no longer being able to comply with the G20 rules. Instead, we expect they may adopt alternative strategies

such as seeking derivative counterparties not captured by the G20 rules, or issuing debt offshore in New Zealand dollars, rather than in foreign currency. The latter would effectively shift exchange rate risk onto foreign investors. While a market for such products exists, it is shallow and fairly illiquid, which would increase the yield investors would demand to hold it, and thus the price New Zealand banks would have to pay on it. We conservatively estimate that the risk and liquidity premia on this debt might be up to 0.1 per cent, relative to banks' current issuance costs. This cost may decrease over time as offshore markets for NZD-denominated debt develop, or may be permanent. As noted above, it is likely that banks would pass any increase in their cost of funding on to New Zealand domestic customers in the form of increased borrowing costs.

We do not have relevant current data on the derivatives activities of public sector asset managers to estimate the costs to these entities if no action were taken.

Government intervention is required
Margin requirements are expected to apply to all of the big four New Zealand banks by September 2018. The banks are currently unable to comply with the requirements but are arranging temporary workarounds to mitigate the impacts of this. These workarounds, however, are not sustainable long-term solutions because the workarounds mean the banks' exposure to their Australian parent increases, which has regulatory restrictions attached to it, significantly restricting trading flexibility and sector efficiency over time as they come up against their exposure limits. Public sector asset managers (ACC and New Zealand Super Fund) are expected to be caught by the requirements over time as exchange of margin is also becoming standard market practice for most derivative trades even where the G20 requirements do not legally apply.

Targeted amendment legislation is therefore required as soon as possible to enable affected entities to comply with the foreign margin requirements and continue to access international derivatives markets. A non-regulatory response is not possible as the impediments to compliance are contained in legislation.

Industry, legal and other expert opinions have confirmed the nature of the problem and generally support the proposed amendments. This was confirmed in submissions to a joint consultation by the Agencies on a domestic response to the foreign requirements conducted in July-August 2017.

2.2 Who is affected and how?

The amendments are not intended to change the behaviour of entities that are affected by the new derivative requirements, but rather preserve the status quo of industry behaviour. Instead, the amendments are intended to ensure that affected entities' have the ability to enter into derivatives transactions that comply with new requirements and market practice. The practice of using derivatives, or entering into secured liabilities, is not new at all and we do not expect that the amendments are likely to change industry practice.

The parties who are most at risk of being impacted by the amendments are the non-derivative creditors of affected entities. In general terms, the amendments will result in a marginal reordering of the established hierarchy of creditor claims in the event that one of these entities becomes insolvent or goes into statutory management. In practice, however, we expect the amendments are likely to have very little and, in most cases, no impact on affected entities' creditors. The impacts on

these parties are discussed in more detail in the costs sections below.

The parties who are seeking this change are the entities who participate in global derivatives markets and are affected by the new requirement. These are large financial corporates such as registered banks, and large financial asset managers such as the New Zealand Super Fund and ACC. These entities want the amendments so they can continue to access global derivatives markets for hedging purposes.

The Agencies consulted publicly over a six-week period in July and August 2017. No-one submitted against the proposed changes. The insolvency industry association submitted that the amendments should be drafted narrowly to avoid unduly disrupting established insolvency processes, but accepted the necessity of the amendments.

2.3 Are there any constraints on the scope for decision making?

There are no known constraints on the scope for decision-making. In light of stakeholder feedback during consultation, the scope of the proposed amendments is now wider than what was submitted to Cabinet (under the previous government) for its approval to consult on. However, Cabinet did not note any restrictions on decision-making or rule out any approaches, and one of the stated intentions of the consultation was to identify the nature and scope of the issues and their possible mitigants.

During consultation, some stakeholders suggested that more comprehensive legislative reform was needed to address the derivative reforms issue and other issues around the statutory treatment of contractual netting arrangements. A contractual netting arrangement is where the gross mutual exposures of two parties to a netting contract are set off against each other to generate a smaller, netted amount, and is a way of reducing parties' overall exposure to risk. The submission from stakeholders, however, was subject to the comprehensive reform not materially delaying implementation of the targeted derivatives amendments, as there was a need to implement a solution to the derivative reforms issue as quickly as possible. The comprehensive reform option has not been pursued, as we believe it raises broader policy issues and would significantly delay implementation of the proposed changes. Over the medium- to long-term, however, consideration may need to be given to whether establishing standalone netting legislation would provide greater clarity and certainty about this area of law.

