



Reserve Bank
of New Zealand
Te Pūtea Matua

Review of Policy for Branches of Overseas Banks.

Summary of Submissions – Second Consultation Paper

7 November 2023

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1 Background

Branches of overseas banks are an important link between our economy and global financial markets. They often provide valued services to New Zealand businesses and the wider economy, and are an important segment of our regulated deposit taking population.

We recognise that our policy towards branches has developed over time, resulting in inconsistent outcomes for branches. As a result our policy on branches can be difficult to interpret, which in itself can increase regulatory burden.

This Review of policy for branches of overseas banks (“Branch Review”) seeks to address these issues, while also taking into account the unique challenges and risks that branches present to us, as kaitiaki (guardians) of Aotearoa New Zealand’s financial system.

In August 2022, we published the [second consultation paper](#) that set out policy proposals. We proposed:

- that all branches in New Zealand be restricted to engaging in wholesale business (that is with corporates, institutions and other wholesale investors), meaning they could not take retail deposits or offer products or services to retail customers;
- to limit the maximum size of a branch to NZ\$15 billion in total assets; and
- that we continue to allow the dual registration of branches, provided:
 - the relevant subsidiary and branch are sufficiently separate, and any identified risks are mitigated by specific conditions; and
 - dual-registered branches only conduct business with large wholesale customers – those with consolidated turnover greater than NZ\$50 million.

The [first consultation paper](#) in the Branch Review was published in October 2021 and set out the current branch policy, the problem definition, assessment principles, and some high-level policy questions and options. See the [summary of submissions in response the first consultation paper](#).

2 Consultation Process

The second consultation paper in the Branch Review was published on 24 August 2022 and closed on 16 November 2022. We received fourteen submissions to the second consultation, comprising of:

- Eleven from industry – ANZ, BNZ and NAB combined, BOC, CBA, CCB, HSBC, JPMC, Kookmin, Rabobank, the New Zealand Financial Markets Association and Payments NZ.
- Three submissions from members of the public.

Redacted versions of these submissions can be found on our [website](#).

We have also engaged in bilateral discussions with industry stakeholders, both during the consultation period and since it closed, to clarify points raised in their submissions.

This document provides a summary of the formal submissions received in response to our consultation, as well as a brief response to those submissions. This document is not intended to be an exhaustive summary and response to all points raised. We focus on the common themes and views raised in the submissions. We have considered this feedback in developing the key policy decisions and [Regulatory Impact Statement](#) (RIS).

2.1 Key Policy Decisions

After considering feedback to the second consultation paper, the Reserve Bank has finalised and published the key decisions that we propose will be implemented via the Deposit Takers Act 2023 (DTA). The key policy decisions include:

- that all branches in New Zealand be restricted to conduct business with ‘wholesale investors’ only (as defined by the FMC Act), meaning they could not take retail deposits or offer products or services to retail customers;
- to limit the maximum size of a branch to NZ\$15bn in total assets; and
- that we continue to allow the dual registration of branches, provided:
 - the relevant subsidiary and branch are sufficiently separate, and any identified risks are mitigated by specific conditions of licence; and
 - dual-registered branches only conduct business with large corporate and institutional customers.

We have also published a [third consultation paper](#) that proposes an approach to some of the implementation considerations for these key decisions, including the definition of large corporate and institutional customers.

Further details of how the Reserve Bank Board made these final decisions can be found in the RIS.

3 Summary of Submissions

In the second consultation paper, we asked for feedback on eight questions. Most of the submissions generally supported the proposals, with some amendments and clarifications sought. However, some submissions strongly opposed the proposal to restrict branches to conduct wholesale business only.

The points we received the most feedback on were:

- the proposal to restrict branches to only conduct wholesale business;
- the proposed \$15bn total asset threshold for local incorporation;
- the proposed definition of the large corporate and institutional customer threshold for dual-registered branches; and
- the proposed length of the transition period.

We have responded to the feedback on each of these points in the following sections.

3.1 Restricting Branches to Conduct Business With ‘Wholesale Investors’ Only

Several submissions supported our proposal to restrict branches to conduct business with ‘wholesale investors’ only (as defined by the FMC Act). Submissions from branches who currently take a material amount of retail deposits, as well as some of their customers, opposed the proposal.