Section 3: Options identification

3.1 What options have been considered?

Objectives and criteria

The main objectives that we are seeking to achieve are:

a. preserving the overall soundness and efficiency of the financial system, including by ensuring ongoing access of affected entities to global derivatives and capital markets

b. preserving the integrity of existing insolvency and statutory management laws, including protecting the interests of non-derivative creditors whose rights are managed under these laws.

In light of the above objectives, we consider that the criteria for assessing the options are:

Effectiveness – Will the amendments effectively achieve the stated objectives?

Proportionality – Are the amendments proportionate and achieve a reasonable balance between the stated objectives?

Option 1: Targeted amendment legislation covering "affected entities" (preferred option)

This option involves making targeted amendments to the aspects of existing legislation that are creating impediments to entities' compliance with foreign derivatives requirements. It would apply to the affected entities noted above: registered banks, New Zealand Super Fund and ACC (at this stage these are the only Crown entities we know are affected), and central counterparties that are designated settlement systems.

The benefits of this option are that it will enable affected entities to continue to use derivatives for hedging purposes and to freely access global financial markets. Access to these markets will avoid potential increases in the cost of offshore finance for these entities, which could be passed on to New Zealand businesses and consumers and the financial sector generally.

The costs of this option are that there may be some potential impact on the non-derivative creditors of affected entities. This is because the amendments will result in a marginal reordering of the established hierarchy of creditor claims in the event that one of these entities becomes insolvent or goes into statutory management.

Option 2: Wider amendment legislation, including corporate entities

This option is similar to Option 1 in that it involves making targeted amendments to the aspects of existing legislation that are creating impediments to entities' compliance with foreign derivatives requirements. However, it is broader in scope in that it would apply not only to affected entities as defined in Option 1, but also to non-financial corporate entities (eg Fonterra and Air New Zealand) which also use derivatives in their activities.

The benefits of this option are that it would ensure corporate entities have access to global derivatives markets, to the extent that they may also be restricted by the international reforms by New Zealand law.

This option involves potentially significant costs to the non-derivative creditors of corporate entities, as these are not subject to the same capital, liquidity and disclosure requirements as registered banks. There is therefore less assurance about the likely outcomes for creditors in the event of an

insolvency.

Option 3: Comprehensive legislative reform, covering contractual netting arrangements as well as derivatives reforms

This option involves more comprehensive legislative reform, enacting standalone legislation dealing with the treatment of contractual netting arrangements (of which derivatives are a type).

The benefits of this option are that it would deal with the derivative reforms issue, while also dealing with wider policy issues around the statutory treatment of netting arrangements, which some stakeholders have submitted is somewhat unclear.

The costs of this option are that it would require more extensive policy work to progress, which would significantly delay implementation of a solution to the derivative reforms issue. This would incur costs on affected entities as outlined in the Problem Definition.

3.2 Which of these options is the proposed approach?

The Agencies consider that Option 1 (targeted amendment legislation covering only affected entities) is the best option as it strikes a balance between allowing affected entities to comply with the foreign requirements and market practice, without unduly disrupting established domestic law or unduly impacting ordinary New Zealanders. Overall, we consider that this option will best meet the stated objectives and criteria.

Objective A - Preserving the overall soundness and efficiency of the financial system

The targeted legislative amendments under Option 1 will remove the regulatory barriers that are restricting registered banks and certain Crown entities from complying with foreign derivative requirements. This will enable these entities to continue to use derivatives for hedging purposes and freely seek funding in global financial markets. Ongoing access to these highly liquid markets will avoid potential increases in the cost of offshore finance for these entities, which could be passed on as higher interest rates for New Zealand businesses and consumers. Overall, reduced New Zealand integration in international financial markets could damage the soundness and efficiency of the entire financial sector. This option will avoid these potential risks by preserving affected entities' access to global financial markets.

Objective B - Preserving the integrity of existing insolvency and statutory management laws

We consider that the restricted range of entities covered under Option 1 mean the impacts of the amendments on existing law and non-derivative creditors are likely to be very limited in practice.