Clarity On Why the Restrictions Should Extend to All Retail Activities

Two submissions suggested that the restrictions should only apply to retail deposit-taking, and we should continue to allow branches to provide services to retail customers outside of deposit-taking.

RBNZ response: in our view, the broader restriction of all retail business is justified under the assessment principles of the Branch Review, as it would further mitigate risks to financial stability, in terms of the confidence of retail customers in our banking system. It would also be more transparent and practical to administer. It also creates a simpler distinction between classes of overseas banks and the associated requirements for each type of business. Further, drawing a clear line between deposits and lending is challenging, since a customer’s credit balances (positive balances) represent a liability for the bank. This creates challenges under the forthcoming DCS. See sections 3.1 and 4.1 of the RIS for further details of our analysis of this point.

Financial Stability Risks of Branches Conducting Business with Retail Customers

Some submissions asked for clarification on why the consultation paper suggested that retail deposits taken by branches are currently immaterial, but discusses the potential financial stability risks of branches taking retail deposits.

RBNZ response: in the context of the Depositor Compensation Scheme (DCS), the failure of a branch with an immaterial amount of retail deposits would have a material impact. In the event of a DCS pay-out to a branch, the loss of confidence in the New Zealand financial system would be significant even if the branch was taking an immaterial amount of retail deposits.

Therefore, it is our view that local incorporation, with the application of the full suite of prudential regulation, supervisory authority and crisis management tools in New Zealand, is the surest way to protect and promote financial stability.

Alternative Proposal: Definition of ‘Retail Deposits’

Two submissions proposed that if the restrictions were to apply, they should apply to retail deposits only, rather than any business with retail customers as the proposal currently stands. Both submissions suggested a \$100,000 threshold to define retail deposits in order to align with the DCS threshold.

RBNZ response: we would like to clarify that the DCS limit is set at \$100,000 per depositor, per insured deposit taker. For entities within the DCS, coverage of \$100,000 will apply, regardless of whether it is a retail or wholesale deposit, so long as it meets the definition of “protected deposit”.

As such, deposits of over \$100,000 can still be covered by the DCS, but only up to the \$100,000 coverage limit.

Therefore, this alternative proposal would not achieve the policy intent, as deposits larger than \$100,000 are still defined as “protected” for purposes of the DCS.

In the second consultation paper (see section 3.2) and the RIS (see section 3.1 and 4.1) we outlined why we preferred the FMC Act definition as it was more transparent and practical to administer, in line with the assessment principles of the Branch Review. Additionally, using the FMC Act definition is in line with the feedback we received in the first consultation.¹ Therefore, we have proceeded with the initial proposal to restrict branches to only conduct business with ‘wholesale investors’ as defined in the FMC Act.

Impact on customers and financial inclusion

Some submissions raised concerns about the impact of the proposals on current retail customers of branches. Particularly, some respondents suggested that branches can cater to customers with specific needs due to their cultural heritage or international connections.

Additionally, one submission indicated they would like to better understand the impacts of our proposals on payments in the South Pacific.

RBNZ response: we do not dispute that the policy change may result in temporary disruption for some branches’ retail customers if they choose to wind down their retail business. However, we do not agree that these customers will not be able to access basic banking services in New Zealand.

From a financial inclusion perspective, we consider that retail services currently provided by branches do not support access to finance and financial services for those who are less well-served by traditional institutions. Local incorporation in of itself would not prevent these banks from offering the same services to the same customers as at present.

We do not consider branches to be the most appropriate means to foster financial inclusion in retail services. We recognise that the benefits that branches provide in the provision of financial services are primarily delivered to wholesale customers, and particularly large corporate and institutional customers. We therefore consider this issue to be outside the scope of the Branch Review.

Clarity on interaction with the DCS

One submission requested clarity on whether overseas bank branches which only take wholesale deposits will be excluded from the DCS.

RBNZ response: the DTA provides an exemption power for exempting certain types of deposit takers from the DCS, i.e. deposits issued by those exempted entities will not be regarded as protected deposits. The exemption must meet certain conditions. Section 455 of the DTA provides a high level principles for those conditions.