The first set of entities, registered banks, are subject to strict capital, liquidity and other prudential requirements. They hold financial resources – in the form of capital, subordinated debt, and general unsecured debt – that can serve as a buffer to absorb financial losses. This loss-absorbing buffer would have to be written off in full before preferential claimants would be exposed to losses in the event that a bank became insolvent. This would equate to write-downs in excess of 70 per cent of total bank assets, which would be very unlikely and unprecedented in the banking sector. The amendments are therefore very unlikely to have any adverse impact on secured and preferential non-derivatives creditors of banks.

For the general unsecured creditors of banks, including retail depositors, the amendments will have no impact on their ranking, position and treatment in the event of an insolvency. Unsecured creditors currently do, and would continue to, absorb losses before secured and preferential creditors, so will be exposed to the same losses irrespective of the amendments. In other words, the amendments will not change the extent to which a bank's unsecured creditors (including retail depositors) would be exposed to losses in the event that the bank were to become insolvent or put into statutory management.

The second set of entities covered by the amendments, the New Zealand Super Fund and ACC, do not issue external debt (eg bonds), do not have external creditors, and are very unlikely to be exposed to insolvency risks (except in the extreme event of a New Zealand Sovereign default). We therefore are confident that offering protections to their derivative contracts will not have an adverse impact on the treatment of their non-derivative creditors.

We are also proposing that the amendments cover "Central Counterparties" (CCPs) that are designated settlement systems under the Reserve Bank of New Zealand Act 1989. CCPs act as formal intermediaries between two parties to a derivative contract, acting as a central buyer and seller between both parties as a way of reducing cost and risk. Designation under the Reserve Bank of New Zealand Act 1989 effectively protects a CCP's rules and procedures – including relating to enforcing against a participant's margin – irrespective of the operation of any other law. The effect of including them within the proposed amendments is therefore practically nil. The purpose of including them in the amendments is to give clear legal certainty and comfort that they can enforce security under derivative contracts in New Zealand, in the same way as other protected entities.

Criteria – Effectiveness and Proportionality

We do not consider that Option 2 – extending the amendments to cover corporate entities as well as the above entities – is a proportionate option. This is because there is less assurance about the likely impacts the amendments would have on the non-derivative creditors of these entities in the event of insolvency, as the Reserve Bank has no power to set capital, liquidity, and disclosure requirements for these entities. Moreover, no corporate entities submitted to the public consultation so we are not aware that they are in fact facing any impediments to their ongoing derivatives business as a result of the international reforms. It is therefore not clear that extending the amendments would have a clear benefit.

We do not consider that Option 3 (comprehensive legislative reform) would be an effective option because it would significantly delay implementation of a solution to the derivative reforms issue. This view was supported by stakeholders in their submissions to the consultation.

Overall, therefore, we consider Option 1 will be most effective and strike the most proportionate balance between the interests of the financial sector, without disrupting established law or unduly impacting non-derivative creditors.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties *(identify)*	**Comment**: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*
Additional costs of proposed approach, compared to taking no action		
Registered banks	None.	
Inland Revenue	The proposed approach may impose some limited costs on the Inland Revenue Department as a result of the proposed changes to the order of creditor preference under Schedule 7 of the Companies Act. However these costs are likely to be very limited in practice as IRD will still rank ahead of most creditors.	
Non-derivative creditors of registered banks and Crown entities	The proposed approach may have a limited impact on the secured and preferential non-derivative creditors of registered banks and Crown entities. However, in the case of registered banks, these costs would only apply if the bank suffered an insolvency so severe that more than 70 per cent of its assets were written off. The Crown entities that will be covered by the proposal (New Zealand Super Fund and ACC) do not issue external debt and are very unlikely to be exposed to insolvency risks (except in the extreme event of a New Zealand Sovereign default). There is therefore unlikely to be an adverse impact on the treatment of their non-derivative creditors. **Monetised costs** It is difficult to quantify the potential costs on affected parties as the actual extent to which they would be impacted would depend on the state of a bank's balance sheet at the time of its failure (ie the value of the realisations on its assets and the composition of its creditors). At the very most, we estimate that five per cent of a bank's assets might have become pledged as security for relevant derivatives trades. If so, and	

	only in the extreme event of a bank failure so severe that more than 70 per cent of its assets were written off in full, secured and preferential creditors could be made worse off by up to a maximum of 16 cents on the dollar, relative to current realisations. The total monetised cost to non-derivative creditors, however, would depend on the number of preferential creditors to the insolvent bank. This is not possible to quantify in this RIS.	
Total Monetised Cost		*Unknown*
Non-monetised costs		*Low*