¹ See [Summary of submissions for the first consultation paper \(rbnz.govt.nz\)](#)

Interaction with the Class Authorisation

One submission referred to the Overseas Banks Class Authorisation notice (“Class Authorisation”),² and suggested that branches could conduct their current wholesale banking business more cost-effectively from offshore under the Class Authorisation. Another submission requested that we review our supervisory approach to overseas authorised banks following the Branch Review.

RBNZ response: the purpose of the Class Authorisation is to allow overseas banks to carry on limited activities in New Zealand. The Class Authorisation applies to overseas banks when carrying on certain prescribed forms of wholesale business in New Zealand, and only applies to overseas banks that do not have a place of business in New Zealand.

A key difference between branches of overseas banks and overseas banks relying on the Class Authorisation is scale. Under the new policy settings, branches will be able to have up to \$15bn total assets. In contrast, the condition of the Class Authorisation that eligible banks have no place of business in New Zealand aims to apply prudential regulation in a manner that is proportionate to the risks an institution presents to New Zealand’s financial stability.

Additionally, under section 65(6) of the Banking (Prudential Supervision) Act 1989, the Reserve Bank may revoke or amend an authorisation. Therefore, we may decide to change the conditions of the Class Authorisation to ensure the policy intent is achieved. However, this decision would be outside the scope of the Branch Review. The broader question of where the Reserve Bank draws its regulatory perimeter will be considered as part of the development work relating to the implementation of the DTA.

Overall, we do not consider that branches of overseas banks will be incentivised to deregister and rely on the Class Authorisation, unless they intend to carry on limited activities in New Zealand that do not require a permanent physical presence here.

Decision: maintain the policy proposal to restrict branches to only conduct business with ‘wholesale investors’ as defined in the FMC Act. See section 4.1 of the RIS for more details.

3.2 \$15 billion total asset threshold for local incorporation

The submissions were generally supportive of the proposed \$15 billion total asset threshold for local incorporation.

Total assets vs. net assets

One submission suggested that if derivatives are to be included in the calculation of the threshold, they are captured on a net asset basis. Similarly, another submission suggested that the threshold exclude a branch’s intra-group lending.

RBNZ response: a key motivation for the threshold to be based on total assets was to limit the systemic importance of a single branch. We consider that changing the threshold to net assets

² See [Reserve Bank of New Zealand Act \(Overseas Banks\) Class Authorisation Notice 2019 - 2019-au3999 - New Zealand Gazette](#)

would effectively increase the threshold, and would not capture the systemic importance of individual branches as effectively as total assets.

We do not expect the \$15 billion total asset threshold in isolation to constrain any of the existing branches in the short-term. Additionally, as discussed in section 3.3 of the second consultation paper, we expect the quantum for the local incorporation threshold to be reviewed at least once every five years and that it may be amended, depending on our assessment of the risks and benefits to the financial system following the implementation of the Branch Review, and our financial stability and prudential objectives.

It has been raised through the Branch Review that a rolling average could be used to calculate total assets. While we acknowledge that using a rolling average, or using a net asset metric, could mitigate some of the volatility in asset prices, it introduces additional complexity and in our view, it would be less transparent.

Clarification on repercussions of a short-term breach

One submission asked what the repercussions of a short-term breach in the total asset cap would be.

RBNZ response: this raises the more general question of what would happen if a branch breached its requirements under the DTA. This issue is outside the scope of the Branch Review and will be consulted on in the future as we implement the DTA.

Decision: maintain the policy proposal for a \$15 billion total asset threshold for local incorporation, with a commitment to review at least once every five years. See section 4.2 of the RIS for more details.

3.3 Large corporate and institutional customer threshold for dual-registered branches

The majority of submissions supported the policy intent of the proposed large corporate and institutional customer threshold, but some dual-registered branches raised concerns about how a \$50m turnover threshold would be operationalised.

Alternative thresholds

Some dual-registered branches suggested alternative definitions of 'large corporate and institutional customers'. The majority of these counter-proposals involved expanding the proposed definition of \$50 million annual consolidated turnover to include alternative measures, such as net assets and/or a lowering of the quantum of the threshold. However, one submission suggested increasing the quantum to \$100 million annual consolidated turnover.