Notes on costs

Schedule 7 preferential claimants (banks and Crown entities)

Schedule 7 of the Companies Act sets out an order of preference in which certain parties are to be paid out in the event that a company becomes insolvent. These parties include the liquidator (for fees and expenses), staff (for unpaid wages and holiday pay), and Inland Revenue (for unpaid taxes). The amendments will give priority to derivative creditors that are secured by cash and other accounts receivable before these Schedule 7 creditors are paid out. Both banks and Crown entities (New Zealand Super Fund and ACC) have these types of claimants. Note that derivative creditors that are secured by other financial collateral such as debt or equity instruments cannot have their security interest compromised or defeated by any other creditors under existing New Zealand law, so do not need to be afforded special protections through these legislative amendments.

Similar to secured creditors, any impacts on Schedule 7 claimants are likely to be very small. This is because Schedule 7 claims still rank ahead of ordinary, non-preferential claims. Before not being able to pay the IRD and employees in full, an insolvent bank would therefore have to have an asset shortfall so large that they were unable to pay any part of these ordinary claims at all.

Unsecured creditors of banks

As noted above, general unsecured creditors (eg retail depositors) absorb losses before secured and preferential creditors, so will be exposed to the same losses irrespective of the amendments. In other words, the amendments will not change the extent to which a bank's unsecured creditors would be exposed to losses in the event that the bank were to become insolvent or be put into statutory management.

Expected benefits of proposed approach, compared to taking no action		
Registered banks	The direct benefit of the proposal is that it will allow registered banks to continue to enter derivative contracts that comply with foreign requirements and market practice, and thus continue to access global derivatives markets. This is an ongoing benefit that will avoid the need for the banks to put workaround measures in place	

	and take costlier, less effective options to hedge the exchange rate risk on their offshore funding activity, or, where alternative hedging options are unavailable, source alternative forms of funding that avoid exchange rate risks. The true benefits of the proposal are therefore the avoidance of increased costs to banks' underlying offshore funding. We conservatively estimate this could be up to 0.1 per cent on banks' assumed NZD-denominated offshore debt issuance, relative to current costs. Based on the big four banks' 2017 issuance, the Net Present Value (NPV) of this is $370 million – $3.1 billion, depending on whether the estimated cost increases are permanent or decline over time.	
Crown entities	The proposed approach will allow New Zealand Super Fund and ACC to enter derivative contracts that comply with foreign requirements and market practice, and thus continue to access global derivatives markets. We do not have current data on the relevant derivative activities of these Crown entities to quantify these benefits.	
Total Monetised Benefit		*$370mn - $3.1bn*
Non-monetised benefits		*Medium*

Notes on benefits

The NPV of $370 million is based on a steadily declining funding premia over a five-year period at a standard discount rate of six per cent (10 basis points in the first year, eight basis points in the second year etc). This value is highly sensitive, however, and it is possible that the risk premia associated with NZD-denominated issuance might be greater, or more persistent, than assumed. At the extreme, if the cost increases were permanent and muted demand and illiquidity in NZD-denominated debt raised offshore debt servicing costs by 0.1 per cent going forward, the NPV would be $3.1 billion.

4.2 What other impacts is this approach likely to have?

Not applicable.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

The Agencies consulted publicly over a six-week period in July and August 2017. The consultation was designed to clarify the nature and scope of the problems facing domestic entities, and to identify potential legislative amendments to address these problems.

Six parties responded to the consultation, including banks and banking sector participants, legal experts, fund asset managers (New Zealand Super Fund and ACC), insolvency practitioners, and financial markets associations (the International Swaps and Derivatives Association).

Stakeholders were all in agreement with the nature of the problem and were generally supportive of the proposed response. The banks and entities that use derivatives submitted that the amendments should be drafted as widely as possible to allow flexibility in their trading practice. The insolvency industry association accepted the necessity of the amendments but submitted that they should be limited to what was necessary to comply with the G20 requirements to avoid unduly disrupting established insolvency processes.