Consultation responses identified a number of potential issues with a threshold definition based solely on turnover, including:

- turnover can be a highly volatile measure for businesses, including during events such as the Covid-19 pandemic; and

- large corporate businesses in some sectors can be high-asset, low-turnover and still multi-banked.

BNZ response: the primary motivation for proposing the large corporate and institutional customer threshold was to mitigate the risk that services that are critical to the New Zealand economy are “off-shored”. If this off-shoring happened, then disruption at the branch or a reallocation of resources at the overseas bank could lead to these services becoming unavailable. The intention of the proposed \$50 million consolidated annual turnover definition was to identify the largest and most sophisticated businesses, who are most likely to be multi-banked.

We agree that expanding the definition of ‘large corporate and institutional customers’ would better meet the policy intent, including the assessment principles and have reflected this in the proposals in the third consultation paper.

Timing of the threshold assessment

Some submissions requested clarity on when the consolidated turnover of the customer should be assessed. In the second consultation paper, we proposed this should be on an ongoing basis.

The suggestions for the timing of the assessment included that:

- the assessment should be made at the time a customer enters into a transaction with the branch;
- once a customer meets the threshold, they should retain qualification for the greater of five years or until the committed maturity date of their lending facility; and
- a customer should be assessed at the time of onboarding.

BNZ response: In response to this feedback, we have included further guidance to clarify what we mean by “ongoing basis” in the third consultation paper, which is generally consistent with the FMC Act approach.

New Zealand v global business

Multiple submissions, including ANZ and BNZ/NAB, proposed that a customer’s financial information should be assessed at a global level, rather than based on their New Zealand assets and/or turnover. However, given the purpose of the threshold is to protect businesses in a scenario where global capital flows are inhibited, we judge that the size of the business in New Zealand is a more relevant consideration than the size of the global business.

Decision: consult on a refined definition of ‘large corporate and institutional customer’.

3.4 Transition period

One submission stated that the proposed timeline for full implementation was too short to achieve a successful transition. They suggested they would need approximately six months from the announcement of the final outcomes of the Branch Review to come to a view on their future operating model and the proposed timing of the implementation.

Two submissions suggested extending the transition period from three to five years, however, neither submission outlined the reasons why three years would be an insufficient timeline.

RBNZ response: following the consultation, we have engaged with the branches that raised concerns about the transition period to understand the steps they may need to take during the transition period.

Decision: consult on aligning the implementation of the key decisions in the Branch Review with the implementation of the DTA, which would streamline the process for implementing the changes and also allow branches an extra 1-2 years to implement these changes, relative to the proposals in the second consultation paper.

3.5 Other points raised

Equivalence assessments

Two submissions suggested we change the proposed 1:1 asset ratio. One submission suggested that the equivalence assessments do not appear consistent with other international bank regulators. The submission also asked for more clarity on how the equivalence assessments will be conducted.

RBNZ response: while we want to reflect international practice, our supervisory approach also needs to recognise the specific risks to New Zealand.

While we recognise the desire from industry for transparency, we still need to consider the details of the equivalence assessments. We will be developing a framework for equivalence assessments alongside the implementation process.

Interaction with the ESAS Review

One submission raised concerns about whether there will be requirements for all ESAS account holders who wish to participate in the settlement before interchange system to be locally-incorporated. We have engaged with the Reserve Bank's ESAS access Review team on this point, as this is outside the scope of the Branch Review.

Reputational risks

One submission raised the point that the potential exit of any foreign-owned bank branches would send a signal to the rest of the world that New Zealand is 'closed for business'. Similarly, another submission maintained that the status quo creates a more international approach to doing business in a banking industry currently dominated by the Australasian banks. Another submission stated it is important that foreign banks are not disincentivised from establishing and/or retaining branches in New Zealand.

Reporting for dual-registered branches

The majority of submissions from dual-registered branches supported the proposed changes to reporting, and suggested the proposal would not be a significant change as data is readily available. However, some submissions requested clarity on points such as the frequency of reporting requirements. We will engage bilaterally with impacted branches on these changes.

4 Next steps

Thank you to everyone who submitted on the second consultation paper. The full list of substantive submissions can be viewed on our website.

Alongside this document, we have published a [Regulatory Impact Statement](#) that outlines our options analysis and evaluation of the costs and benefits of the Branch Review key decisions and a third consultation paper on implementation considerations.