We note that no consumer interest groups responded to the public consultation or were specifically contacted for feedback. This was not unexpected given the narrow and technical nature of the subject matter. However, we consider that our consultation with insolvency practitioners, who have expertise on the likely impacts of insolvency across all creditors, gave us the insight we needed to understand the likely impacts of the proposal on consumers, despite not obtaining feedback directly from consumer representatives.

Following the consultation, the Agencies had extensive follow-up meetings with respondents to the consultation, as well as other stakeholders who did not contribute to the consultation, to ensure we understood the full implications of the proposed amendments.

In light of the feedback from the consultation and follow-up meetings, we broadened our proposals beyond our initial proposal, which was based on what was strictly required to comply with the G20 requirements. This was because it became clear from stakeholders (specifically derivative users) that the exchange of security in derivative contracts is quickly becoming standard market practice, whether or not the G20 requirements apply. We consider that it is important that the amendments should allow New Zealand entities to comply with international market practice and expectations. If not, the amendments are likely to be insufficient to meet industry needs and the risks to the financial sector we outlined above may arise, despite the amendments. In the interests of financial market efficiency and stability, it is also important that the exemptions are product-neutral, opening up the broadest possible range of financial collateral to New Zealand entities, and ensuring that this financial collateral is treated equally.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?
We are proposing to make a small number of targeted amendments to relevant legislation to ensure affected New Zealand entities can continue to access international derivatives markets. The three main areas of proposed change are: a. aspects of the statutory management regimes under the Reserve Bank of New Zealand Act 1989 and the Corporations (Investigations and Managements) Act 1989, and the voluntary administration regime under the Companies Act 1993 b. the order of creditor preference under Schedule 7 of the Companies Act 1993, and c. other creditor preference issues under the Personal Property Securities Act 1999 (PPSA). The amendments will effectively mean that security put up under a derivatives contract will be able to be called upon immediately in the event of a bank or other covered entity defaulting. The security will be given priority that is not able to be defeated by a competing claim by any other creditor. We are proposing that the entities that will be covered by the amendments will include: a. registered banks b. the New Zealand Super Fund and ACC, and c. central counterparties that are designated settlement systems under the Reserve Bank of New Zealand Act. In practice, New Zealand's insolvency laws, as amended, would be applied by insolvency practitioners. During Agencies' consultation, one insolvency practitioner expressed some concern about how the G20 requirement to enforce a security interest "immediately" after the failure of a bank would work, as such a situation would be very fast-moving and complex. However, we consider that the practicalities of how a particular derivative contract might be applied in the hypothetical and very rare event of a bank failure could be worked through between the parties to the contract. In the Agencies' view, these practical difficulties between individual parties are outweighed by the overall systemic benefits of enabling these derivative contracts to be entered into. The new arrangements will come into effect immediately or as soon as possible after passage of the legislation. We understand that affected entities do not need any time to prepare for the amendments and they all submitted during consultation that the amendments should come into effect as soon as possible. We are not aware of any implementation risks at this stage. If we become aware of any during drafting or the Select Committee stage, we will consider these as appropriate.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

The Agencies will conduct follow-up consultation on the impacts of the proposals in this RIS with banks and other affected entities, and legal experts within the first six months of implementation to see if the amended legislation is being effective and sufficient, and if there have been any issues associated with implementation.

The system-level impacts of the proposals will be monitored primarily by the RBNZ as part of the broader supervisory regime in place for registered banks and designated settlement systems under the Reserve Bank of New Zealand Act 1989 and as part of its regulatory stewardship obligations. MBIE will provide support to the RBNZ in this monitoring as appropriate and necessary. The financial performance of the New Zealand Super Fund and ACC is monitored by responsible agencies under the entities' establishing legislation (Treasury and MBIE respectively).

7.2 When and how will the new arrangements be reviewed?

There is no plan to conduct a formal review of the amendments within a particular timeframe. However, the interaction with stakeholders following implementation of the amendments, as well as the Reserve Bank's ongoing supervisory engagement, is likely to reveal quickly whether the amendments have been effective and sufficient. We expect that stakeholders are likely to be very forthcoming if this is not the case, given their significant financial interests at stake.

Given the submission from some stakeholders for the potential need for a more comprehensive legislative solution to the problem, if we receive feedback from stakeholders that the amendments are unclear or difficult to apply in practice, we may need to reconsider this option and review the legislation. MBIE is conducting related policy work on contractual netting arrangements that may be relevant to the assessment of whether this is necessary.